

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

August 4, 2009

HAND DELIVERED

RECEIVED-FPSC  
09 AUG -4 PM 2:18  
COMMISSION  
CLERK

Ms. Ann Cole, Director  
Division of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Petition by Tampa Electric Company for approval of extension of small power production agreement with City of Tampa; FPSC Docket No. 090146-EQ

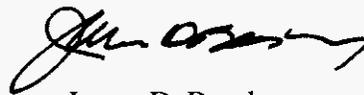
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and five copies of Tampa Electric Company's answers to Staff's Third Data Request No. 1 dated July 20, 2009.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,



James D. Beasley

JDB/pp  
Enclosure

cc: Martha Brown (w/enc.)

COM \_\_\_\_\_  
ECR 1 \_\_\_\_\_  
GCL 1 \_\_\_\_\_  
GPC \_\_\_\_\_  
BCP \_\_\_\_\_  
SSC \_\_\_\_\_  
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DOCUMENT NUMBER-DATE

07982 AUG-4 09

FPSC-COMMISSION CLERK

TAMPA ELECTRIC COMPANY  
DOCKET NO. 090146-EQ  
STAFF'S THIRD DATA REQUEST  
REQUEST NO. 1  
PAGE 1 OF 19  
FILED: AUGUST 4, 2009

1. The First Agreement states its termination date to be March 1, 2009. However, page 6 of the 2006 Agreement states its termination date to be "on the termination date of the First Agreement as determined in accordance with the March 8, 1999 Agreement on Force Majeure Procedures between the City of Tampa and Tampa Electric Company (currently, 12:01 A.M., August 1, 2011)..." There appears to be no provision contained in the First Agreement that extends its term until August 1, 2011.
  - a. Please provide documentation of the termination date of the First Agreement being extended from March 1, 2009 to August 1, 2011.
  - b. Please provide documentation of the capacity payments that have been paid to the City of Tampa under the First Agreement since March 1, 2009 to the present, and that will continue to be paid until August 1, 2011.
  
- A.
  - a. The First Agreement termination date was extended from March 1, 2009 to August 1, 2011 due to a 29-month force majeure outage. The letters providing notification of the start and end of the force majeure outage as well as the force majeure agreement extending the termination date are provided as attachments to this response. Additionally, the Commission order approving the 2006 Agreement, Order No. PSC-06-0943-PAA-EQ, which references the extension of the termination date at page 2, is provided.
  
  - b. The actual capacity payment information requested is provided in the following table. For the first 15.5 MW, the City of Tampa elected to receive early levelized capital capacity payments and early O&M capacity payments, and the payment schedule was included as Appendix A to the 1989 Amendment to the First Agreement. Due to the aforementioned 29-month force majeure outage the payment schedule was also shifted by 29 months. Provided that the City of Tampa meets its contractual obligations, the capacity payments shown in the following table would be paid.

TAMPA ELECTRIC COMPANY  
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<b>City of Tampa Cogeneration First Agreement (15.5 MW)</b>	
	<b>Capacity Payment (\$/kW/month)</b>
September 1, 2008 – August 31, 2009	\$18.16
September 1, 2009 – August 31, 2010	\$18.60
September 1, 2010 – August 31, 2011	\$19.07

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The capacity payment for the additional 3.5 MW was contracted in the 2006 Agreement. Provided that the City of Tampa meets its contractual obligations, the capacity payments shown in the following table would be paid.

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<b>City of Tampa Cogeneration 2006 Agreement (3.5 MW)</b>	
	<b>Capacity Payment (\$/kW/month)</b>
January 1, 2009 – December 31, 2009	\$2.66
January 1, 2010 – December 31, 2010	\$2.72
January 1, 2011 – August 31, 2011	\$2.78

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## CITY OF TAMPA

COPY

Dick A. Greco, Mayor

Deputy Chief Administrative Officer

January 9, 2002

VIA FACSIMILE AND U.S. MAIL

John B. Ramil  
President  
Tampa Electric Company  
P.O. Box 111  
Tampa, Florida 33601-0111

Harry W. Long, Jr.  
Corporate Counsel  
TECO Energy Inc.  
P.O. Box 111  
Tampa, Florida 33601-0111

Re: City of Tampa McKay Bay Refuse-to-Energy Facility

Dear Messrs. Ramil and Young:

Pursuant to sections 2 and 11 of the Agreement on Force Majeure Procedures Between the City of Tampa and Tampa Electric Company dated as of March 8, 1999 (the "Agreement"), this notifies you that the "Force Majeure Period" (as defined in the Agreement) ended on December 31, 2001. Please call me if you have any questions regarding this notice or the end of the Force Majeure Period.

Sincerely,

CITY OF TAMPA

R. Michael Salmon, P. E.  
Deputy Chief Administrative Officer

cc: James D. Palermo  
Nancy McCann  
Sam Rosania  
Dan Strobridge  
Sharon Danco  
Mark Downing  
Bob Shireling



## CITY OF TAMPA

Environmental Services and Public Works Projects

July 28, 1999

John B. Ramil  
President  
Tampa Electric Company  
P.O. Box 111  
Tampa, FL 33601-0111

✓ Harry W. Long, Jr.  
Corporate Counsel  
TECO Energy, Inc.  
P.O. Box 111  
Tampa, Florida 33601-0111

Re: City of Tampa McKay Bay Refuse-to-Energy Facility

Dear Messrs. Ramil and Long:

Pursuant to section 11 of the Agreement on Force Majeure Procedures Between the City of Tampa and Tampa Electric Company dated as of March 8, 1999 (the "Agreement"), this notifies you that ~~the Force Majeure Period~~ (as defined in the Agreement) ~~began on August 1, 1999.~~ The City of Tampa estimates that the force majeure will be remedied on or about November 1, 2001. Please call me if you have any questions regarding this notice.

Very truly yours,

CITY OF TAMPA

R. Michael Salmon, P.E., Coordinator  
Environmental Services/Public Works Projects

cc: James D. Palermo  
Dave Cerrato  
Donald R. Markley  
Ted Sjoberg  
Luke Koon  
Lou Rettura  
Sharon Docherty Danco  
Curtis L. Simmons

489-016-01-C Notice of FM Period Commencement

306 E. Jackson Street, 7E • Tampa, Florida 33602 • 813/274-8771 • Fax: 274-7176

# Memo

To: Sharon Docherty Danco  
From: Julie Waters  
CC: Paul Gates  
Harry Long  
Subject: McKay Bay Force Majeure Agreement  
Date: February 18, 1999

Enclosed are five fully executed Force Majeure Agreements between the City of Tampa and Tampa Electric Company. It is my understanding that you will make arrangements for signature by the City of Tampa. Upon the City's execution, please return one original fully executed agreement to Harry Long. If you have any questions regarding this matter, please feel free to contact me.

Thanks.

*Was approved by Council 3/4/99  
Has not been signed by Mayor  
Sam will  
FAX to me the Council Action (Resolution)*

AGREEMENT ON FORCE MAJEURE PROCEDURES  
BETWEEN THE CITY OF TAMPA AND TAMPA ELECTRIC COMPANY

The City of Tampa, a municipal corporation organized under the laws of the State of Florida, hereinafter referred to as "the City", and Tampa Electric Company, a private utility corporation organized under the laws of and authorized to do business within the State of Florida, hereinafter referred to as "Tampa Electric", being parties to a Small Power Production Agreement dated August 26, 1982, as amended by the Amendment To Small Power Production Agreement dated May 25, 1989 (collectively referred to herein as the "Agreement"), pertaining to the City's McKay Bay Refuse-to-Energy Facility (the "Facility"), execute this Agreement on Force Majeure Procedures (this "FM Agreement") on this \_\_\_ day of February, 1999. The City and Tampa Electric may hereinafter be referred to individually as a "Party" or may be referred to jointly as the "Parties". Unless otherwise defined in this FM Agreement, all capitalized terms used herein shall have the meanings ascribed to them in the Agreement and the definition of those terms are incorporated by reference into this FM Agreement.

WITNESSETH:

WHEREAS, section 7.5 of the Agreement provides that: "If either party shall be unable, by reason of force majeure, to carry out its obligations under this Agreement, either wholly or in part, the party so failing shall give written notice and full particulars of such cause or causes to the other party as soon as possible after the occurrence of any such cause, and such obligations shall be suspended during the continuance of such hindrance, which, however, shall be remedied with all possible dispatch, and the obligations, terms and conditions of this Agreement shall be extended for such period as may be necessary for the purpose of making good any suspension so caused. The term "force majeure" shall be taken to mean acts of God, strikes, lockouts or other industrial disturbances, wars, blockades, insurrections, riots, arrests and restraints of rules and people, environmental constraints lawfully imposed by federal, state or local governmental bodies, explosions, fires, floods, lightning, wind, perils of the sea, accidents to equipment or machinery or similar occurrences; provided, however, that no occurrences may be claimed to be a force majeure occurrence if it is caused by the negligence or lack of due diligence on the part of the party attempting to make such claim. ...";

WHEREAS, by correspondence of January 26, 1994, the City advised Tampa Electric of the possibility of a future extended force majeure outage during the retrofit of the Facility to comply with proposed new air emission regulations promulgated by the United States Environmental Protection Agency ("EPA");

WHEREAS, the City has provided to Tampa Electric's full satisfaction to Tampa Electric the full particulars of the regulatory requirements precipitating the FM event

under the terms of the Agreement and has proposed a reasonable and definite time period within which the City would remedy the FM event;

WHEREAS, by correspondence from the City to Tampa Electric dated February 9, 1996, and associated replies dated March 4 and March 12, 1996, and in the course of several discussions the Parties have further exchanged information and views with regard to the Facility's extended outage; and

WHEREAS, the City and Tampa Electric have identified certain issues that arise under the Agreement and/or applicable law, and have agreed to the resolution of such issues and the procedures to be applied before, during, and after the FM event to the Facility. The purpose of this FM Agreement therefore is to establish, prior to the "formal" declaration of the FM by the City, the understanding of the Parties as to the interpretation of the Agreement with respect to the Facility retrofit and the procedures to be followed with respect to the Agreement before, during, and after the anticipated FM event.

NOW THEREFORE, in consideration of the foregoing and for other mutual considerations, the Parties hereby agree as follows:

1. Force Majeure Event: The City's need to cease and/or curtail operation of the Facility to modify the Facility as necessary to comply with the new EPA MWC regulations shall be construed as an "... environmental constraint lawfully imposed by federal, state or local governmental bodies..." and shall constitute an event of force majeure as that term is used in Section 7.5 of the Agreement. Accordingly, the City will be excused from all obligations and performance requirements imposed under the Agreement during the time required for the City to modify the Facility so as to comply with the new regulations.

2. Commencement and Termination: The force majeure event shall commence upon the first day of the first calendar month immediately following the month in which the first two unretrofitted combustion lines at the Facility are shut down for retrofitting pursuant to the Retrofit Design, Procurement, and Construction Agreement (the "Retrofit Agreement") executed by the City and Wheelabrator McKay Bay, Inc. (the beginning of "Stage 2," as defined in the Interim Operation and Maintenance Agreement between the City and Wheelabrator McKay Bay, Inc.). The termination of the FM event shall occur upon the earlier of (a) the effective date of a written notice from the City to Tampa Electric that the force majeure event has ended or (b) the last day of the calendar month in which the City "Accepts" the retrofitted Facility (as that term is defined in the Retrofit Agreement). For purposes of this FM Agreement, the period beginning on the commencement date and ending on the termination date specified in the foregoing notice may be referred to as the "FM Period".

3. Validity of Agreement: Although the City is at this time unable to precisely define the modifications to the Facility which will be necessary to comply with

the new regulations, the modifications are expected to be extensive. Accordingly, regardless of the degree to which the Facility is modified to comply with the new regulations, the Agreement shall be fully applicable to the modified Facility when completed and both Parties waive any right to question or challenge the validity of the Agreement as a result of or in connection with the retrofit of the Facility.

4. Suspended and Resumed Capacity Factor: The twelve-month rolling average capacity factor calculated pursuant to the Agreement shall, during the pendency of the FM, be placed in a state of "suspension" at the level last calculated immediately prior the start of the FM period. At the end of the FM Period, the capacity factor calculation will resume on a monthly basis, provided, however, that for purposes of such calculations, the day immediately preceding the commencement of the FM event and the day immediately following termination of the FM event shall be deemed to be consecutive and all intervening days shall be deemed nonexistent.

5. Energy Payments: Under the options being evaluated by the City, the Facility could retain or regain the ability to generate and deliver reduced amounts of electric energy to Tampa Electric during all or a portion of the FM Period, even though the City would be relieved of its obligations to do so under the Agreement. During the pendency of the FM Period, therefore, any electric energy produced by the Facility and delivered to Tampa Electric for sale shall be purchased by Tampa Electric pursuant to the rates specified in the Agreement.

6. Agreement Extension: Section 7.5 of the Agreement provides that, upon termination of an FM event, the "...Agreement shall be extended for such period as may be necessary for the purpose of making good any suspension of a party's obligations so caused." Accordingly, the Parties agree that the Agreement shall be extended beyond its current March 31, 2009, expiration date by a period equal in length to that of the FM Period, measured in accordance with paragraph 2 hereof. Therefore, by way of example, if the FM event is 32 months in duration, the extension would be for the 32-month period April 1, 2009, through November 30, 2011.

7. Resumed Capacity Payments: Upon the expiration of the FM Period, capacity payments (and associated energy payments) to the City shall resume in accordance with the Early Capacity Payment Schedule of Appendix "A" to the Agreement, for the remainder of the month, if any, in which the City declared the commencement of the FM Period, or for the subsequent month, as appropriate. For purposes of this provision, the day immediately preceding the commencement of the FM event and the day immediately following termination of the FM event shall be deemed to be consecutive and all intervening days shall be deemed nonexistent. Therefore, by way of example, if the FM Period is thirty-two months in duration, commencing on March 31, 1999, and terminating on November 30, 2001, capacity payments (and associated energy payments) to the City would commence on December 1, 2001, at the level specified in Appendix "A" for April, 1999. The Parties shall, after termination of the FM Period,

payments based on the actual length of the FM Period, consistent with the provisions of paragraphs 4 and 7 of this FM Agreement.

8. Capacity Account Balance: Consistent with the suspension of the City's obligations under the Agreement, the City's inability to perform under the Agreement as a result of the FM shall not in any way be construed as constituting a default - either mandatory or optional, as those terms are used in the Agreement, or otherwise - by the City. Accordingly, the Capacity Account Balance will not be due and payable by the City as a result of the FM or the City's failure to comply with its duties or obligations under the Agreement during the FM Period.

9. Early Payment Offset Amount: Consistent with the suspension of the City's obligations under the Agreement, the Early Payment Offset Amount shall not be due and payable by the City to TECO as a result of the FM or the City's failure to comply with its duties or obligations under the Agreement during the FM Period.

10. Capacity Account Interest Accrual: Consistent with the suspension of the City's obligations under the Agreement, interest on the Capacity Account Balance shall not accrue at any time during the pendency of the FM Period.

11. City's Notice To TECO: Tampa Electric acknowledges that Schedule A to this Agreement, among other things, satisfies Section 7.5 of the Agreement, which obligates the City to provide to Tampa Electric with respect to a force majeure event "...written notice and full particulars of such cause or causes to the other party as soon as possible after the occurrence of any such cause...". The City is presently unable to determine with any degree of certainty the timing of the onset of the pending environmental FM or the duration of the FM Period. Consistent with paragraph 2 hereof, the City will provide written notification to Tampa Electric within 10 days after the commencement of the FM Period, indicating the estimated date by which the FM would be remedied, and, provide written notice within 10 days after the termination of the FM event. As of the date of this FM Agreement, the City estimates that the FM Period will begin during the second or third calendar quarter of 1999.

12. Governing Law: This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Florida.

13. Modifications: This Agreement may be modified or terminated only by an instrument in writing executed by the Parties.

14. Multiple Counterparts: This Agreement, including any amendment or modifications thereto, may be executed in multiple counterparts, each of which shall be deemed to be an original.

15. Successors in Interest: This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

16. Disclaimer: In executing this Agreement the Parties do not intend, nor shall this Agreement be construed, to benefit any third party or create any third party beneficiary rights.

17. Conflicts: In the event of a conflict between terms or provisions of this FM Agreement and the Agreement, this FM Agreement shall prevail.

IN WITNESS WHEREOF, the City and Tampa Electric have executed this Agreement on the day and year first written above.

ATTEST: CITY OF TAMPA

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Dick A. Greco, Mayor

Witnesses:  
Stephanie McHague  
Julie Waters

TAMPA ELECTRIC COMPANY  
By: \_\_\_\_\_  
Name: John B. Rami  
Title: President

Approved as to form:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Assistant City Attorney

FILED: AUGUST 4, 2009

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-06-1010-CO-EQ ISSUED: December 8, 2006
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CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-06-0943-PAA-EQ, issued November 13, 2006, this Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code. No response has been filed to the order, in regard to the above mentioned docket. It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-06-0943-PAA-EQ has become effective and final. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 8th day of December, 2006.

  
\_\_\_\_\_  
BLANCA S. BAYO, Director  
Division of the Commission/Clerk  
and Administrative Services

(SEAL)

PZ

DOCUMENT NUMBER-DATE

11246 DEC-8 8

FPSC-COMMISSION CLERK

FILED: AUGUST 4, 2009

ORDER NO. PSC-06-1010-CO-EQ  
DOCKET NO. 060573-EQ  
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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 judicial review of Commission orders that is available pursuant to Section 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 judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services 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 after the issuance 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.

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").<sup>1</sup> 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

<sup>1</sup> 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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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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

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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 Act<sup>2</sup>, 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.

<sup>2</sup> FEECA is codified at Sections 366.80 through 366.85, Florida Statutes.

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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

( S E A L )

WCK

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.

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Sherry M. Patrinostro - m. turner 12918.doc

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Ship Loading  
Teco Bulk Terminal Ship Loading

Printed 7/29/2008

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MARY TURNER 08-210

7/19/2008	09:05	7/19/2008	09:05	Arrival At Facility		
7/19/2008	09:05	7/19/2008	09:30	25 Docking Vessel		
7/19/2008	09:30	7/19/2008	15:00	330 Waiting On Prior Traffic		
7/19/2008	15:00	7/19/2008	16:15	75 Received 0.00 tons from MST650 Hold 1 Pile Y2-STD-L		
7/19/2008	15:00	7/19/2008	16:30	90 Loaded 0.00 tons from Pile Y1-STD to Hold 1	12918	
7/19/2008	16:30	7/19/2008	17:20	50 Delay Start		C2 tail pully running hot.
7/19/2008	17:20	7/19/2008	18:30	70 Loaded 0.00 tons from Pile Y1-STD to Hold 1	12918	
7/19/2008	17:20	7/19/2008	18:30	70 Received 1,972.80 tons from MM9648 Hold 1 Pile Y2-STD		
7/19/2008	18:30	7/19/2008	21:10	160 Delay Start		C2 popped.
7/19/2008	21:10	7/19/2008	22:00	50 Received 1,000.00 tons from MAC608 Hold 1 Pile Y1-STD	12918	
7/19/2008	21:10	7/20/2008	00:00	170 Loaded 0.00 tons from Pile Y1-STD to Hold 1	12918	
7/20/2008	00:00	7/20/2008	01:00	60 Shift Vessel Up Or Down Dock		
7/20/2008	01:00	7/20/2008	07:00	360 Loaded 0.00 tons from Pile Y1-STD to Hold 1	12918	
7/20/2008	07:00	7/20/2008	07:20	20 Delay Start		D belt dropped out speed sensor.
7/20/2008	07:20	7/20/2008	08:00	40 Loaded 0.00 tons from Pile Y1-STD to Hold 1	12918	
7/20/2008	08:00	7/20/2008	08:50	50 Shift Vessel Up Or Down Dock		
7/20/2008	08:50	7/20/2008	10:30	100 Loaded 18,110.20 tons from Pile Y1-STD to Hold 1	12918	
7/20/2008	10:30	7/20/2008	11:10	40 Shift Vessel Up Or Down Dock		
7/20/2008	11:10	7/20/2008	11:30	20 Delay Start		Shifting to load with IHL.
7/20/2008	11:30	7/20/2008	13:30	120 Delay Start		Maint. removing clamps from C6.
7/20/2008	13:30	7/20/2008	14:10	40 Loaded 0.00 tons from Pile Y2-STD to Hold 1		Repairing chain on Krupp cable reel.
7/20/2008	14:10	7/20/2008	14:35	25 Delay Start		
7/20/2008	14:35	7/20/2008	15:40	65 Loaded 0.00 tons from Pile Y2-STD to Hold 1		Changing return guide roller on C1.
7/20/2008	15:40	7/20/2008	15:50	10 Shifting Holds		
7/20/2008	15:50	7/20/2008	18:15	145 Loaded 12,077.00 tons from Pile Y2-STD to Hold 1		
7/20/2008	18:15	7/20/2008	18:15	Adjustment of 2,393.04 tons for Pile Y2-STD		
7/20/2008	18:15	7/20/2008	18:15	Adjustment of 3,234.96 tons for Pile Y1-STD	12918	
7/20/2008	18:15	7/20/2008	18:15	Adjustment of 0.00 tons for Pile Y2-STD-L		
7/20/2008	18:15	7/20/2008	18:45	30 Preparing To Sail		
7/20/2008	18:45	7/20/2008	18:45	Depart from the Terminal		
7/20/2008	18:45	7/20/2008	18:45	Load Finish		

GRAND TOTALS:      LOADED: 27,512.00      DISCHARGED:      ADJUSTED: 5,648.00

File	Tonnage	LOADED	Customer	ShldID	Product
Transferred Y1-STD	1,000.00	LOADED	TAMPA ELECTRIC COMPANY	12918	COAL
Transferred Y2-STD	1,972.80	LOADED	TAMPA ELECTRIC COMPANY		COAL
Transferred Y2-STD-L	0.00	LOADED	TAMPA ELECTRIC COMPANY		COAL
Y1-STD	14,855.24	LOADED	TAMPA ELECTRIC COMPANY	12918	COAL
Y2-STD	9,683.96	LOADED	TAMPA ELECTRIC COMPANY		COAL

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Ship Loading

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Teco Bulk Terminal Ship Loading

MARY TURNER 08-210

Y2-STD-L 0.00 LOADED TAMPA ELECTRIC COMPANY COAL  
Grand Total: 27,512.00

Hold 1	Scale	Y1-STD	Y2-STD	Y2-STD-L	Total
	Draft	19,110.20	14,049.80	0.00	33,160.00
		15,855.24	11,656.76		27,512.00
Total		19,110.20	14,049.80	0.00	33,160.00

Ship Loading Statistical Summary

	Total Hours	Total Tons	Tons Per Hour
System 'D'	19.50	21,083.00	1,081.18
System 'C'	4.75	6,429.00	1,353.47

Time In Port: 33.67 hours

7/29/2008

LOAD MARY TURNER	Y1-STD	0.00
LOAD MARY TURNER	Y1-STD	0.00
LOAD MARY TURNER	Y1-STD	0.00
LOAD MARY TURNER	Y1-STD	18,110.20
LOAD MARY TURNER	Y2-STD	0.00

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Ship Loading

Teco Bulk Terminal Ship Loading

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MARY TURNER 08-210

LOAD	MARY TURNER	Y2-STD	0.00
LOAD	MARY TURNER	Y2-STD	12,077.00
LOAD	MARY TURNER	Y1-STD	0.00
LOAD	MARY TURNER	Y1-STD	0.00
Total Loaded from Piles			30,187.20

LT	MAC608	Y1-STD	1,000.00
LT	MMS9648	Y2-STD	1,972.80
LT	MST650	Y2-STD-L	0.00
Total Transferred from Vessels			2,972.80

Grand Total: 33,160.00

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2. The First Agreement states that the City of Tampa must achieve a minimum capacity factor of 70 percent in order to be eligible to receive a capacity payment for the 15.5 MW delivered under that agreement. However, the 2006 Agreement contains provisions whereby the City receives the full capacity payment for the 3.5 MW delivered under that agreement only if the facility achieves a capacity factor greater than or equal to 90 percent, a calculated portion of the full payment if the facility achieves a capacity factor between 80 and 90 percent, and no capacity payment if the capacity factor is less than 80 percent. The Extension being considered under the current docket proposes that the City be paid the full capacity payment for the entire 19.0 MW if its facility achieves a capacity factor of at least 70 percent. Please describe or explain the reason(s) for the various adaptations of this contract term.
- A. The previous City of Tampa agreements have two separate performance levels. The First Agreement for 15.5 MW includes a capacity factor performance target of 70 percent, and the 2006 Agreement capacity has a capacity factor target of 90 percent. The larger of the two agreements was the template for the Extension. Thus, the Extension has a 70 percent capacity factor target for the full 19.0 MW.

Given that the City's historical capacity factor performance is greater than 90 percent and an evaluation of the extension was cost-effective, Tampa Electric did not require an increase of the capacity factor target during the negotiation. Instead, the company focused on obtaining other benefits such as right of first refusal to potential renewable energy credits. Furthermore, Section 5 of the Extension does have a new provision whereby Tampa Electric or the City may, in its sole discretion, terminate the agreement in 2014, 2017, or 2020. Thus, if the City's performance under the Extension deviates significantly from past performance, Tampa Electric has the option to terminate the agreement with 18 months prior notice.

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- 3.** The Extension contains a provision whereby the City has 90 days from the date of the FPSC's final order approving the standard offer contract in order to exercise a one-time option to select it for the sale of the 19 MW under consideration in this docket. However, the 90-day window has long since closed. Is it still possible for the City to exercise this option?
  - A.** No. The time for the City of Tampa to exercise the standard offer contract option has expired.

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4. Please describe or explain the different escalation rates for the capacity payments for the First Agreement, the 2006 Agreement, and the Extension. Please provide the capacity payments and escalation rates associated with each contract. Please also provide a comparison between the 2009 Standard Offer Contract capacity payments and those under the Extension, and explain or describe any differences in the escalation rates.

- A. The information is provided in the following table.

Agreement/Contract	Term	Initial Capacity Payment (\$/kW-Mo)	Average Annual Escalation Rate
First Agreement	04/01/1989 – 08/01/2011	\$13.37	1.79%
2006 Agreement	08/01/2007 – 08/31/2011	\$2.54	2.28%
Proposed Extension	08/01/2011 – 07/31/2024	\$23.80	2.77%
2009 Standard Offer Contract <sup>1,2</sup>	08/01/2011 – 07/31/2024	\$6.92	1.84%

<sup>1</sup> The 2009 Standard Offer Contract ("SOC") is effective as of June 30, 2009. Assumes selection of the early payment option starting 5/1/11 for payments beginning in 2011.

<sup>2</sup> As shown in Tampa Electric's analysis provided in response to Staff's First Set of Data Requests, No. 10, submitted on May 15, 2009, although the capacity payments of the proposed Extension are greater than those of the SOC, the lower energy payments under the proposed Extension resulted in net benefits to customers. The proposed Extension also results in net benefits to customers in the analysis requested by Commission Staff in Staff's Third Data Request, No. 6.

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5. In a previous data request, TECO indicated that the fuel forecast used to develop the pricing for this Extension was based from late 2007 prices. Please provide a more recent fuel forecast for comparison purposes.
- A. The most recent fuel commodity forecast is provided in the table below. This forecast is also used in the company's actual/estimated re-projection filing that will be submitted in the fuel docket on August 4, 2009.

	Natural Gas (\$/MMBtu)	Coal <sup>1</sup> (\$/MMBtu)
2011	7.00	2.32
2012	7.27	2.42
2013	7.37	2.46
2014	7.45	2.59
2015	7.55	2.58
2016	7.64	2.73
2017	7.76	2.83
2018	7.93	3.25
2019	8.10	3.40
2020	8.28	3.55
2021	8.47	3.70
2022	8.65	3.86
2023	8.85	4.02
2024	9.04	4.19

<sup>1</sup> Tampa Electric provides the Big Bend Unit 4 coal price because it is the coal price used for the analysis since the contractual energy payment is the lesser of Tampa Electric's hour-by-hour system avoided energy cost and the energy price for Big Bend Unit 4.

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The 2007 fuel commodity forecast is provided in the table below. This forecast was used in the company's evaluation of the City of Tampa Extension.

	Natural Gas (\$/MMBtu)	Coal <sup>1</sup> (\$/MMBtu)
2011	7.35	1.72
2012	7.37	1.76
2013	7.60	1.78
2014	7.93	1.84
2015	8.36	1.88
2016	8.59	1.92
2017	8.82	1.98
2018	9.04	2.04
2019	9.48	2.10
2020	9.91	2.18
2021	10.26	2.29
2022	10.62	2.41
2023	10.99	2.57
2024	11.39	2.79

<sup>1</sup> Big Bend Unit 4 coal price.

<sup>1</sup> Tampa Electric provides the Big Bend Unit 4 coal price because it is the coal price used for the analysis since the contractual energy payment is the lesser of Tampa Electric's hour-by-hour system avoided energy cost and the energy price for Big Bend Unit 4.

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6. Please complete Tables 1 and 2 attached comparing the projected payments to the City of Tampa under the Extension with payments under TECO's 2012 Combustion Turbine Standard Offer Contract. Please clearly note the source(s) used to develop the data in each column. Please use and identify the most recent fuel forecast for the comparison.

Table 1

Comparison of Projected Payments to City of Tampa (COT) and Payments Under TECO 2012 CT Standard Offer Contract (SOC)

Year	Capacity Factor 95%		Capacity 19 MW								(5) - (10) Difference between COT and SOC \$
	(1) Coal based Negotiated Capacity Payments \$/kW-Mo	(2) Projected Coal Energy Payments Big Bend 4 cents/kWh	(3) COT Negotiated Capacity Payments \$	(4) COT Negotiated Energy Payments \$	(5) COT Negotiated Total Payments \$	(6) COT Negotiated Total Payments \$/MWh	(7) SOC 2012 CT Capacity Payments \$/kW-Mo	(8) SOC 2012 CT Capacity Payments \$	(9) SOC 2012 CT Energy Payments \$	(10) SOC 2012 CT Total Payments \$	
2011											
2012											
2113											
2014											
2015											
2016											
2017											
2018											
2019											
2020											
2021											
2022											
2023											
2024											

NPV 2009\$




Discount Rate:

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- A. The information comparing the projected payments to the City of Tampa under the Extension with payments under Tampa Electric's 2012 Combustion Turbine Standard Offer Contract as well as the sources used to develop the data in each column are provided in the following tables. The most recent fuel forecast shown in the response to Staff's Third Data Request, No. 5, was used to develop the data in each column.

Column	Data Source
1	Extension of Small Power Production Agreement between Tampa Electric Company and the City of Tampa
2	Projected Big Bend 4 Avoided Energy Cost
3	Calculation (Column 1 * 19 MW * No. of Months)
4	Calculation (Column 2 * Energy * Capacity Factor)
5	Calculation (Column 3 + Column 4)
6	Calculation (Column 5 / (Energy * Capacity Factor))
7	Tampa Electric's Combustion Turbine (CT) Standard Offer, Sheet Numbers 8.406-8.436, dated July 28, 2008
8	Calculation (Column 7 * 19 MW * No. of Months)
9	Calculation using the energy price as the lesser of Tampa Electric's avoided cost and the energy price for the Tampa Electric CT Standard Offer. (Energy Price * Energy * Capacity Factor)
10	Calculation (Column 8 + Column 9)
11	Calculation (Column 5 - Column 10)

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Table 1

Comparison of Projected Payments to City of Tampa (COT) and Payments under Tampa Electric 2012 CT Standard Offer Contract (SOC) <sup>1</sup>

Year	Capacity Factor 95%		Capacity 18 MW								
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	Coal Based Negotiated Capacity Payments	Projected Coal Energy Payments Big Bend 4	COT Negotiated Capacity Payments	COT Negotiated Energy Payments	COT Negotiated Total Payments	COT Negotiated Total Payments	SOC 2012 CT Capacity Payments	SOC 2012 CT Capacity Payments	SOC 2012 CT Energy Payments	SOC 2012 CT Total Payments	(5) - (10) Difference between COT and SOC
	(\$/kW-Mo)	(Cents/kWh)	(\$000)	(\$000)	(\$000)	(\$/MWh)	(\$/kW-Mo)	(\$)	(\$)	(\$)	(\$)
2011	23.80	3.12	2,261	2,067	4,328	65.31	10.26	975	4,164	5,139	(810)
2012	24.10	3.15	5,494	4,986	10,480	66.28	10.48	2,392	9,379	11,771	(1,291)
2113	24.82	3.23	5,659	5,105	10,764	68.07	10.73	2,446	10,368	12,814	(2,051)
2014	25.57	3.42	5,829	5,403	11,232	71.04	10.98	2,503	11,245	13,749	(2,517)
2015	26.34	3.66	6,004	5,780	11,785	74.53	11.23	2,560	11,021	13,582	(1,797)
2016	27.12	3.88	6,184	6,137	12,321	77.93	11.49	2,620	11,864	14,484	(2,163)
2017	27.94	4.05	6,369	6,403	12,772	80.78	11.76	2,681	10,681	13,362	(590)
2018	28.77	4.42	6,561	6,993	13,554	85.72	12.03	2,743	11,606	14,349	(795)
2019	29.64	4.62	6,757	7,302	14,060	88.92	12.30	2,804	12,706	15,510	(1,450)
2020	30.53	4.82	6,960	7,618	14,578	92.19	12.59	2,871	11,528	14,399	179
2021	31.44	5.02	7,169	7,940	15,109	95.55	12.88	2,937	13,002	15,939	(830)
2022	32.39	5.23	7,384	8,270	15,654	99.00	13.18	3,004	12,398	15,402	252
2023	33.35	5.44	7,604	8,608	16,213	102.54	13.48	3,073	13,508	16,581	(368)
2024	33.93	5.65	4,513	5,188	9,701	105.63	13.79	1,834	6,769	8,603	1,098
					\$89,810				\$98,525		(\$8,715)
									Discount Rate:		7.88%

NPV 2009\$

<sup>1</sup> The analysis is based on Tampa Electric's 2012 Combustion Turbine Standard Offer Contract in effect through June 29, 2009.

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Table 2

Comparison of Projected Payments to City of Tampa (COT) and Payments Under TECO 2012 CT Standard Offer Contract (SOC) <sup>1</sup>

Year	Capacity Factor 70%		Capacity 19 MW								(5) - (10) Difference between COT and SOC (\$)
	(1) Coal Based Negotiated Capacity Payments (\$/kW-Mo)	(2) Projected Coal Energy Payments Big Bend 4 (Cents/kWh)	(3) COT Negotiated Capacity Payments (\$000)	(4) COT Negotiated Energy Payments (\$000)	(5) COT Negotiated Total Payments (\$000)	(6) COT Negotiated Total Payments (\$/MWh)	(7) SOC 2012 CT Capacity Payments (\$/kW-Mo)	(8) SOC 2012 CT Capacity Payments (\$)	(9) SOC 2012 CT Energy Payments (\$)	(10) SOC 2012 CT Total Payments (\$)	
2011	23.80	3.12	2,261	1,523	3,784	77.49	10.26	975	2,960	3,935	(150)
2012	24.10	3.15	5,494	3,674	9,168	78.69	10.49	2,392	6,439	8,831	337
2113	24.82	3.23	5,659	3,762	9,420	80.85	10.73	2,446	7,988	10,435	(1,015)
2014	25.57	3.42	5,829	3,981	9,810	84.20	10.98	2,503	8,834	11,338	(1,528)
2015	26.34	3.66	6,004	4,259	10,264	88.09	11.23	2,560	8,297	10,857	(594)
2016	27.12	3.88	6,184	4,522	10,706	91.89	11.49	2,620	8,941	11,561	(854)
2017	27.94	4.05	6,369	4,718	11,087	95.16	11.76	2,681	7,993	10,674	413
2018	28.77	4.42	6,561	5,153	11,713	100.54	12.03	2,743	8,965	11,708	5
2019	29.64	4.62	6,757	5,381	12,138	104.18	12.30	2,804	9,700	12,504	(366)
2020	30.53	4.82	6,960	5,613	12,573	107.91	12.59	2,871	8,553	11,424	1,149
2021	31.44	5.02	7,169	5,851	13,019	111.75	12.88	2,937	9,919	12,855	164
2022	32.39	5.23	7,384	6,094	13,478	115.68	13.18	3,004	9,370	12,375	1,103
2023	33.35	5.44	7,604	6,343	13,947	119.71	13.48	3,073	10,084	13,158	790
2024	33.93	5.65	4,513	3,823	8,336	123.18	13.79	1,834	4,782	6,616	1,720

NPV 2009\$

\$77,922

\$78,599 (\$677)

Discount Rate: 7.88%

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<sup>1</sup> The analysis is based on Tampa Electric's 2012 Combustion Turbine Standard Offer Contract in effect through June 29, 2009.

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