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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In Re: Tampa Electric Company's
Petition for Approval of its Plan
to Bring its Generating Units into
Compliance with the Clean Air Act.

Docket No. 99-2014-EI

PETITION OF ROBERT A. BUTTERWORTH, ATTORNEY
GENERAL, STATE OF FLORIDA, TO INTERVENE

Robert A. Butterworth, Attorney General, State of Florida (Attorney General), pursuant to Rule 25-22.039, Florida Administrative Code, petitions the Florida Public Service Commission (Commission) to enter an order granting leave to the Attorney General to intervene in this Docket and states:

1. The Attorney General, pursuant to Art. IV, Section 4, Fla. Const., is the chief legal officer of the State with his principal place of business and mailing address at:

Office of the Attorney General
PL-01 The Capitol
Tallahassee, Florida 32399-1050
(850) 414-3300

2. On December 23, 1999, Tampa Electric Company (TECO) filed its petition, for approval of plan to bring generating units into compliance with Clean Air Act, with the Public Service Commission.

3. On January 11, 2000, the staff of the Commission filed a recommendation that TECO be required to issue a Request for Proposal (RFP) for the shutdown/repowering of the Gannon Station. The recommendation was made to ensure that TECO selects the lower cost option between purchased power and refurbishing Gannon.

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4. On January 18, 2000, a hearing was held on staff's recommendation and was denied by a vote of 3 to 1.¹

5. The Commission staff's recommendation also noted that the Consent Final Judgment entered into between the Department of Environmental Protection and TECO required TECO to perform the following activities in addition to repowering Gannon:

1. Reduction of Big Bend Station NOx emissions by 2010 through retrofit control technology, or repowering with natural gas, or by shutting down the station;
2. Improvements of the Big Bend Units 1 and 2 SO₂ scrubber;
3. A Big Bend Station precipitator optimization study;
4. Evaluation of 'zero-ammonia' nitrogen oxide control technology at the Gannon facility;
5. Feasibility of and/or addition of a particulate matter continuous emissions monitor;
6. \$6 million contribution to the Hillsborough Environmental Protection Commission for use in the Bay Regional Air Chemistry Experiment (BRACE) program;
7. Collaborate with the DEP to develop and implement a State tax policy aimed at emission reductions and other such programs; and
8. Cooperate with DEP and the EPA in an effort to clarify the NSR regulations.

Commission staff, however, noted that TECO's petition "does not provide estimated costs for any of the above specific activities. Instead, TECO states in paragraph 33 of its petition that '\$327 million represents a high-level estimate of expected costs for environmental compliance activities required by the CFJ.'"

4. The Consent Final Judgment entered into between TECO and the Department of Environmental Protection provides at paragraph O:

TAMPA ELECTRIC COMPANY's obligation to implement the

¹ The staff's second recommendation to keep the docket open was approved.

emissions reductions and other requirements set forth herein will be conditioned on the receipt of necessary federal, state and local environmental permits, and acceptable regulatory treatment, including cost recovery by the Florida Public Service Commission.

6. The Attorney General brings this Petition in his *parens patriae* capacity as guardian of the health, welfare, and safety of the citizens of the State of Florida.

7. The Attorney General has broad statutory authority to prosecute and appear in suits in which the State is a party or is otherwise interested. Section 16.01(4),(5), and (6), Florida Statutes. One of the matters in which the State has an interest is upholding the intent and public purpose of legislative enactments.

8. Where the public interest is involved, the Attorney General may not only initiate litigation, but also intervene in pending litigation. State ex rel. Shevin v. Yarbrough, 257 So.2d 891, 894 (Fla. 1972). The Attorney General is granted wide discretion in determining what particular matters involve the public interest. State ex rel. Shevin v. Exxon Corp., 526 F. 2d 266, 268-69 (5th Cir. 1976). Accordingly, his conclusion that a particular matter involves the public interest is presumed to be correct. Yarbrough, at 895.

9. The enforcement of the statutes and policies at issue in this proceeding clearly involve matters of public interest. While clean air is always of upmost importance to the public, so too is the issue of how much these upgrades will cost and what, if any of these costs should be borne by the consumers.

10. The Attorney General is entitled to intervention pursuant to Chapter 16, Florida Statutes, in addition to the constitutional provisions, statutes, rules, and judicial precedent cited


above.

WHEREFORE, the Attorney General respectfully requests that the Commission enter an order granting the Attorney General leave to intervene in this Docket.

DATED this 9th day of January, 2000.

Respectfully submitted,

ROBERT A. BUTTERWORTH
Attorney General


Cecilia Bradley
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CERTIFICATE OF SERVICE
DOCKET NO.99-2014-EI

I CERTIFY that a copy hereof has been furnished by U.S. mail to the following persons

on this 9th day of January, 2000.

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