

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition of Tampa Electric Company for approval of 2006 small power production agreement with City of Tampa. || DOCKET NO. 060573-EQ
ORDER NO. PSC-06-0943-PAA-EQ
ISSUED: November 13, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING SMALL POWER PRODUCTION AGREEMENT

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

Tampa Electric Company ("TECO") currently purchases 15.5 megawatts (MW) of capacity and associated energy from the City of Tampa (the "City") based on generation from the McKay Bay Refuse to Energy Facility (the "Facility"). The precise terms and conditions for this purchase are contained in agreements approved by the Commission for cost recovery in 1983 and 1989 (collectively, the "First Agreement").¹ During an outage required for environmental improvements, changes were made that enhanced performance and efficiency aspects of the Facility. The Facility returned to service in 2002 and has demonstrated a capacity increase of 3.5 MW since that time. On August 25, 2006, TECO filed a petition requesting approval of a 2006 Small Power Production Agreement pursuant to which it would purchase this additional 3.5 MW of firm capacity and energy. As set forth below, we approve TECO's petition. We have jurisdiction over this subject matter pursuant to Sections 366.04 through 366.06, 366.91, and 366.80 through 366.85, Florida Statutes.

The agreement approved in 1983 was based on an estimated rating of 25 MW for the Facility. In addition, a threshold capacity factor of 70%, on a monthly and annual basis, was set

¹ See Order No. 12445 in Docket No. 830188-EU, In re: Petition of Tampa Electric Company for approval of energy and capacity payments to the City of Tampa, Florida, and Order No. 21862-A in Docket No. 890736-EQ, In re: Petition of Tampa Electric Company for approval of amendment to small power agreement with City of Tampa.

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for capacity payments. When the Facility came into service after a construction period of approximately two years, the parties agreed that capacity payments would be based on a rating of 15.5 MW. The 1989 amendment modified the term of the agreement to end on March 1, 2009. The 1989 amendment also provided that any increase in rating would be based on a physical modification or addition to the Facility, followed by a demonstrated increase in the generating capacity. Any additional capacity purchased would be subject to a new agreement, but the first 15.5 MW would be attributed to purchases under the First Agreement.

TECO's petition relates to a new agreement for purchase of 3.5 MW of additional firm capacity and energy. This incremental capacity results from replacement of items such as boilers and furnace/grate systems, which enhanced the performance and efficiency aspects of the Facility. The work was done in conjunction with an environmental retrofit project undertaken to meet Clean Air Act requirements. All work was completed by year-end 2001. Because of the long outage, the contract end date for the First Agreement was shifted to August 1, 2011.

In accordance with the provisions of the First Agreement, the City demonstrated the uprated capacity during the years 2002 through 2004, and in 2005 expressed a desire to sell additional firm capacity to TECO. Although the Tampa Electric Standard Offer had an open season in 2005, the parties elected to negotiate an agreement that integrates the new capacity with the terms of the existing contract. The new and the existing contracts will terminate simultaneously, on August 1, 2011.

Under the terms of the agreement proposed for approval in this docket, the capacity and energy provided to TECO must be separated into the portion that belongs with the First Agreement and the portion that belongs with the new agreement. TECO has developed a system of spreadsheets that accomplish the required separation, utilizing hourly generation, availability, and comparisons of avoided cost. For the generation of year 2005, TECO has prepared a month by month comparison of payments made under the First Agreement with the payments that would have been made if the 2006 Agreement had been in force. During the negotiations and prior to the signing of the agreement, copies of the comparative invoices and supporting calculations were provided for the City to evaluate. We have reviewed samples of the same work and find that the assumptions and calculations appear reasonable. Under the terms of the 2006 contract, a minimum monthly capacity factor of 80% and availability factor of 90% are required for payment for the incremental capacity. Security payments are not required because the capacity and energy are provided from an existing facility, and early capacity payments are not a part of the agreement.

When the negotiations leading to this agreement began in 2005, the avoided unit for TECO was a 180 MW combustion turbine (CT) planned to be in-service by January 2007. By the time agreement was reached, plans had changed and the next avoided unit became a 97 MW CT planned for January 2009. The agreement was not renegotiated to match the planning change. As a result, the payments in the agreement are based on the January 2007 avoided unit.

As a sensitivity test, we requested a comparison between payments in the agreement versus the payments that would result if the 2009 unit were to be used as the avoided unit. The two scenarios produce very similar results, but the proposed contract is less costly overall. The

projection of total payments under the proposed contract is \$21,282 less than projected payments based on the 2009 unit. Therefore, approval of the agreement filed in this docket will contribute to the advancement of renewable energy at a favorable cost compared with the current next avoided unit.

There has been a perception that small renewable capacity purchases could in fact result in a duplication of capacity, because such purchases would not actually avoid or defer any large installations. Traditionally, we have recognized that, by making such purchases, a utility will theoretically be paying twice for the same firm capacity and thus create a subsidy for the renewable capacity supplier. That situation is mitigated somewhat by the opportunity to sell any excess capacity in the wholesale market with the gains being credited to ratepayers. In addition, TECO projects a growing demand for generating capacity and energy. This renewable source has relatively low cost and does not appear to bring about duplication of capacity.

The proposed agreement is designed to encourage as much generation as possible by the Facility. The Florida Legislature has found that it is in the public interest to promote the development of renewable energy resources, as detailed in Section 366.91, Florida Statutes. By converting municipal solid waste to useful electric energy, this renewable generation contributes to fuel diversity and conservation of expensive resources such as petroleum fuels, in line with the provisions and intent of the Florida Energy Efficiency and Conservation Act², Section 366.91, Florida Statutes, and Rule 25-17.001(5)(d), Florida Administrative Code.

In summary, we find that this agreement meets all requirements and rules that govern the provision and purchase of capacity and energy from renewable resources. In particular, it encourages the use of renewable energy sources and the conservation of expensive limited resources. It meets the goals of FEECA as well as Florida renewable energy policy in Section 366.91, Florida Statutes. For these reasons, we approve TECO's petition.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Tampa Electric Company's petition for approval of its 2006 Small Power Production Agreement with the City of Tampa is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

² FEECA is codified at Sections 366.80 through 366.85, Florida Statutes.

By ORDER of the Florida Public Service Commission this 13th day of November, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Marcia Sharma
Marcia Sharma, Assistant Director
Division of the Commission Clerk
and Administrative Services

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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 that is available under Section 120.57, 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 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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 4, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.