

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Tampa  
Electric Company for approval of  
plan to bring generating units  
into compliance with the Clean  
Air Act.

DOCKET NO. 992014-EI  
ORDER NO. PSC-00-0270-PCO-EI  
ISSUED: February 8, 2000

The following Commissioners participated in the disposition of  
this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.

ORDER DECLINING TO REQUIRE TAMPA ELECTRIC COMPANY TO ISSUE A  
REQUEST FOR PROPOSALS

BY THE COMMISSION:

On December 23, 1999, Tampa Electric Company (TECO) filed a petition for approval of its plan to bring its generating units into compliance with the Clean Air Act. Commission staff brought a recommendation to the January 18, 2000, Agenda Conference. The recommendation asked us to direct TECO to issue a Request for Proposals (RFP) in order to determine if the self-build option for the new generation required by TECO's Consent Final Judgment (CFJ) with the Florida Department of Environmental Protection (DEP) was the most cost effective means of achieving the necessary environmental goals outlined in the CFJ.

I. Case Background

DEP, which has a State Implementation Plan (SIP) in place with the United States Environmental Protection Agency (EPA) and administers the Clean Air Act on behalf of the EPA in Florida, filed a lawsuit against TECO on December 7, 1999, for non-

DOCUMENT NUMBER-DATE  
01727 FEB-88  
FPSC-RECORDS/REPORTING

compliance with the Clean Air Act. Shortly after the lawsuit was filed, TECO and DEP settled the suit by entering a CFJ. The CFJ became effective on December 16, 1999. The CFJ requires the Gannon coal-fired units to be repowered as natural gas combined cycle units by December 31, 2004, with necessary controls to achieve a NO<sub>x</sub> emission rate of 3.5 ppm. TECO's self build estimate is \$673 million for the repowering of Gannon Station, which is to be renamed Bayside Power Station.

## II. Decision

Rule 25-22.082, Florida Administrative Code, (the Bidding Rule) requires investor-owned electric utilities to solicit bids prior filing a petition for a determination of need for new generation under Section 403.519, Florida Statutes. There is no rule requiring competitive bidding generally applicable to repowerings such as the Gannon project. However, staff believes that we have the statutory authority to require TECO to issue a RFP in this limited circumstance. Staff suggests that by requiring a RFP, we will have more information on the reasonableness and prudence of the self-build option, and can, therefore, more easily make a determination of whether TECO's self-build option is in the public interest.

We believe that the same purposes that would be served by a RFP will be served by intervenors from the merchant power developer community. Such intervenors, of necessity, would have a strong self interest in developing a record that would show the competitive nature of their pricing in relation to the self-build option offered by TECO. We believe that allowing the merchant power developers to intervene and develop the record concerning costs will give TECO and DEP more information should we determine that the needed clean capacity and energy can be more economically supplied by an entity other than TECO. Additionally, TECO bears the burden of proof in this docket. TECO, therefore, must prove by the greater weight of the evidence its assertions as to the reasonableness and the prudence of its proposed costs.

ORDER NO. PSC-00-0270-PCO-EI  
DOCKET NO. 992014-EI  
PAGE 3

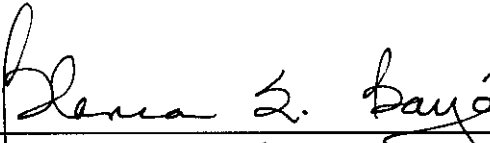
We therefore decline to require TECO to issue a RFP in this instance.

It is therefore

ORDERED by the Florida Public Service Commission that we decline to require Tampa Electric Company to issue a Request for Proposals for alternative providers for the energy and capacity it has proposed to self-generate at its Bayside Power Station. It is further

ORDERED that this docket is to remain open pending the hearing scheduled in this docket.

By ORDER of the Florida Public Service Commission this 8th Day of February, 2000.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

GAJ

DISSENT

Chairman Garcia dissents on this decision.

ORDER NO. PSC-00-0270-PCO-EI  
DOCKET NO. 992014-EI  
PAGE 4

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.