



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

**DATE:** JANUARY 7, 1999

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

**FROM:** DIVISION OF ELECTRIC AND GAS (BALLINGER) TB  
DIVISION OF LEGAL SERVICES (PAUGH) JPP RVE JW

**RE:** DOCKET NO. 981893-EQ - PETITION TO ESTABLISH NEW STANDARD OFFER CONTRACT FOR QUALIFYING COGENERATION AND SMALL POWER PRODUCTION FACILITIES BY TAMPA ELECTRIC COMPANY.

**AGENDA:** 1/19/99 - TARIFF FILING - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** 60-DAY SUSPENSION DATE: FEBRUARY 16, 1999

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\EAG\WP\981893.RCM

### CASE BACKGROUND

On December 18, 1998, Tampa Electric Company (TECO) filed its Petition to Establish a New Standard Offer Contract for Qualifying Cogeneration and Small Power Production Facilities. According to its Petition, TECO's revised Ten-Year Site Plan identifies the next planned generation addition as a combustion turbine with an in-service date of 2001. However, according to TECO, time constraints required it to base its proposed Standard Offer Contract on a combustion turbine unit with an in-service date of 2003.

This recommendation only addresses the threshold policy issue of whether a utility should use the next planned generation addition as the basis for its Standard Offer Contract. If the Commission denies this recommendation, staff will prepare another recommendation to address the merits and substantive issues raised by TECO's Petition at a later date.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should TECO's Petition for Approval of a Standard Offer Contract based upon a 180 MW combustion turbine with an in-service date of 2003 be approved?

**RECOMMENDATION:** No. According to the Petition, TECO's next planned generation addition is a 180 MW combustion turbine with an in-service date of 2001. To allow utilities to select avoided units other than their next planned addition would render the Commission's rules regarding Standard Offer contracts meaningless. TECO should refile its petition with a Standard Offer contract based on the 2001 combustion turbine.

**STAFF ANALYSIS:** When the Commission last revised Rules 25-17.080 through .091, Florida Administrative Code in 1993, Standard Offer contracts were limited to fossil fueled qualifying facilities less than 100 kilowatts (0.1 MW) in size as well as renewable and municipal solid waste facilities regardless of size. This limited eligibility was adopted in order to promote a more competitive approach to new generation selection. Larger and more sophisticated qualifying facilities and other non-utility generators could participate in the utility's Request For Proposal (RFP) process. Standard Offer Contracts were retained to promote small qualifying facilities, renewable, and municipal solid waste facilities by providing a "no hassle" contract after all other cost-effective measures have been taken. Standard Offer Contracts are also a method of implementing the Public Utilities Regulatory Policies Act (PURPA) and Chapters 366.80 and 377.709, Florida Statutes. Since the eligibility pool for Standard Offer Contracts is limited, it is highly unlikely that purchases made pursuant to these types of contracts will defer or completely avoid any utility generating facility. However, to allow utilities to subjectively choose an avoided unit is no more than a "bait and switch" game which would render the Commission's rules meaningless.

In order to send the appropriate price signal to these select types of facilities, utilities should be required to base the purchase price on the next planned unit addition. To base prices on a unit farther out in the future lessens the value of the payments in today's dollars. In addition, it would not be appropriate to commit ratepayer's dollars to a project that may be avoided due to additional conservation, changes in load growth, or other more cost-effective alternatives that arise prior to the

construction of the avoided unit. TECO utilized this rationale when it filed a petition to withdraw a previous Standard Offer Contract. Contained in Order PSC-94-1008-FOF-EQ (Attachment 1), issued August 22, 1994, is the Company's statement from its Petition in Docket No. 940094-EQ

.. it is too early to designate a 2001 CT as the company's Avoided Unit for establishing a standard offer contract. The company believes that it may not be in its Customers' best interest to commit to purchase combustion turbine peaking capacity, some seven years in advance of the unit's planned in-service date.

The Commission agreed with TECO and Order PSC-94-1008-EQ further stated: "Since the avoided unit in question is a Combustion Turbine (CT) and, since CT's normally only take two years to build it would be premature to commit to a unit at this time."

TECO's proposed unit has an in-service date that is four years in the future. Again, staff recommends that Standard Offer Contracts only be made available after all other cost-effective measures have been explored.

To allow a utility to accelerate the construction of a generating unit and then claim that there is not enough time to issue a Standard Offer Contract has the appearance of manipulation and should not be tolerated. Generation planning is not done in a vacuum. Utilities should be aware of the relevant rules and statutes and take these into account when planning their generation additions. TECO filed its 1998 Ten-Year Site plan on April 1, 1998. That plan showed TECO's next generation addition as a 180 MW CT with an in-service date of January, 2003. On August 25, 1998, TECO filed a revised Ten-Year Site Plan which showed its next generation addition as a 180 MW CT with an in-service date of January, 2001. It was at this time that staff first informed TECO of the potential problem with not issuing a Standard Offer contract based upon the 2001 CT. At the September 11, 1998, Ten-Year Site Plan workshop, representatives from TECO stated that they would be filing a Standard Offer contract in the near future. Staff followed up this statement with a written request for a specific filing date and avoided unit designation. This request and TECO's response are contained in Attachment 2. No further meetings were held prior to the filing of the current Petition on December 18, 1998. TECO has had ample time to prepare and file a proposed Standard Offer Contract.

TECO is not alone in its choice to base a Standard Offer contract on a unit other than its next planned generating unit. Staff will address this threshold issue with each utility when the utility files for approval of a Standard Offer Contract. The table below summarizes what the other three investor-owned utilities have indicated to staff to date:

Utility	4/1/98 Plan	12/31/98 Plan	Std. Offer Filed	Avoided Unit
FPL	2002 CTs Repowering	2001 CTs for Repowering	No	2002 CT
FPC	2004 CC	2001 CC	No	Unknown
GULF	2002 CT	2002 CC	No	Unknown

The purpose of a Standard Offer Contract is to offer small qualifying facilities, renewable, and municipal solid waste facilities a "no hassle" contract after all other cost-effective measures have been taken. To base avoided costs on a unit other than the utility's next planned addition would render this objective meaningless. Therefore, TECO's Petition should be denied. TECO should refile its petition with a Standard Offer contract based on the 2001 combustion turbine.

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

**RECOMMENDATION:** Yes. However, if the Commission denies the staff recommendation contained in Issue 1, then this Docket should remain open.

**STAFF ANALYSIS:** If the Commission approves the staff recommendation contained in Issue 1, then this Docket should be closed. If no person whose substantial interests are affected by the Commission's action in this docket files a protest within 21 days of the issuance of the order, this docket should be closed.

However, if the Commission denies the staff recommendation contained in Issue 1, then this Docket should remain open until staff can file a recommendation and the Commission issues an Order addressing the merits of the Petition.

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of )	DOCKET NO. 940094-EQ
standard offer contract for )	ORDER NO. PSC-94-1008-FOF-EQ
cogenerators and small power )	ISSUED: August 22, 1994
producers by TAMPA ELECTRIC )	
COMPANY )	
_____ )	

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
 SUSAN F. CLARK  
 DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING PETITION TO WITHDRAW PROPOSED  
STANDARD OFFER CONTRACT

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 formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

On December 20, 1993, Tampa Electric Company (TECO) filed a Petition to close the then effective standard offer contract, which was based on a 1999 combustion turbine as the avoided unit. TECO stated that it had reassessed its need for additional generating capacity and had determined that its standard offer contract based upon a 1999 avoided unit was no longer a prudent cost-effective alternative. TECO went on to say that it would file an additional petition seeking approval of TECO's new standard offer which would be supported by TECO's most current generation expansion plan. On January 26, 1994 TECO filed this petition to open a new standard offer based on a 2001 CT as the avoided unit.

On June 9, 1994, TECO filed a Withdrawal of Petition For Approval of Standard Offer Contract For Cogenerators and Small Power Producers. TECO stated "that it is too early to designate a 2001 CT as the company's Avoided Unit for establishing a standard offer contract. The company believes that it may not be in its Customers' best interest to commit to purchase combustion turbine

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DOCKET NO. 940094-EQ  
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peaking capacity, some seven years in advance of the unit's planned in-service date."

After reviewing the response to Interrogatories and Data Requests propounded in this docket, we agree with TECO's contention that it may not be in the ratepayers best interest to commit to purchase combustion turbine peaking capacity seven years or more in advance of the unit's planned in-service date.

Rule 25-17.0832(3)(e)(4) spells out when a standard contract offer expires. The Rule states that this "date shall be at least four years before the anticipated in-service date of the avoided unit or units unless the avoided unit could be constructed in less than four years". Since the avoided unit in question is a Combustion Turbine (CT) and, since CT's normally only take two years to build it would be premature to commit to a unit at this time.

The Commission made a similar determination in Docket 910759-EI where Florida Power Corporation (FPC) requested permission to build four combined cycle plants at its Polk County site. In that case FPC had filed for four combined cycle units, two of which were to be built in the 1999-2000 time frame. The two earlier vintage units were approved and the 1999-2000 combined cycle units, to be built 7 1/2 years after the filing, were denied. At page 35, second paragraph, of Order Number 25550 issued in that docket Commissioner Easley stated

At this time, however, I cannot find with certainty that Florida Power's load forecast supports the conclusion that Florida Power's last two proposed units are needed to provide adequate electricity to Florida Power's customers, because the need is identified in the long term, far in the future. Too much uncertainty remains with respect to Florida Power's planned resources in 1999-2000 time frame.

For these reasons, we find that Tampa Electric Company's Petition to Withdraw its Petition for approval of standard offer contract for cogenerators and small power producers should be granted.

It is therefore,

ORDERED that Tampa Electric Company's Petition to withdraw its petition for approval of standard offer contract for cogenerators and small power producers is granted. It is further

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ORDERED that this docket shall be closed if no person whose substantial interests are affected timely files a protest to this proposed agency action.

By ORDER of the Florida Public Service Commission, this 22nd day of AUGUST, 1994.

BLANCA S. BAYO, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )  
RVE

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street,

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Tallahassee, Florida 32399-0870, by the close of business on September 12, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

STATE OF FLORIDA



Commissioners:  
JULIA L. JOHNSON, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARY  
JOE GARCIA  
E. LEON JACOBS, JR.

Attachment 2  
Docket No. 981893-EQ  
January 7, 1999  
Page 1 of 2

DIVISION OF ELECTRIC & GAS  
JOSEPH D. JENKINS  
DIRECTOR  
(850) 413-6700

**Public Service Commission**

October 1, 1998

Mr. James D. Beasley  
McFarlane, Ausley, Ferguson & McMullen  
P.O. Box 391  
Tallahassee, Florida 32302

Dear Mr. Beasley:

At the September 11, 1998 staff workshop, your utility indicated that it would be filing a Standard Offer contract for Commission approval in the near future. To date, no such petition has been filed with the Commission. In order to compliment the Staff's review of individual utility Ten-Year Site Plans, I am requesting that each investor-owned utility provide an estimated date of filing and the avoided unit(s) the contract would be based upon. This information should be provided no later than October 15, 1998.

Thank you for your consideration in this matter. If you have any questions, please contact me at (850)413-6680.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Ballinger".

Tom Ballinger  
USC Engineer Supervisor  
Bureau of Conservation/Systems Planning  
and Electric Safety

TB:kt

cc: Joseph Jenkins  
Robert Trapp  
Roland Floyd  
Bob Elias  
Kenneth Dudley  
Lee Colson  
Mark Futrell  
Mike Haff

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October 9, 1998

Mr. Tom Ballinger  
U.S.C. Engineering Supervisor  
Bureau of Conservation/System Planning  
and Electric Safety  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

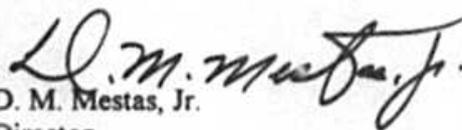
Dear Mr. Ballinger:

In response to your request to Mr. Beasley dated October 1, 1998, Tampa Electric plans to file a Standard Offer Contract for Commission approval prior to November 1, 1998.

We have designated a 180 MW (winter rating) natural gas fired combustion turbine generating unit with an in-service date of January 1, 2003, as the avoided unit.

We look forward to reviewing our proposal with you prior to filing our petition.

Sincerely,

  
D. M. Mestas, Jr.  
Director  
Phosphate Sales and  
Cogeneration Services

DMM, Jr./sgh  
c: J. D. Beasley, Esq.  
T. L. Hernandez  
A. L. Llewellyn

TAMPA ELECTRIC COMPANY  
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