State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER ● 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 7, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Sickel, Wheeler)
Office of the General Counsel (Brown)

RE: Docket No. 050293-EQ – Petition for approval of new standard offer contract for qualifying cogeneration and small power production facilities and for approval of associated revisions to tariff schedule COG-2 by Tampa Electric Company.

AGENDA: 07/19/05 – Regular Agenda – Proposed Agency Action and Tariff Filing– Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Bradley

CRITICAL DATES: 8 month effective date: 12/25/2005

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\050293.RCM.DOC

Case Background

On April 25, 2005, Tampa Electric Company (TECO) filed a Petition for Approval of a new Standard Offer Contract (Petition) for qualifying cogeneration and small power production facilities. As the avoided unit used in connection with this standard offer, TECO has designated a 5 MW portion of a 180 MW combustion turbine ("CT"), Bayside Unit 3B, scheduled to be placed in service January 1, 2007. Along with the petition, TECO submitted the associated revised sheets for the COG-2 tariff for firm capacity and energy. By letter dated June 1, 2005, TECO waived the 60-day file and suspend period applicable to tariff filings.

This recommendation addresses the Petition for approval of the proposed standard offer contract and the proposed revised tariff sheets. The Commission is vested with jurisdiction over this matter through several provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05, 366.051, 366.06 and 366.80 – 366.82.

Discussion of Issues

Issue 1: Should TECO's petition for approval of a new Standard Offer Contract, and associated tariffs, based upon a combustion turbine unit with an in-service date of January 1, 2007, be approved?

Recommendation: Yes. TECO's new Standard Offer Contract complies with Rule 25-17.0832, Florida Administrative Code. The Commission should approve it, and it should become effective the date the Commission's order becomes final. (Sickel)

Staff Analysis: Pursuant to federal law, the availability of standard rates is required for fossil-fueled qualifying facilities less than 100 kilowatts (0.1 MW) 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 for the production of electricity." Section 377.709, Florida Statutes.

These federal and state requirements were implemented by the Commission through its 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 with the Commission a tariff and a Standard Offer Contract for the purchase of firm capacity and energy from small qualifying facilities. These provisions implement the requirements of the federal law and promote renewables and solid waste-fired facilities by providing a straightforward contract. Larger qualifying facilities and other non-utility generators who wish to sell capacity and energy to investor-owned electric utilities may participate in a utility's Request for Proposal process pursuant to Rule 25-22.082, Florida Administrative Code.

To comply with Rule 25-17.0832(4)(a), Florida Administrative Code, TECO proposed a new Standard Offer Contract based on a combustion turbine (CT) unit with an in-service date of January 1, 2007. Specifically, the contract is based on a 5 MW portion of Bayside Unit 3B which has a 180 MW (winter) rating.

TECO's proposed COG-2 (firm capacity and energy) tariff includes a three-week open season when the contract will be available for subscription. The open season period will commence when the Commission's order approving the contract becomes final. The tariff provides for TECO to evaluate and prioritize the contracts received during the open period, then select and accept those that have convincingly demonstrated viability. The processing procedure applied to the contracts is intended to insure that committed capacity and energy would be available by the date specified.

Once the contract is fully subscribed or has expired, TECO will advise the Commission staff in writing to indicate that the Standard Offer Contract should be closed. The notification will inform staff whether any acceptances were received and provide the estimated date when a petition would be filed with respect to any new standard offer needs. Also, revised tariff sheets reflecting closure of the Standard Offer Contract will be included with the notification.

Staff believes that TECO's evaluation criteria will be readily understandable to any developer who signs TECO's Standard Offer Contract. The avoided unit cost parameters appear to be reasonable for a CT unit, and the resulting capacity payments are appropriate. The performance provisions include dispatch and control and on-peak performance incentives.

Given that the subscription limit for the Standard Offer Contract is only a portion of the CT's total capacity, it is not likely that the Contract will result in deferral or avoidance of the 2007 unit. If TECO enters into a Standard Offer Contract, but the need for the 2007 CT is not deferred or avoided, TECO will be paying twice for the same firm capacity. Therefore, the requirements of the federal law and the implementation of the state regulations discussed above may result in a subsidy to the qualifying facilities. Staff notes, however, that the potential subsidy could be mitigated, as TECO may have opportunities to sell any surplus capacity on 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. The Commission has 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, the Commission's rules balance market imperfections with the existing policy of promoting qualifying facilities.

In summary, staff does not expect that TECO's proposed Standard Offer Contract will result in the avoidance of the 2007 CT unit. Nonetheless, TECO's proposed Contract and tariffs comply with the Commission's cogeneration rules. For this reason, staff recommends that TECO's petition to establish its new Standard Offer Contract and associated tariffs be approved. TECO's proposed Standard Offer Contract and its associated tariffs should become effective when the Commission's order approving it becomes final.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected files a protest within 21 days of the issuance of the Commission's order approving the contract, this docket should be closed upon the issuance of a consummating order. (Brown)

Staff Analysis: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.