

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Tampa Electric)	DOCKET NO. 890200-EQ
Company for Approval of Construction)	ORDER NO. 22884
Deferral Agreement with IMC)	ISSUED: 5-3-90
Fertilizer.)	
)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTION
ORDER ON RECONSIDERATION APPROVING
CONSTRUCTION DEFERRAL AGREEMENT BETWEEN
IMC FERTILIZER, INC. AND TAMPA ELECTRIC COMPANY

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On July 24, 1989, we issued Order No. 21600 in this docket approving the Construction Deferral Agreement between IMC Fertilizer, Inc. (IMC) and Tampa Electric Company (TECO). That order was issued as final agency action and was appealed by the Office of Public Counsel. On December 8, 1989 we filed a Motion for Relinquishment of Jurisdiction with the Florida Supreme Court. The purpose of the Motion was to regain jurisdiction over Order No. 21600 so that we might reconsider our order and hold out the opportunity for hearing to any affected parties. The Supreme Court granted our Motion on February 22, 1990. Accordingly, we have on our own motion reconsidered Order No. 21600 and reissue it as Proposed Agency Action as set forth below.

DOCUMENT NUMBER-DATE

03814 MAY-3 1990

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On February 8, 1989, Tampa Electric Company (TECO) filed a petition requesting Commission approval of a construction deferral Agreement (Agreement) with IMC Fertilizer, Inc. (IMC). In its petition TECO states that its willingness to enter into the Agreement was prompted by the determination of IMC to go forward with the construction of a 2.8 mile transmission line from IMC's cogeneration facility at its New Wales chemical plant to IMC's Kingsford No. 2 mine.

TECO asserts that by building the transmission line IMC would be able to deliver excess cogenerated electricity of approximately 5.4 megawatts of capacity and 37,843,000 kilowatt hours of energy over the line to the Kingsford No. 2 mine, thereby reducing the amount of electricity IMC would be purchasing from TECO for the operation of its mine.

Under the current situation, all excess generation at the New Wales plant is sold to TECO on an as-available basis and the Kingsford No. 2 mine is an all-requirements customer of TECO. TECO has indicated that the construction of the line would reduce TECO's nonfuel revenues. TECO has estimated that base revenues of approximately \$547,620 would have been lost if the line had been operable for all of 1989. The estimated construction cost for IMC to build the line is \$684,268.

TECO provided the Commission with analyses that show (1) that it is in IMC's financial interests to build the 2.8 mile transmission line; and (2) that given IMC's intentions to construct the line, it is in the financial best interests of TECO's general body of ratepayers to avoid such construction.

Under the terms of the Agreement entered into by TECO and IMC, IMC agrees not to construct the 2.8 mile transmission line for one year from the date of final approval of the Agreement by the Commission. In exchange for this, TECO would apply monthly credits equal to the difference between average fuel cost and marginal fuel cost to IMC's bill for service at the Kingsford No. 2 mine. The credits would be based on the total number of KWH electricity which the New Wales chemical plant sells to TECO on an as-available basis during a particular month. Thus, for each KWH sold by IMC/New Wales during the term of the agreement, TECO will credit the same number of KWH at the IMC Kingsford No. 2 mine with the difference between marginal fuel cost and average fuel cost. For TECO, marginal fuel cost is currently below the average

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fuel cost and apparently will remain so in the near future. The credit given to IMC would be recovered through the fuel adjustment mechanism.

Under the Agreement, TECO's customers should continue to receive benefits estimated to be \$647,406 during 1989 in payments from IMC. This would consist of base nonfuel revenues and oil backout contributions by IMC. However, if the line had been constructed during all of 1989, TECO and its other customers would receive only an estimated \$52,104 total benefits from IMC, consisting of customer charges and standby revenues.

At the Agenda Conference discussion of this matter, Public Counsel suggested that the amount of the credit deducted from IMC's electric bills pursuant to the Agreement should not be spread to all TECO customers through the fuel adjustment mechanism. However, we are of the view that such recovery is reasonable in light of the fact that the additional fuel revenues required from TECO's customers will be the same whether the Agreement is approved or the line is built by IMC. If IMC builds the transmission line then TECO will lose a portion of its sales to the Kingsford No. 2 mine and with it the system fuel savings attributable to those sales. The loss of those benefits, which currently are an offset to total system fuel costs, would result in a corresponding increase in the fuel revenues required of TECO's customers.

Under the Agreement, IMC would pay TECO the marginal fuel costs for fuel used to continue serving the Kingsford No. 2 mine. The total fuel cost to all ratepayers would be the same regardless of whether IMC builds the line or the Agreement operates.

The credit, or reduction in billing, to IMC will be based on the total number of KWH electricity which the New Wales chemical plant continues to sell to TECO on an as-available basis. It is not a payment, per se. Instead, TECO will be recovering a smaller amount of its fuel costs from IMC. The amount of the credit will be spread to all TECO customers, including IMC, through the fuel adjustment charge. This is appropriate since, as we have noted, the additional fuel revenue required from all of TECO's customers will be same whether IMC builds the line or the Agreement is permitted to operate.

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In addition, the significantly greater benefits which all TECO customers should obtain under the Agreement far exceed such incremental fuel adjustment charge.

After consideration of the foregoing, we agree with our Staff and approve the January 17, 1989, Construction Deferral Agreement between IMC and TECO, as well as TECO's right to collect from all of its customers, as a part of its fuel cost under the fuel adjustment clause, the credit amounts deducted from IMC's bills pursuant to the Agreement. Therefore, it is

ORDERED by the Florida Public Service Commission that the February 8, 1989 Petition of Tampa Electric Company for approval of its Construction Deferral Agreement with IMC Fertilizer, Inc. is granted. If it further

ORDERED that it is fair and reasonable for Tampa Electric Company to recover, through its fuel adjustment mechanism, the amounts of the credits made on IMC's electric bills pursuant to the Agreement.

By Order of the Florida Public Service Commission,
this 3rd day of MAY, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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.

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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, Tallahassee, Florida 32399-0870, by the close of business on May 24, 1990.

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, and as reflected in a subsequent 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.

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 sewer 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.