



Public Service Commission  
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**DATE:** August 23, 2001

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

**FROM:** DIVISION OF SAFETY AND ELECTRIC RELIABILITY (BREMANN, D. LEE) *MB*  
 DIVISION OF LEGAL SERVICES (STERN) *MKS RVE*  
 DIVISION OF ECONOMIC REGULATION (BRINKLEY, E. DRAPER, D. DRAPER, GARDNER, P. LEE) *MB*

**RE:** DOCKET NO. 010593-EI - PETITION FOR APPROVAL OF NEW ENVIRONMENTAL PROGRAM COST RECOVERY THROUGH THE ENVIRONMENTAL COST RECOVERY CLAUSE BY TAMPA ELECTRIC COMPANY. *ALM*

**AGENDA:** 09/04/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\SER\WP\010593.RCM

CASE BACKGROUND

On April 25, 2001, Tampa Electric Company ("TECO" or "Company") petitioned this Commission for approval of the Company's Section 316(a) Compliance Program (Program) as a new program for cost recovery through the Environmental Cost Recovery Clause ("statute" or "ECRC"). The Program has two components. The first component is development of the methodology by which to assess the extent and impact of the Gannon Station's thermal plume. This is referred to as the Plan of Study (POS) in TECO's Petition. The

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second component is data collection and analysis, and reporting of results.<sup>1</sup>

Section 366.8255, Florida Statutes, the ECRC, gives the Commission the authority to review and decide whether a utility's environmental compliance costs are recoverable through the ECRC. Electric utilities may petition the Commission to recover projected environmental compliance costs required by environmental laws or regulations. See Section 366.8255(2), Florida Statutes. Environmental laws or regulations include "all federal, state or local statutes, administrative regulations, orders, ordinances, resolutions or other requirements that apply to electric utilities and are designed to protect the environment." Section 366.8255(1)(c). If the Commission approves the utility's petition for cost recovery through this clause, only prudently incurred costs shall be recovered. See Section 366.8255(2) Florida Statutes.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission approve TECO's petition for the Gannon Thermal Discharge Study as a new program for cost recovery through the ECRC?

**RECOMMENDATION:** Yes. (Breman, Lee, Stern)

**STAFF ANALYSIS:** The final report from the Program is to be submitted for approval to the Florida Department of Environmental Protection ("DEP") in November of 2002. The DEP may require TECO to implement any remediation measures contained in the final report. The requirement to submit the report is contained in Section I.E.19 of the renewed Industrial Wastewater Facility Permit No. FL0000809 issued January 26, 2001 for TECO's Gannon Station. Chapter 403, Florida Statutes, provides the specific basis for the DEP's authority to impose a condition and issue industrial

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<sup>1</sup>TECO's Petition refers to the second component as the Gannon Thermal Discharge Study. The Petition also uses that appellation to refer to both components collectively.

wastewater permits. Industrial wastewater permits are typically issued for a five-year term.

TECO's preliminary estimate to conduct the Program is \$60,000 for 2001 and \$200,000 for 2002. TECO anticipates the use of contractor services to conduct the Program. TECO proposes that these costs be recorded as operating and maintenance expenses, and allocated to the rate classes on a demand basis. In paragraph 8 of the Petition, TECO expresses the expectation that the actual expenses for the Program will be addressed in an upcoming ECRC true-up cycle and will be subject to audit. TECO is not requesting a change in the ECRC factors that have been approved for 2001 because the cost of the Program is not sufficient to cause a measurable rate impact.

The Program is intended to assess the extent of the detrimental effects, if any, to Tampa Bay's seabed ecology from the cooling water discharge at Gannon Station. To accomplish this, the boundaries of the thermal plume will be determined and monitoring of water quality and biota will then be conducted within the boundaries. TECO is required to provide DEP with quarterly progress reports and a final report.

The current industrial waste water permit at Gannon Station is the first permit to require a program of this type at Gannon Station.<sup>2</sup> As of August 7, 2001, TECO had not incurred any costs for the Program. An independent contractor, Mote Marine Laboratory, was selected to perform most the activities required by the Program. Mote Marine Laboratory has expert knowledge of Tampa Bay estuary issues and power plant cooling water practices.

Based on TECO's actions taken to date, it appears that TECO has been prudent with respect to selecting an expert consultant. Staff will continue to monitor and evaluate the prudence of the project in the annual ECRC dockets as TECO's actual costs and other relevant information becomes available.

Staff believes that the Section 316(a) Compliance Program satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC. The actual expenses

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<sup>2</sup>The permit itself states that an earlier study of the same type had been conducted. TECO informs staff that DEP has acknowledged the permit is incorrect.

will be addressed in an upcoming true-up cycle and will be subject to audit. Issues that will determine the specific dollar amount recoverable through the ECRC, such as whether specific costs were prudently incurred and whether they have already been recovered in other mechanisms, will be further examined and resolved in Docket No. 010007-EI. TECO is not requesting a change in the ECRC factors that have been approved for 2001. Based on the information currently available, it appears that there is no potential for a significant rate impact. Therefore, the review of TECO's expenses should be addressed at the November 2001 ECRC hearing.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, this docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. (Stern)

**STAFF ANALYSIS:** If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Consummating Order, this docket should be closed upon the issuance of the Consummating Order.