

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Polk 2-5
combined cycle conversion, by Tampa Electric
Company.

DOCKET NO. 120234-EI
ORDER NO. PSC-12-0642-PHO-EI
ISSUED: December 5, 2012

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on November 27, 2012, in Tallahassee, Florida, before Commissioner Art Graham, as Prehearing Officer.

APPEARANCES:

JAMES D. BEASLEY, ESQUIRE, & J. JEFFRY WAHLEN, ESQUIRE, Ausley
& McMullen, P.O. Box 391, Tallahassee, Florida, 32302
On behalf of Tampa Electric Company (TECO).

ROBERT SCHEFFEL WRIGHT, ESQUIRE & JOHN T. LAVIA, III, ESQUIRE,
Gardner Bist Wiener Wadsworth Bowden Bush Dee LaVia & Wright, P.A., 1300
Thomaswood Drive, Tallahassee, Florida, 32308
On behalf of DeSoto County Generating Company LLC (DeSoto).

PATRICIA A. CHRISTENSEN, ESQUIRE, 111 West Madison Street, Room
812, Tallahassee, Florida, 32399-1400
On behalf of Office of Public Counsel (OPC).

PAULINE ROBINSON, ESQUIRE & LARRY HARRIS, ESQUIRE, Florida
Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida
32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public
Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-
0850
Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. **CASE BACKGROUND**

On September 12, 2012, Tampa Electric Company (TECO or Tampa Electric) filed a
Petition to determine need for Polk 2-5 combined cycle conversion pursuant to Sections 366.04
and 403.519, Florida Statutes ("F.S."), and Rules 25-22.080, 25-22.081, 25-22.082 and 28-
106.201, Florida Administrative Code (F.A.C.). On September 19, 2012, the Florida Public

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

Service Commission ("Commission") issued a Notice of Commencement of Proceedings pursuant to Rule 25-22.080(3), F.A.C. An Order Establishing Procedure was issued on September 26, 2012. The matter is scheduled for a formal administrative hearing on December 12, 2012.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapters 120, 366, 377 and 403, F.S. This hearing will be governed by said Chapters and Chapters 25-6 and 25-22, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in

the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Mark J. Hornick	TECO	1,3,4,5,6
*Lorraine L. Cifuentes	TECO	1,2,3,5,6
*Howard T. Bryant	TECO	1,2,3,5,6
J. Brent Caldwell	TECO	1,3,4,5,6
*David M. Lukcic	TECO	1,3,4,5,6
S. Beth Young	TECO	1,3,5,6
R. James Rocha	TECO	1,2,3,4,5,6
Alan S. Taylor	TECO	1,3,4,5,6
<u>Rebuttal</u>	None	

* The following witnesses maybe excused from the hearing proceedings if the Commissioners have no questions: Lorraine Cifuentes, Howard Bryant, and David Lukcic.

VII. BASIC POSITIONS

TECO: The Commission should approve the need for Tampa Electric's proposed Polk 2-5, a combined cycle conversion project utilizing existing Polk combustion turbine ("CT") Units 2 through 5 and the addition of four heat recovery steam generators ("HRSGs") and a single steam turbine, with incremental net capacity of 339 megawatts (MW) and 352 megawatts summer and winter, respectively, increasing to 463 megawatts (winter) and 459 megawatts (summer) with supplemental firing, to meet the projected need for additional generating capacity on Tampa Electric's system in 2017. Polk 2-5 will provide Tampa Electric's customers the economic benefits of a highly efficient waste heat recovery based electrical generating system. This project is the most cost-effective means of meeting Tampa Electric's future capacity needs, will increase the company's overall system-wide

efficiency, and will provide fuel savings to customers. Polk 2-5 will also provide improvements in fuel diversity and reliability along with the environmental benefits of proven natural gas combined cycle (NGCC) technology. The Commission should also find that Tampa Electric has undertaken all conservation measures reasonably available to Tampa Electric which might mitigate the need for the new plant. Even after Tampa Electric's ambitious demand side management (DSM) and renewable energy efforts and achievements are factored into the analysis, Tampa Electric, nevertheless, will need the planned output of Polk 2-5, together with the project's associated facilities, in order to meet its customers' demand and energy requirements by 2017.

DESOTO: Pursuant to Section 403.519, Florida Statutes, the Commission must determine whether Tampa Electric Company's ("Tampa Electric") choice of its proposed Polk 2-5 Combined Cycle Conversion Project ("Polk Project" or "Polk Conversion Project") is the best option available for meeting the future needs of Tampa Electric and its customers for electric capacity and energy. DeSoto Generating Company, a qualified and short-listed bidder in Tampa Electric's 2017 Power Generation Request for Proposals for the Polk Conversion Project (the "RFP Process"), offered to sell to Tampa Electric the DeSoto Generating Facility, a 310-megawatts, two-unit, dual-fueled combustion turbine generating station that has operated, and continues to operate, in west central Florida since 2002 ("DeSoto Facility"), making sales to a number of Florida utilities during that period. DeSoto offered to sell the DeSoto Facility to Tampa Electric, as set forth in detail in DeSoto's Petition to Intervene, at a cost that is significantly less than the reported capacity cost for the Polk Project, on a dollars per kW basis, and significantly less than Tampa Electric's projected cost for a new combustion turbine unit that is planned for 2019. Based on this information, the Commission should thoroughly investigate whether Tampa Electric's decision to reject the DeSoto Facility purchase and proceed with its proposed self-build Polk Conversion Project is, in fact, in the best interests of Tampa Electric's customers.

OPC: None.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

VIII. ISSUES AND POSITIONS

ISSUE 1: **Is there a need for the proposed Polk 2-5 Combined Cycle Conversion, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519(3), Florida Statutes?**

POSITIONS

TECO: Yes. Polk 2-5 is needed to maintain electric system reliability and integrity as this criterion is used in Section 403.519(3), Florida Statutes. After taking into account existing power plant unit capacity, firm purchased power agreements, and demand side management (DSM) and renewable energy alternatives, Tampa Electric requires an addition of approximately 294 megawatts of capacity to maintain Tampa Electric's system reliability requirements by 2017.

DESOTO: DeSoto does not dispute whether Tampa Electric needs additional generating capacity in the 2013-2017 time frame, but believes that the DeSoto Facility, when added into Tampa Electric's generating fleet, would satisfy Tampa Electric's reliability need for additional generating capacity and energy.

OPC: Yes, there appears to be a need for additional generation for the reliability and integrity of Tampa Electric's system.

STAFF: Staff takes no position at this time.

ISSUE 2: **Are there any renewable energy sources and technologies or conservation measures taken by or reasonably available to Tampa Electric Company, which might mitigate the need for the proposed Polk 2-5 Combined Cycle Conversion?**

POSITIONS

TECO: No. Tampa Electric has long been a leader in the field of demand side management (DSM) going back to 1981 and continues to promote new and modified programs to maximize cost-effective conservation and load management to reduce load requirements and encourage conservation. However, even factoring in these efforts and the results they have achieved into the analysis, Polk 2-5 is needed to serve the needs of Tampa Electric customers beginning in 2017. Tampa Electric's conservation programs incorporate all measures reasonably available.

DESOTO: Noting that this is a standard, statutory issue in power plant need determinations, DeSoto does not dispute whether Tampa Electric needs additional generating capacity in the 2013-2017 time frame, even taking account of conservation measures that are reasonably available to Tampa Electric.

OPC: It is unknown whether there are currently any renewable energy sources and technologies or conservation measures taken by or reasonably

available to Tampa Electric Company, which might mitigate the need for the proposed Polk 2-5 Combined Cycle Conversion.

STAFF: Staff takes no position at this time.

ISSUE 3: **Is there a need for the proposed Polk 2-5 Combined Cycle Conversion, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519(3), Florida Statutes?**

POSITIONS

TECO: Yes. Polk 2-5 is needed to ensure an adequate supply of electricity at a reasonable cost, as this criterion is used in Section 403.519(3), Florida Statutes. Polk 2-5 will enable Tampa Electric to meet the projected demand and energy requirements of its customers at a cost less than any available alternative. Savings will be achieved primarily due to the fact that Polk 2-5 will take advantage of waste heat from the operation of existing combustion turbines (CTs) at Polk Power Station to generate incremental power.

DESOTO: DeSoto does not dispute whether Tampa Electric needs additional generating capacity in the 2013-2017 time frame, but believes that the DeSoto Facility, when added into Tampa Electric's generating fleet, would satisfy Tampa Electric's need for adequate electricity at a reasonable cost.

OPC: There appears to be a need for additional generation for the reliability and integrity of Tampa Electric's system. OPC supports that the lowest cost generation available should be used to meet this need based on the evidence adduced at the hearing.

STAFF: Staff takes no position at this time.

ISSUE 4: **Is there a need for the proposed Polk 2-5 Combined Cycle Conversion, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519(3), Florida Statutes?**

POSITIONS

TECO: Yes, Polk 2-5 is not only the most cost-effective alternative, but has been designed to provide highly reliable capacity by capturing waste heat (from existing combustion turbines) and includes additional output available from supplemental firing of the new heat recovery steam generators. Fuel

diversity and supply reliability will be improved by creating additional output from dual fueled units (Polk 2&3) and by providing for the addition of solar thermal energy input.

DESOTO: DeSoto does not dispute whether Tampa Electric needs additional generating capacity in the 2013-2017 timeframe, but believes that the dual-fuel capable DeSoto Facility, when added into Tampa Electric's generating fleet, would satisfy Tampa Electric's need for fuel diversity and supply reliability.

OPC: There appears to be a need for additional generation for the reliability and integrity of Tampa Electric's system. OPC supports the lowest cost generation considering fuel diversity and supply reliability to meet this need based on the evidence adduced at the hearing.

STAFF: Staff takes no position at this time.

ISSUE 5: **Is Tampa Electric's proposal to bring the Polk Conversion Project into commercial service in 2017 the most cost-effective alternative available to meet the needs of Tampa Electric and its customers?**

POSITIONS

TECO: Yes. Polk 2-5 is the most cost-effective alternative available as this criterion is used in Section 403.519(3), Florida Statutes.

DESOTO: DeSoto believes that it would be more cost-effective for Tampa Electric to purchase the DeSoto Facility and incorporate the DeSoto Facility into its generating fleet in the 2014-2017 timeframe than to add the Polk Conversion Project. Pursuing this addition would provide Tampa Electric, and its customers, with additional flexibility – and at a very favorable cost - for adding new capacity, potentially including the Polk Conversion Project, at a future date when additional information regarding fuel costs and other variables are better known.

OPC: There appears to be a need for additional generation for the reliability and integrity of Tampa Electric's system. OPC supports the lowest cost generation available be used to meet this need based on the evidence adduced at the hearing.

STAFF: Staff takes no position at this time.

ISSUE 6: **Based on the resolution of the foregoing issues, should the Commission grant Tampa Electric Company's petition to determine the need for the proposed Polk 2-5 Combined Cycle Conversion?**

POSITIONS

TECO: Yes. Based on Tampa Electric's analysis of the facts bearing on a resolution of the foregoing issues, the Commission should grant Tampa Electric's petition to determine the need for Polk 2-5, together with its associated facilities.

DESOTO: On information and belief, and particularly considering the very favorable price at which DeSoto Generating Company offered to sell to Tampa Electric a proven, dual-fueled combustion turbine (CT) generating facility that has operated reliably in Florida for more than ten years, DeSoto believes that it is likely that adding the DeSoto Facility to Tampa Electric's system at a mutually agreeable date (which was contemplated by DeSoto's best and final Offer to Tampa Electric in the Request for Proposals (RFP) Process) would better serve the interests of Tampa Electric and its customers than adding the Polk Conversion Project in 2017. Accordingly, the Commission should not grant the requested determination of need for the Polk Conversion Project at this time.

OPC: There appears to be a need for additional generation for the reliability and integrity of Tampa Electric's system. OPC supports the lowest cost generation available be used to meet this need based on the evidence adduced at the hearing.

STAFF: Staff takes no position at this time.

ISSUE 7: **Should this docket be closed?**

POSITIONS

TECO: Yes. Once a final order is issued and any appeal thereof is waived or resolved, this docket should be closed.

DESOTO: None.

OPC: Yes, unless a timely appeal is filed.

STAFF: The docket should be closed administratively.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
Mark J. Hornick	TECO	(MJH-1)	Polk site aerial photograph, process diagram, project schedule and cost estimate
Lorraine L. Cifuentes	TECO	(LLC-1)	Data supporting Tampa Electric's load forecasting process, methodologies and assumptions and load forecasts.
Howard T. Bryant	TECO	(HTB-1)	DSM programs and goals and 2010-2019 DSM goals accomplishments
J. Brent Caldwell	TECO	(JBC-1)	Fuel price forecast and fuel price forecast range compared to independent forecasts
S. Beth Young	TECO	(SBY-1)	Polk 2-5 interconnection and integration diagrams; summary of required facilities, ratings and costs and FRCC letter confirming the reliability of the interconnection and integration plan.
R. James Rocha	TECO	(RJR-1)	Energy and capacity mix by fuel type, levelized cost screening curves, Tampa Electric and FRCC reliability analyses and sensitivities, planning analyses and supporting documentation, RFP supporting documents, and June 2012 assumptions update.
Alan S. Taylor	TECO	(AST-1)	Resume of Alan Taylor and Sedway Consulting's independent evaluation report.
<u>Rebuttal</u>	None.		

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

On November 16, 2012, TECO filed a Motion to Require DeSoto to Conform to the Issues as outlined in the Order Establishing Procedure. On November 29, 2012, DeSoto filed an Unopposed Motion to Reword Issue 4.

XII. PENDING CONFIDENTIALITY MATTERS

Pending Confidential Matters will be addressed by separate orders.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, with the exception of Issue 5, of no more than 75 words, set off with asterisks, shall be included in that statement. The prehearing position statement for Issue 5 shall be no more than 100 words. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 75 words, it must be reduced to no more than 75 words, with the exception of prehearing positions for Issue 5 only, which shall be no more than 100 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall be limited to five minutes per party.

The intervention of the Office of Public Counsel is acknowledged.

The following witnesses maybe excused from the hearing proceedings if the Commissioners have no questions: Lorraine Cifuentes, Howard Bryant, and David Lukcic.

Tampa Electric Company's Motion to Require DeSoto County Generating Company, LLC, to Conform to the Issues as outlined in the Order Establishing Procedure is granted in part and denied in part. DeSoto County Generating Company, LLC's Proposed Issue 5 shall replace Issue 5 as stated in the Order Establishing Procedure.

DeSoto County Generating Company, LLC's Unopposed Motion to Reword Issue 4 is granted, and the rewording appears as Issue 4 in this Order.

Each party's summary of each position, with the exception of Issue 5 shall be 75 words. Each party's summary of its position on Issue 5 shall be no more than 100 words.

It is therefore,

ORDERED by Commissioner Art Graham, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 5th day of December, 2012.



ART GRAHAM
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

PER

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; or (2) 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.