

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of
new environmental program for
cost recovery through
environmental cost recovery
clause by Tampa Electric
Company.

DOCKET NO. 010593-EI
ORDER NO. PSC-01-1847-PAA-EI
ISSUED: September 14, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING PETITION FOR COST RECOVERY THROUGH THE
ENVIRONMENTAL COST RECOVERY CLAUSE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

On April 25, 2001, Tampa Electric Company (TECO) 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 (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 second component is data collection
and analysis, and reporting of results. TECO'S Petition refers to
the second component as the Gannon Thermal Discharge Study. The

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Petition also uses that appellation to refer to both components collectively.

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.

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 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 for Gannon Station is the first permit to require a program of this type at Gannon Station. The permit itself states that an earlier study of the same type had been conducted at Gannon Station. TECO has indicated that DEP acknowledged that the permit is incorrect. 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 TECO has been prudent with respect to selecting an expert consultant. The prudence of the project will continue to be monitored in the annual ECRC dockets as TECO's actual costs and other relevant information become available.

Based on the foregoing analysis, the Section 316(a) Compliance Program satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC. Therefore, TECO's Petition is approved.

The actual expenses 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. The review of TECO's expenses shall be addressed at the November 2001 ECRC hearing.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition of Tampa Electric Company shall be granted. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 14th day of September, 2001.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

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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 that is available under Section 120.57, 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 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,

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 5, 2001.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.