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March 1, 2002

By Hand Delivery

Ms. Blanca S. Bayó, Director
Commission Clerk & Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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Re: Florida Public Service Commission Docket No. 001574-EQ
Proposed Amendments To Rule 25-17.0832, FAC,
Firm Capacity And Energy Contracts

Dear Ms. Bayó,

Enclosed for filing and distribution, on behalf of the City of Tampa, Florida, please find 10 copies of the Direct Testimony of Ralph Michael Salmon.

If you have any questions or require anything further, please contact this office immediately.

Sincerely,


Richard A. Zambo
Florida Bar No. 312525

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Amendments To Rule)
25-17.0832, FAC, Firm Capacity And)
Energy Contracts.)
_____)

Docket No. 001574-EQ

Filed: March 1, 2002

DIRECT TESTIMONY

OF

RALPH MICHAEL SALMON, P.E., DEE

FOR

THE CITY OF TAMPA, FLORIDA

DOCUMENT NUMBER DATE
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1 DIRECT TESTIMONY OF RALPH MICHAEL SALMON, PE, DEE

2 ON BEHALF OF

3 THE CITY OF TAMPA, FLORIDA

4 FPSC DOCKET NO. 001547-EQ

5

6 **Q. Please state your name, occupation and business address.**

7 A. My name is Ralph Michael Salmon. I'm Deputy Chief
8 Administrative Officer of the City of Tampa Florida with
9 offices at 306 E. Jackson, Tampa, Florida 33602.

10

11 **Q. State briefly your educational background and experience.**

12 A. I have a BS and MS in Civil Engineering and a Masters of
13 Public Works degree and have been a practicing Public
14 Works official in three cities including the past 26 years
15 in the City of Tampa, Florida. I'm a Registered
16 Professional Engineer in Missouri and Florida and a
17 Diplomate Environmental Engineer of The American Academy
18 of Environmental Engineers.

19

20 **Q. On whose behalf are you presenting this testimony?**

21 A. I am presenting this testimony and appearing on behalf of
22 the City of Tampa, Florida (the "City" or "Tampa") in my
23 capacity as Deputy Chief Administrative Officer.

24

25 **Q. What is City's interest in this proceeding?**

26 A. The City currently owns a municipal solid waste facility
27 which is defined as a solid waste facility or Small
28 Qualifying Facility ("SQF") by Commission Rule. As such,

1 we are eligible for Standard Offer Contracts pursuant to
2 Commission Rule 25-17.0832, F.A.C., the subject of this
3 proceeding. In addition to our existing facility, there
4 is the possibility that our SQF capacity may be expanded,
5 or that we would construct one or more additional SQFs.
6 Accordingly, we are very concerned in maintaining our
7 access to a viable standard offer contract as is provided
8 for in the current rules - without the proposed
9 amendments.

10
11 **Q. Please provide a brief general description of the City's**
12 **solid waste facility.**

13 A. The City's facility disposes of approximately 320,000 tons
14 of municipal solid waste annually. Most of the waste is
15 generated within the City of Tampa. Our facility is of the
16 "mass burn" type, where, after separating out large non-
17 combustibles, and certain recyclables, the bulk of the
18 solid waste is combusted "as-is" in an incinerator.
19 Recyclable metals, and other materials are recovered from
20 the ash after the combustion process. (This is in
21 contrast to RDF facilities which recover recyclables prior
22 to combustion and which convert non-recyclable combustible
23 wastes into a refuse derived fuel for firing in a boiler.)
24 Heat produced in the incineration process is recovered to
25 produce steam for use in a 22 mW steam turbine-generator.
26 The City's facility generates approximately 185,000 mWh of
27 electricity annually, the majority of which (about 160,000
28 mWh) is sold to Tampa Electric Company (TECO), pursuant to

1 a contract for firm energy and capacity. The contract was
2 executed in August, 1982 (prior to the Commission's
3 standard offer rules), was amended by renegotiation in
4 May, 1989, and will expire in August, 2011.

5
6 **Q. Is the City's contract with TECO a standard offer**
7 **contract?**

8 A. No. The contract is the result of negotiations between
9 the City and TECO. As I stated, the contract was
10 originally executed prior to the time the Commission
11 adopted the standard offer rules. Since that time it has
12 been renegotiated in accordance with subsequently adopted
13 rules of the Commission.

14
15 **Q. It appears that the City was successfully able to**
16 **negotiate a contract with TECO without the benefit of a**
17 **standard offer contract. Why then are you concerned with**
18 **the proposed amendment to the standard offer rules?**

19 A. Until you have attempted to sell firm capacity and energy
20 from an SQF to TECO, or to any electric utility, you will
21 not likely understand the tremendous, and frankly unfair,
22 advantage that the utility has in the negotiation process.

23
24 **Q. Please elaborate.**

25 A. As an SQF, selling electricity to a utility is very
26 similar to anyone buying electricity from a utility. We
27 are restricted to selling electricity produced by our
28 facility to the utility. The utility is therefore the

1 only buyer. When we are buying we are restricted to
2 buying only from the utility. The utility is therefore
3 the only seller. Either way, acting as a monopsony or a
4 monopoly, our only buyer and seller, the utility has a
5 great advantage in the market. It can set prices too low
6 when buying and too high when selling because the other
7 party to the transaction has no alternative. In the same
8 way that "standard" tariff rates approved by this
9 Commission are necessary to prevent monopoly utilities
10 from overcharging for electricity sold, standard offer
11 contracts are necessary to prevent monopsony utilities
12 from underpaying for electricity purchased. The standard
13 offer acts as a constraint on the monopsony power of the
14 utility just as approved retail tariff act as constraints
15 on its monopoly power. We need both.

16
17 **Q. You said the City renegotiated its original contract with**
18 **TECO. Isn't this evidence that the negotiation process**
19 **works?**

20 **A.** No, it is not. The original contract severely undervalued
21 the electricity generated by the City and sold to TECO.
22 We were able to renegotiate our contract with TECO as a
23 result of the appeals of the City, as well as a number of
24 other local governments, to the Florida legislature for
25 relief. As a result, the legislature directed this
26 Commission to adopt rules under which solid waste
27 facilities could renegotiate their firm capacity and
28 energy contracts with the purchasing utility. It is as a

1 result of those rules that TECO was willing to enter into
2 renegotiations with the City.

3
4 **Q. Did you rely on the standard offer in the renegotiation**
5 **process?**

6 A. We did, but not as directly as we might have liked. As I
7 recall, we were eligible to renegotiate, but due to the
8 terms and conditions of our original contract, we were not
9 eligible to accept the standard offer. (There was however
10 I believe, a standard offer in effect at that time.) We
11 relied on the standard offer in the sense that we used it
12 as a measure of what were considered by the Commission to
13 be reasonable terms, conditions and pricing for the sale
14 of firm capacity and energy.

15
16 **Q. So as the owner of an SQF, the City sees value in a**
17 **standard offer even though you have never entered into**
18 **one.**

19 A. Absolutely. The value of having a reasonable, fair and
20 legitimate standard offer is of great value to the SQF.
21 If the utility is reluctant to negotiate in good faith, or
22 seeks to unduly delay the negotiation process, the
23 standard offer should be there to serve as a safety valve
24 of sorts. If negotiations are failing and time is running
25 out, a fair and reasonable standard offer provides an
26 alternative to the SQF.

27

1 Q. **What did you intend by your reference to "time running**
2 **out"?**

3 A. The process leading up to the start-up and operation of a
4 solid waste facility is a lengthy one - on the order of
5 perhaps 3 to 5 years. However, the time period becomes
6 critical as the project proceeds, starting out slower and
7 gaining momentum as the pieces fall into place. Delays in
8 executing an electricity sales contract can delay
9 financing, which can delay construction and start-up.
10 Because solid waste facilities are usually being designed
11 to relieve burdens on landfill operations, delays in
12 start-up can have significant negative economic as well as
13 environmental impacts. Knowing this, utilities might be
14 tempted to delay the negotiation process to gain an
15 advantage. As the deadline date for financing (or other
16 milestone event relying on electricity sales) the SQF will
17 be pressed to accept what the utility offers or
18 potentially delay the project.

19

20 Q. **Please elaborate on how the standard offer serves as a**
21 **safety valve.**

22 A. Quite simply, I meant that if the standard offer contract
23 is a reasonable one and if the utility proves to be
24 unreasonable in negotiations, the SQF would have the
25 option of accepting the standard offer in lieu of
26 negotiation. The current rules, if enforced by the
27 Commission would by definition result in reasonable
28 standard offers, and would continue to serve in this

1 safety valve capacity. However, the proposed amendments -
2 in spite of the apparently minor changes - would destroy
3 the value of the standard offer as both a reasonable
4 alternative and as a negotiation safety valve.

5
6 **Q. Would you please explain?**

7 A. Yes, certainly. If at the time an SQF is negotiating for
8 the sale of firm capacity and energy, a legitimate
9 standard offer is in effect (one that is reasonable with
10 respect to terms, conditions and pricing) the SQF will be
11 in a position to resist unreasonable demands of the
12 utility, as well as undue delays in the negotiation
13 process. If necessary, the SQF could accept the standard
14 offer, even though a negotiated contract might have
15 benefited the SQF and the utility. One way to look at it
16 is that the existence of the standard offer in a sense
17 establishes the Commission's presence in the negotiation
18 process as a mediator to help the parties overcome
19 sticking points.

20
21 **Q. What is the City's position with regard to the proposed**
22 **rule amendments?**

23 A. Our position is that the proposed amendments, if adopted,
24 will result in standard offer contracts that will no
25 longer be reasonable in their terms, conditions or
26 pricing. As such, the standard offer contract will no
27 longer serve as a safety valve mechanism, thereby allowing
28 the purchasing utility to take unfair advantage of SQFs

1 seeking to sell electricity by exercising its unregulated
2 monopsony power.

3
4 Moreover, it is our view, and that of our legal counsel,
5 that the proposed rule amendments would clearly violate
6 both Florida and Federal law in that they would result in
7 payments less than the specified "full avoided cost". Our
8 consultant, Mr. Frank Seidman will address in detail our
9 concerns with respect to the full avoided cost issue and
10 how the proposed rule amendments will result in payments
11 of less than full avoided cost.

12
13 Finally, we are somewhat perplexed that the Commission
14 would propose an amendment which would so clearly violate
15 the applicable law, and thereby force the City and other
16 local governments to expend their time and financial
17 resources in opposing the amendment.

18
19 **Q. Do you have any suggestions or closing comments for the**
20 **Commissioners?**

21 A. As I mentioned, our consultant Mr. Frank Seidman will
22 address the details of the proposed amendment. However,
23 as a general comment, the City would suggest that the
24 Commission should be exploring ways to encourage the
25 development of SQFs - QFs in general and waste fueled QFs
26 in particular - rather than taking steps to further deter
27 the industry. In 1985, the City of Tampa undertook the
28 retrofit of its then nearly 20 year old incinerator

1 entirely as a result of the State of Florida's mandate for
2 resource recovery which specifically included Refuse to
3 Energy (RTE). This was at a time when landfilling of
4 municipal solid waste was creating great political
5 friction due to the difficulties of siting and permitting
6 and the public sentiment that landfilling in the State of
7 Florida was undesirable due to porous soils and high
8 water tables. The disconnect appeared to occur when the
9 utilities were not seen to be a willing buyer of the
10 energy due to traditional ratemaking strategies
11 encouraging ownership and control of generating capacity.
12 More recently, federally mandated environmental rules
13 required much more sophisticated emission controls and the
14 City of Tampa, in choosing not to again increase the
15 amount of municipal solid waste taken to landfill,
16 accomplished a massive \$100 million retrofit. The
17 certainty of a fair payment for the energy benefits
18 provided by such facilities would seem a reasonable
19 request.

20
21 **Q Does this conclude your direct testimony?**

22 **A.** Yes it does.
23
24