

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Tampa Electric Company for approval of cost recovery for a new environmental program, the Big Bend Units 1 & 2 Flue Gas Desulfurization System.

DOCKET NO. 980693-EI
ORDER NO. PSC-98-1097-PCO-EI
ISSUED: August 14, 1998

ORDER GRANTING LEAVE TO AMEND PETITION, ESTABLISHING ISSUES AND
ACKNOWLEDGING WITHDRAWAL OF TESTIMONY

I. Background

On August 12, 1998, Tampa Electric Company (TECO) filed a Petition for Leave to Amend its Petition and the Entry of and Order Withdrawing Certain Issues and Testimony. In this filing TECO, in essence, seeks: 1) leave to amend its Petition; 2) a determination of the appropriate issues identified in this docket; and 3) an acknowledgment of the withdrawal of testimony. This filing is the result of an agreement between all parties addressing these three issues. TECO asserts in its filing that, after consultation with all other parties and Staff; "there is no objection to the entry of the order requested herein." This Order addresses the relief sought in TECO's filing.

II. Leave to Amend Petition

Pursuant to Rule 28-106.202 Florida Administrative Code, Petitioner Tampa Electric Company (TECO) has requested leave to amend its Petition in this docket. Rule 28-106.202, Florida Administrative Code, requires that:

The petitioner may amend the petition after the designation of the presiding officer only upon order of the presiding officer.

As a result of the agreement of the parties, TECO has agreed to withdraw paragraph 13 of its Petition. Given that the parties have no objection to the request, it is found that TECO's request for leave to amend should be granted.

DOCUMENT NUMBER-DATE

08671 AUG 14 88

REGISTRATION RECORDS/REPORTING

III. Issues

The parties have reached agreement on the issues to be presented to the Commission for decision. These issues are listed in Attachment A, which is attached to this Order and incorporated by reference in this Order. According to the parties, all other issues "are most appropriately reserved until the cost recovery portion of this determination which will take place in a subsequent docket, possibly in the fall of 1999." Accordingly, it is found that the issues to be addressed by the parties in their Prehearing Statements are those issues listed in Attachment A.

IV. Withdrawal of Testimony

TECO also requests that:

[T]he Prehearing officer enter an order approving the amendment of its Petition by striking paragraph 13 thereof as well as striking that portion of the prefiled testimony of Thomas L. Hernandez beginning with the question at line 24 of page 13 and ending at line 17 of page 14 and the last sentence beginning on line 5 through line 7 on page 15. The section entitled "Recovery Period," contained in the exhibit of witness T. L. Hernandez, Exhibit THL-1, at Bates Stamp pages 132-133, would also be stricken.

In addition, TECO has requested that the prefiled testimony of FIPUG Witness James T. Selecky relating to issues the parties have agreed to reserve for a later proceeding be stricken.

However, this testimony has only been prefiled and not proffered. Therefore, an order of the Prehearing Officer is not required to withdraw portions of prefiled testimony. Accordingly, the requests will be treated as Notices of Withdrawal of the specific portions of the prefiled testimony of Mr. Hernandez and Mr. Selecky. Therefore TECO's withdrawal of portions of the testimony of Mr. Hernandez is acknowledged. The withdrawal of those portions of the prefiled testimony of Mr. Selecky as described above is also acknowledged.

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It is therefore

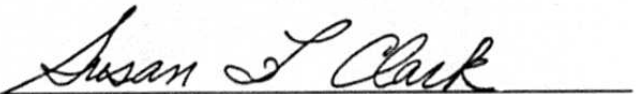
ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Tampa Electric Company's request for leave to amend its filing by striking paragraph 13 thereof is granted. It is further

ORDERED that Tampa Electric Company's withdrawal of specific portions of the testimony of Tampa Electric Company's Witness Thomas L. Hernandez in its Petition is acknowledged as set forth in the body of this Order. It is further

ORDERED that the withdrawal of Florida Industrial Power User's Group Witness James T. Selecky's testimony as set forth in the body of this Order is acknowledged. It is further

ORDERED that the issues to be addressed in Prehearing statements by the parties are those attached to this Order as Attachment A and incorporated herein by reference.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 14th day of August, 1998.



SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

GAJ

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Docket No. 980693-EI

1. Has Tampa Electric Company (TECO) adequately explored alternatives to the construction of a Flue Gas Desulfurization (FGD) system on Big Bend Units 1 and 2?
2. Is the fuel price forecast used by TECO in its selection of a CAAA Phase II Compliance plan reasonable?
3. Are the economic and financial assumptions used by TECO in its selection of a CAAA Phase II Compliance plan reasonable?
4. Did TECO reasonably consider the environmental compliance costs for all regulated air, water and land pollutants in its selection of the proposed FGD system on Big Bend Units 1 and 2 for sulfur dioxide (SO₂) compliance purposes?
5. Has TECO demonstrated that its proposed FGD system on Big Bend Units 1 and 2 for SO₂ compliance purposes is the most cost-effective alternative available?
6. Should the Commission approve TECO's request to accrue allowance for funds used during construction (AFUDC) for the proposed FGD system on Big Bend Units 1 and 2?
7. Should TECO's petition for cost recovery of a FGD system on Big Bend Units 1 and 2 through the Environmental Cost Recovery Clause (ECRC) be granted?
8. Should this docket be closed?

GAJ/js