

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition not to accept) DOCKET NO. 940724-EQ
standard offer contract of) ORDER NO. PSC-94-1354-FOF-EQ
Polsky Energy Corporation by) ISSUED: November 7, 1994
TAMPA ELECTRIC COMPANY.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING PETITION NOT TO ACCEPT STANDARD OFFER CONTRACT

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.

On December 20, 1993 TECO filed with the Commission a Petition to Close its Standard Offer Contract (Docket No. 931218-EQ). We approved that petition at our August 2, 1994 agenda conference.

On January 26, 1994 TECO had filed a petition for Approval of Standard Offer Contract for Cogenerators and Small Power Producers (Docket No. 940094-EQ). The "replacement" standard offer contract delayed the in-service date of TECO's next avoided unit (a combustion turbine) by two years.

On June 9, 1994 TECO filed a Withdrawal of Petition for Approval of Standard Offer Contract for Cogenerators and Small Power Producers (Docket No. 940094-EQ). TECO asserted that it is premature to base a Standard Offer Contract on a unit with a scheduled in-service date seven years in the future, when that unit can be constructed in two years. At our August 2, 1994 agenda conference we also approved TECO's request closed Docket No. 940094-EQ.

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On May 12, 1994, while these dockets were pending, Polsky Energy Corporation (PEC) presented TECO with the Standard Offer Contract that is the subject of this case. Thereafter, pursuant to Rule 25-17.0832 (3)(d), Florida Administrative Code, Tampa Electric Company (TECO) petitioned for our permission to refuse the standard offer PEC had presented.

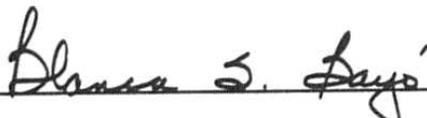
This Standard Offer Contract is PEC's second attempt to submit a Standard Offer Contract to TECO. We denied the first attempt in Docket 940193-EQ (Order No. PSC-94-0488-FOF-EQ), because PEC had made several inappropriate material changes to it. This second attempt should also be denied, because it is predicated upon the 1999 avoided unit which we held was not needed in Docket Number 931218-EQ. When PEC submitted its second Standard Offer to TECO, PEC was fully aware that that docket was pending before the Commission. In contract terms, the proposed bilateral standard offer contract was subject to the implied revocation of the "offer" by TECO when it petitioned to withdraw its standard offer. We approved that petition. We therefore believe that the contract submitted by PEC is rendered void, and TECO's petition to refuse the Standard Offer shall be granted.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Tampa Electric Company's Petition Not to Accept Standard Offer Contract of Polsky Energy Corporation is granted. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceedings is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this 7th day of November, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MCB

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.

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, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on November 28, 1994.

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.

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 substantially 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 wastewater 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.