

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of new standard offer contract for qualifying cogeneration and small power production facilities and for approval of associated revisions to tariff schedules COG-1 and COG-2 by Tampa Electric Company.

DOCKET NO. 031110-EQ
ORDER NO. PSC-04-0151-TRF-EQ
ISSUED: February 13, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER APPROVING STANDARD OFFER CONTRACT AND
REVISIONS TO TARIFF

BY THE COMMISSION:

On December 16, 2003, Tampa Electric Company (TECO) filed a petition for approval of a new Standard Offer Contract for qualifying cogeneration and small power production facilities. The contract is based on a 5 megawatt (MW) subscription limit of a 180 MW combustion turbine generating unit, Bayside Unit 3B, with an in-service date of May 1, 2006. TECO has also requested approval of revisions to the associated COG-1 and COG-2 tariffs.

On December 19, 2003, TECO filed additional tariff sheets to correct minor typographical errors contained in the tariff sheets as filed on December 16, 2003. On January 14, 2004, TECO filed a revised petition, and the affected tariff sheets, to clarify the term of the proposed contract.

Pursuant to federal law, the availability of standard rates is required for fossil-fueled qualifying facilities less than 100 kilowatts in size. 16 U.S.C. 2601 et seq., 16 U.S.C. 792 et seq., 18 CFR 292.304. Florida law requires the Commission to "adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of cogeneration." Section 366.82(2), Florida Statutes. The Commission is further directed to "establish a funding program to encourage the development by local governments of solid waste facilities that use solid waste as a primary source of fuel for the production of electricity." Section 377.709, Florida Statutes.

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These federal and state requirements were implemented by the Commission through the adoption of the Standard Offer Contract in Rule 25-17.0832(4)(a), Florida Administrative Code. Pursuant to this rule, each investor-owned electric utility must file a tariff and a Standard Offer Contract with the Commission. These provisions implement the requirements of the Public Utilities Regulatory Policy Act and promote renewables and solid waste-fired facilities by providing a straightforward contract. Larger qualifying facilities and other non-utility generators may participate in a utility's Request for Proposal process pursuant to Rule 25-22.082, Florida Administrative Code.

We are vested with jurisdiction over this matter pursuant to Sections 366.04, 366.05, 366.051, 366.06, and 366.80 through 366.82, Florida Statutes.

To comply with Rule 25-17.0832(4)(a), Florida Administrative Code, TECO's proposed Standard Offer Contract is based on a combustion turbine (CT) unit with an in-service date of May 1, 2006. Specifically, the Contract is based on a 5 MW portion of Bayside Unit 3B, a 180 MW CT. CT units typically require about 18 months to construct. Therefore, TECO will need to commence construction by November 1, 2004. The term of TECO's proposed Standard Offer Contract is five years, beginning May 1, 2006 and terminating May 1, 2011.

TECO's proposed COG-2 (firm capacity and energy) tariff includes a three-week open solicitation period for receiving standard offer contracts. This open solicitation period is similar to the open solicitation periods in TECO's recent Standard Offer Contracts. According to TECO's Tenth Revised Tariff Sheet No. 8.295, TECO will advise us in writing to indicate that the Standard Offer Contract should be closed once the Standard Offer Contract is fully subscribed or has expired. TECO's written notification will also include: 1) the results of the open season period; 2) an estimated time when a new Standard Offer Contract will be filed; and, 3) the revised tariff sheets reflecting the closure of the Standard Offer Contract. We find that it will increase efficiency for both TECO and the Commission to administratively approve the closure of TECO's new Standard Offer Contract. We will be advised by our staff if any substantive issues are raised by TECO's written notification.

TECO's evaluation criteria in the proposed Standard Offer tariff should be readily understandable to any developer who signs TECO's Standard Offer Contract. We find that the avoided unit cost parameters appear to be reasonable for a CT unit, and the resulting capacity payments are appropriate.

TECO is also requesting revisions to the calculation of "identifiable" avoided incremental variable O&M included in its COG-1 and COG-2 tariffs. The identifiable incremental variable O&M costs are used in determining TECO's as-available energy payment. TECO calculates incremental variable O&M each January based on the past 12 months of data. Previously, TECO used a methodology developed by EPRI for incremental variable O&M associated with coal-fired generation. Due to the repowering of the Gannon units to use natural gas, and additional planned natural-gas fired generation, a methodology based solely on coal is no longer

appropriate. According to Second Revised Tariff Sheet No. 8.106, TECO has proposed a new methodology which determines incremental variable O&M based on groupings of same technology units with similar size and operating characteristics. As-available energy payments will be adjusted each hour based on the incremental variable O&M group rate for the generation being avoided in that hour. TECO's proposed methodology for calculating identifiable avoided incremental variable O&M appropriately represents the variable O&M costs which are avoided by TECO due to the purchase of as-available energy. TECO's proposed methodology also fulfills the requirements of Rule 25-17.0825, Florida Administrative Code. Along with approval of this new methodology, TECO has requested approval to use its current 2003 identifiable avoided variable O&M calculation until the proposed methodology is approved.

It is unlikely that purchases made by TECO pursuant to the proposed Standard Offer Contract will result in the deferral or avoidance of TECO's 2006 CT unit, because the eligibility pool for Standard Offer Contracts is limited, and the subscription limit of TECO's avoided unit is only a portion of the CT's total capacity. If TECO enters into Standard Offer Contracts, but the need for the 2006 CT unit is not deferred or avoided, TECO will essentially be paying twice for the same firm capacity. Therefore, the requirements of federal law and the implementation of the state regulations discussed above may result in a subsidy to the qualifying facilities. We note, however, that the potential subsidy could be mitigated, as TECO may have opportunities to sell any surplus capacity in the wholesale market.

Ideally, qualifying facilities should compete on equal footing with all other producers of electricity. However, until and unless there is a change in federal and state law, qualifying facilities are to be given some preferential treatment. We have minimized this unequal footing by requiring Standard Offer Contracts only for small qualifying facilities, renewables, or municipal solid waste facilities. These types of facilities may not be in a position to negotiate a purchased power agreement due to their size or timing. Thus, our rules balance market imperfections with the existing policy of promoting qualifying facilities.

We find that TECO's proposed Standard Offer Contract and proposed methodology for calculating identifiable avoided incremental O&M costs, as indicated in the proposed tariffs, comply with our rules and are appropriate. Accordingly, we approve the new Standard Offer Contract and COG-1 and COG-2 tariffs. TECO's Standard Offer Contract, and COG-1 and COG-2 tariffs shall become effective upon the issuance of a consummating order if there is no timely protest filed. As a result, TECO's three-week open solicitation period begins on the date of issuance of the consummating order. We further approve TECO's request to use its current 2003 identifiable avoided variable O&M calculation until the new methodology becomes effective upon the issuance of a consummating order.

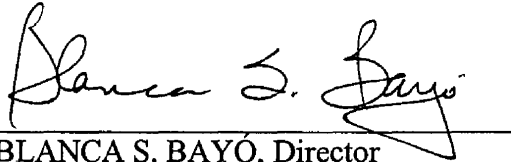
Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that TECO's New Standard Offer Contract for Qualifying Cogeneration and Small Power Production Facilities and Associated Revisions to Tariff Schedules COG-1 and COG-2 are approved and shall become effective upon the issuance of a Consummating Order. It is further

ORDERED that if no timely protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 13th day of February, 2004.



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

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS

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.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files 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

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Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 5, 2004.

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.