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FPSC - COMMISSION CLERK

State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

**DATE:** September 3, 2015

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Draper) *EID*  
Division of Engineering (Ellis, Wooten) *POE on*  
Office of the General Counsel (Leathers, Crawford) *AL IR*

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**RE:** Docket No. 150177-EI – Joint petition by Tampa Electric Company, Duke Energy Florida, and Mosaic Fertilizer, LLC, for approval of intermittent electric standby power agreement.

**AGENDA:** 09/15/15 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

## Case Background

On July 31, 2015, Tampa Electric Company (Tampa Electric), Duke Energy Florida (Duke), and Mosaic Fertilizer, LLC (Mosaic) (jointly petitioners) filed a joint petition for approval of an intermittent electric standby power agreement (agreement). Mosaic is in the business of mining and processing phosphate, and manufacturing fertilizer. Mosaic has operations in the service territories of Tampa Electric, Duke, and other utilities. On August 21 and August 31, 2015, the petitioners provided responses to staff's data requests. It appears that this agreement is the first of its type to come before the Commission. The Commission has jurisdiction pursuant to Section 366.04, Florida Statutes (F.S.).

## Discussion of Issues

**Issue 1:** Should the Commission approve the proposed intermittent electric standby power agreement between Tampa Electric, Duke, and Mosaic?

**Recommendation:** Yes. The agreement is consistent with the Commission's policy of encouraging agreements, promotes renewable energy, and has no immediate impact on Tampa Electric's and Duke's general body of ratepayers. (Draper)

**Staff Analysis:** The proposed agreement addresses the supply of electric service to certain Mosaic facilities located in Hardee County. Specifically, the Mosaic facilities at issue are the South Pierce Generating Facilities (South Pierce) and the South Pasture Beneficiation Plant (Pasture Plant). The agreement would allow Tampa Electric to provide intermittent standby power to Mosaic during infrequent periods when generation from the South Pierce facility is not sufficient to serve the South Pasture load. The agreement becomes effective on the date of a final Commission order approving the agreement for an initial term of ten years with an automatic ten-year extension if all the parties to the agreement agree on an extension. Alternatively, the parties can petition the Commission for a change in the agreement. The proposed agreement is shown in Attachment A of the recommendation.

### Mosaic Facilities

#### **South Pierce**

South Pierce is a qualifying cogeneration facility which consists of two steam-turbine generators that generate energy from waste heat captured during the fertilizer production process. Mosaic uses the electricity generated to self-service the South Pierce facility and sells excess energy to Tampa Electric under the as-available COG-1 tariff. Tampa Electric provides service to South Pierce under the Interruptible Standby and Supplemental Service rate schedule.

#### **Pasture Plant**

The Pasture Plant produces fertilizer products and is currently served by Duke under the Interruptible General Service rate schedule. The Pasture Plant is located in Peace River Electric Cooperative's (Peace River) service territory; however, pursuant to the territorial agreement between Duke and Peace River, Duke provides service to the Pasture Plant because the facility requires service at transmission level. The petitioners state that Peace River has read the agreement and Peace River's consent to approval and implementation of the agreement is attached as Exhibit B to the petition.

#### **Transmission Line**

Mosaic plans to build a ten-mile 69 kilovolt transmission line to connect the South Pierce generating facilities to the Pasture Plant. The transmission line is referred to in the agreement as the South Pasture Tie Line. Once Mosaic completes the construction of the transmission line, Mosaic will direct the excess energy generated at the South Pierce facilities to serve the full load of the Pasture Plant and the as-available sales to Tampa Electric will be reduced or eliminated. Mosaic anticipates the transmission line will be constructed by March 31, 2016. The transmission line will be owned by Mosaic and solely located on Mosaic-owned property, with

the exception of crossings of public right of ways such as roads. This type of arrangement is referred to as self-service. Staff notes that self-service is to be differentiated from self-service wheeling which means transmission or distribution service provided by a public utility to enable a retail customer to transmit electrical power generated by the customer at one location to the customer's facilities at another location.

### **Proposed Agreement**

The proposed agreement is designed for Tampa Electric to provide intermittent standby power to Mosaic during infrequent periods when generation from the South Pierce facility is not sufficient to serve the South Pasture load. As stated above, Tampa Electric currently provides standby power to the South Pierce facility and will continue to do so, while Duke provides service to the Pasture Plant. Once Mosaic's transmission line connects the South Pierce facility to the Pasture Plant, Duke will not be able to provide standby power to the Pasture plant because only one utility can be connected electrically to the Mosaic facilities at a time. The petitioners explained that should the South Pierce facility go off-line, even for a short period of time, such that Tampa Electric's standby service picks up, the time and expense associated with converting the Pasture Plant load over to Duke would not be economic to the parties. Mosaic explained that a switch from cogeneration service to Duke service and back translates into over \$300,000 in production losses.

The petitioners explained that the infrequent circumstance under which Tampa Electric would provide standby power to the Pasture Plant is when the South Pierce facility is de-rated or off-line for repair or maintenance or when the Pasture Plant and other Mosaic load exceeds the output of the South Pierce facility. If the South Pierce generation reduction is to be of a more extended nature or if there is an interruption on the Mosaic transmission line, then the South Pasture load will be transferred to Duke, consistent with the terms of the agreement.

The proposed agreement also provides for a 3,500 Megawatt-hour annual cap on the amount of standby power Tampa Electric can provide to Mosaic. In response to staff's data request, the petitioners explained that the purpose of the negotiated cap is to ensure that Tampa Electric's standby service to Mosaic under the proposed agreement is infrequent and intermittent in nature only. The agreement provides that if the cap is exceeded, Mosaic will disconnect the Pasture Plant from the South Pierce facility and connect the Pasture Plant to Duke and purchase power from Duke. Once Mosaic has purchased a certain amount of electricity from Duke as outlined in the agreement, Mosaic will reconnect the Pasture Plant to its facilities and the cap will be reset to zero.

### **Conclusion**

The Supreme Court found that an individual does not have the right to service by a particular utility merely because the individual deems it advantageous.<sup>1</sup> However, the proposed agreement for intermittent standby power is confined to unique and limited circumstances as presented by the facts of this case. The agreement maintains the current territorial boundaries for Tampa Electric and Duke, while allowing Mosaic to self-generate power to serve the Pasture Plant load. Furthermore, the Commission has recognized in several prior orders the need for flexibility in

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<sup>1</sup> *Storey v. Mayo*, 217 So. 2d 304 (Fla. 1968)

the provision of electric service to Mosaic's mining operations.<sup>2</sup> The proposed agreement is consistent with the Commission's policy of encouraging agreements, promotes renewable energy, and has no immediate impact on Tampa Electric's and Duke's general body of ratepayers. Therefore, staff recommends approval of the proposed intermittent electric standby power agreement between Tampa Electric, Duke, and Mosaic.

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<sup>2</sup> Order No. PSC-10-0580-PAA-EU, issued September 22, 2010, *In re: Joint petition for approval to extend territorial settlement agreement by Progress Energy Florida, Inc., Tampa Electric Company, and The Mosaic Company* and Order No. PSC-02-0929-AS-EI, issued July 11, 2002, in Docket No. 020105-EI, *In re: Joint petition of Florida Power Corporation and Tampa Electric Company for expedited declaratory relief concerning provision of electric service to an industrial customer's facilities located in Tampa Electric Company's Commission-approved service territory.*

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Leathers)

**Staff Analysis:** If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

**INTERMITTENT ELECTRIC STANDBY POWER AGREEMENT**

This Agreement Regarding Intermittent Electric Standby Power ("Agreement") is made and entered this 26<sup>th</sup> day of July, 2015 by and between Duke Energy Florida, Inc. ("DEF"), Tampa Electric Company ("Tampa Electric") and Mosaic Fertilizer, LLC ("Mosaic") (collectively, "the Parties").

WHEREAS, Mosaic is engaged in the integrated business of mining, processing phosphate, and manufacturing fertilizer in numerous counties in central and south central Florida, and has operations and facilities located in the service territory of a number of public utilities, including, but not limited to DEF, Tampa Electric and PRECO; and

WHEREAS, DEF, Tampa Electric and Mosaic have entered into voluntary and cooperative discussions regarding the supply of reliable electric service in a safe and operationally acceptable manner to certain Mosaic facilities geographically located in Hardee County, Florida; and

WHEREAS, the Parties have agreed to enter into this Agreement to facilitate the provision of electricity to Mosaic upon terms and conditions that are acceptable to the Parties as detailed herein; and

WHEREAS, the Parties recognize that, due to the specialized operations of Mosaic's integrated phosphate operations, this Agreement benefits the Parties; is put in place to deal with specific facts affecting Mosaic, and that this Agreement shall have no precedential effect with respect to any other factual or legal issues or



circumstances beyond those unique to the Agreement and specifically addressed herein.

**NOW, THEREFORE** in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged by each Party, the Parties do mutual agree as follows:

**1. DEFINITIONS:**

- a. **DEF South Pasture Standby Service Meter** means: The DEF owned service meter used by DEF to provide standby electric power to Mosaic at its point of interconnection with Mosaic's South Pasture Beneficiation Plant. Electrical connection from this meter to Mosaic will be normally open until standby service is transferred from Tampa Electric to DEF at which point the electrical connection to Tampa Electric through the South Pasture Tie Line will be severed through a Kirk Key lock protocol.
- b. **Fort Green 3 Substation Meter** means: The Mosaic owned meter associated with the Fort Green 3 substation which measures electricity flows on Mosaic's South Pasture Tie Line to Mosaic's South Pasture Beneficiation Plant.
- c. **Intermittent Electric Standby Power** means: Electrical power that Tampa Electric does not provide and sell to Mosaic on a regular basis, but that Tampa Electric provides and sells to Mosaic at the South Pierce Standby Interruptible Service Meter on an intermittent basis and that Mosaic transfers to its South Pasture Beneficiation Plant over the South Pasture Tie Line when there is insufficient

generation from Mosaic's South Pierce Generating Facilities to meet the load of Mosaic's South Pasture Beneficiation Plant.

- d. **South Pasture Beneficiation Plant** means: The Mosaic-owned phosphate beneficiation facility located in Hardee County, Florida (Section 30 – Township 33 South - Range 24 East), which processes mined phosphate materials in the production of fertilizer products;
- e. **South Pasture Tie Line** means: The planned approximately 10 mile extension of a Mosaic-owned 69 kV transmission line which will connect Mosaic's South Pierce Generating Facilities with Mosaic's South Pasture Beneficiation Plant;
- f. **South Pierce Generating Facilities** means: A Mosaic-owned 46.2 MW nameplate capacity qualifying facility generating station which consists of two steam-turbine generators that generate renewable energy from waste heat captured during the production of sulfuric acid used in the integrated phosphate fertilizer production processes.
- g. **South Pierce Generator Meter** means: Tampa Electric-owned meter and associated equipment used by Tampa Electric to measure the generator output on an hourly basis of Mosaic's South Pierce Generating Facilities associated with providing standby interruptible service to Mosaic.
- h. **South Pierce Standby Interruptible Service Meter** means: The Tampa Electric-owned service meter used by Tampa Electric to provide supplemental and standby electric power to Mosaic at its point of interconnection with Mosaic's South Pierce Generating Facilities.

- i. **Tampa Electric Intermittent Electric Standby Power 12 Month Cap** means: Up to 3,500 MWh annually of Tampa Electric-supplied and Mosaic-purchased intermittent standby electricity that will flow through the South Pierce Standby Interruptible Service Meter, and that will be transferred by Mosaic to the South Pasture Beneficiation Plant over the South Pasture Tie-Line. The 3,500 MWh is an annual cap, calculated monthly from the Effective Date of this Agreement and each twelve months thereafter, unless the start month of the twelve month period is changed pursuant to the process for exceedance of the cap set forth in paragraph 6.
2. **Term:** The initial term of this Agreement shall become effective as of the date of a final Commission Order approving this Agreement without changes or modifications to which any Party objects ("Effective Date"). The initial term of this Agreement shall be for ten years from the Effective Date with an automatic ten year extension provided all the parties are satisfied with the Agreement. Within a period of time between six months and three months prior to the end of the ten year initial term, the parties shall meet and confer. The meeting shall provide an opportunity for the parties to confirm their desire to extend the Agreement for another ten year term or petition the Commission for a change in the Agreement.
3. **Point of Provision of Intermittent Electric Standby Power:** Tampa Electric will provide Intermittent Electric Standby Power under this Agreement to Mosaic for use by Mosaic at the South Pasture Beneficiation Plant through Tampa Electric's South Pierce Standby Interruptible Service Meter and such electric power will be

delivered by Mosaic to the South Pasture Beneficiation Plant by Mosaic's South Pasture Tie Line.

4. **Calculation and Reporting of Intermittent Electric Standby Power:** Intermittent Electric Standby Power supplied by Tampa Electric that flows through the South Pierce Service Meter, and that will be purchased and transferred by Mosaic to the South Pasture Beneficiation Plant over the South Pasture Tie-Line, will be determined and calculated monthly by DEF based on hourly data. The calculation will be made by calculating the amount, if any, by which the South Pasture Beneficiation Plant load as measured on the Fort Green 3 Substation Meter exceeds the Mosaic-owned South Pierce total generation as measured by Tampa Electric on the South Pierce Generator Meter, measured on an hourly basis. DEF shall provide to Mosaic and Tampa Electric a monthly report reflecting the cumulative Intermittent Electric Standby Power provided to Mosaic during the 12 calendar months preceding the month in which the report is submitted. The determination of whether the Tampa Electric Intermittent Electric Standby Power 12 Month Cap has been exceeded will be made by reference to the cumulative Intermittent Electric Standby Power reflected in the monthly reports provided by DEF. Tampa Electric agrees to provide hourly South Pierce Generation Facilities data and Mosaic agrees to permit DEF access to the Fort Green 3 Substation Meter to facilitate DEF's acquisition of interval data and the determinations and calculations of Tampa Electric Intermittent Standby Electric Power flows to the South Pasture Beneficiation Plant. DEF shall provide the Parties with an annual

report detailing the amount of Tampa Electric supplied Intermittent Standby Electric Power provided to the South Pasture Beneficiation Plant.

5. **Authorized Charges:** DEF is authorized to include an additional monthly charge of \$200.00 to Mosaic's account maintained for the Mosaic South Pasture Beneficiation Plant Interruptible Standby account to compensate DEF for its reasonable costs and expenses associated with monitoring, calculating and reporting Tampa Electric Intermittent Standby Electric Power flows as described in paragraph 4 of the Agreement. DEF is further authorized to charge Mosaic in accordance with its current Commission approved Rate Schedule, SS 2, Interruptible Standby Service or any successor rate schedule, associated with the new DEF South Pasture Standby Service Meter that will be used to measure DEF service to South Pasture Beneficiation Plant whenever standby electrical service is transferred from Tampa Electric to DEF.
6. **Exceedance of Tampa Electric Intermittent Standby Electric Power 12 Month Cap:** If the Tampa Electric Intermittent Standby Electric Power 12 Month Cap is exceeded during any month as reflected in monthly reports submitted by DEF pursuant to paragraph 4, within 30 days of issuance of subject report, and Mosaic's reasonable verification and confirmation of same within 15 days of receipt of such information, Mosaic will disconnect the South Pasture Beneficiation Plant from the South Pierce Generation Facility and connect the South Pasture Beneficiation Plant to the DEF South Pasture Standby Service Meter. Mosaic will then purchase (at a minimum) an amount of Standby Service

MWh from DEF that equals or exceeds the total amount of Tampa Electric Intermittent Electric Standby Power MWh consumed during the relevant 12 month period during which the Tampa Electric Intermittent Standby Electric Power 12 Month Cap was measured and exceeded. When the Standby Service MWh from DEF has met or exceeded that prior service from Tampa Electric, Mosaic will reconnect the South Pasture Beneficiation Plant to the South Pasture Tie Line. Upon reconnection of the South Pasture Beneficiation Plant to the South Pasture Tie Line, the Tampa Electric Intermittent Electric Standby Power 12 Month Cap will be reset to zero (0) MWh, and the 12 month period for measuring exceedances will be restarted. The parties will use their normal billing cycles for the purposes of gathering data and preparing reports as set forth in this Agreement.

7. **Notification of Additions to the South Pasture Tie Line and Material Changes to the South Pierce Generating Facilities:** Mosaic will timely notify Duke and Tampa Electric prior to adding any electric loads in Hardee County to the South Pasture Tie Line which are remote from the South Pasture Beneficiation Plant and not capable of being measured by the Fort Green 3 Substation Meter, and thus included in DEF's monthly calculation of Tampa Electric Intermittent Standby Electric Power as detailed in paragraph 4. Mosaic will timely notify DEF and Tampa Electric prior to adding any additional Mosaic load of 6 MW or greater served through or from the South Pasture Beneficiation Plant. Mosaic will timely notify Duke and Tampa Electric prior to making any permanent material changes to the

electric generating capacity of the South Pierce Generating Facilities, which either increases or decreases the output of the units by 6 MW or greater, and will notify Duke and Tampa Electric should major outages of a more permanent nature (e.g., extended outages or derations of the units or the sulfuric acid plants that provide the steam to run the units). Notwithstanding the foregoing, however, such notification will not increase or have any impact on the amount of the Tampa Electric Intermittent Electric Standby Power 12 Month Cap set forth in section 1(i).

8. **No Revenue Sharing:** The Parties agree that none of the load serving obligations entered into as part of this Agreement will result, at any time during its initial or extended terms, in the sharing of revenues associated with service provided hereunder between DEF and Tampa Electric.
9. **Dispute Resolution:** The Parties agree that should a dispute arise pursuant to the terms of this Agreement, upon notification and request, they will meet in person and in a good faith effort to use their respective best efforts to resolve the dispute. This dispute resolution meeting shall be a condition precedent to any Party taking regulatory or legal action.
10. **Effect of Agreement:** The Parties agree that: (i) this Agreement is valid and binding between them upon approval of the Commission; and (ii) this Agreement or its terms shall have no precedential value or significance in any other legal proceeding before this Commission or other tribunal.

11. **Assignment of Agreement:** The Parties agree that this Agreement may be assigned to a corporate affiliate or successor in interest of any Party upon advanced written notice to the other Parties.
12. **Presentation of Agreement to the Commission:** The Parties agree to file an executed copy of this Agreement with the Commission for review and approval as expeditiously as possible, and to support the Commission's timely approval of this Agreement without modification.
13. **Changes to the Agreement:** Any change to this Agreement shall be made in writing, signed by all Parties.
14. **Extension of the Agreement:** If the Parties agree to jointly file a request to extend this Agreement beyond the automatic ten year extension contemplated in Section 2, such request shall be filed at least three (3) months before the expiration of that automatic ten year extension. The Agreement shall continue in full force and effect beyond the end of the ten year extension while the Commission is considering whether to approve the further extension of the Agreement.
15. **Reservation of Rights:** The Parties reserve all legal rights and remedies they may otherwise possess.
16. **Entire Agreement:** This Agreement represents the complete and entire understanding and agreement between the Parties and any terms or provisions not set forth in this Agreement are not enforceable.

**INTERMITTENT ELECTRIC STANDBY POWER AGREEMENT SIGNATURE PAGE**

Duke Energy Florida, Inc.  
Post Office Box 14042  
St. Petersburg, Florida 33733

Signature: [Handwritten Signature]  
Name (print): ALEX GLENN  
Date: July 22, 2015

Witness: [Handwritten Signature]  
Witness: [Handwritten Signature]  
Beverly Ludwiczak

DUKE ENERGY, INC.  
LEGAL DEPARTMENT  
APPROVED BY: [Handwritten Signature]  
DATE: 7/22/15

Tampa Electric Company  
702 North Franklin Street  
Tampa, Florida 33602

Signature: \_\_\_\_\_  
Name (print): \_\_\_\_\_  
Date: \_\_\_\_\_

Witness: \_\_\_\_\_  
Witness: \_\_\_\_\_

Mosaic Fertilizer, LLC  
13830 Circa Crossing Drive  
Lithia, Florida 33547

Signature: \_\_\_\_\_  
Name (print): \_\_\_\_\_  
Date: \_\_\_\_\_

Witness: \_\_\_\_\_  
Witness: \_\_\_\_\_

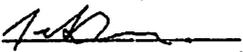
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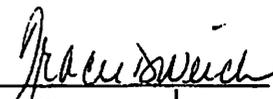
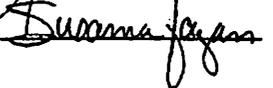
Duke Energy Florida, Inc.  
Post Office Box 14042  
St. Petersburg, Florida 33733

Signature: \_\_\_\_\_  
Name (print): \_\_\_\_\_  
Date: \_\_\_\_\_

Witness: \_\_\_\_\_  
Witness: \_\_\_\_\_

Tampa Electric Company  
702 North Franklin Street  
Tampa, Florida 33602

Signature:   
Name (print): Gordon L. Gillette  
Date: 7/26/15

Witness:   
Witness: 

Mosaic Fertilizer, LLC  
13830 Circa Crossing Drive  
Lithia, Florida 33547

Signature: \_\_\_\_\_  
Name (print): \_\_\_\_\_  
Date: \_\_\_\_\_

Witness: \_\_\_\_\_  
Witness: \_\_\_\_\_

**INTERMITTENT ELECTRIC STANDBY POWER AGREEMENT SIGNATURE PAGE**

Duke Energy Florida, Inc.  
Post Office Box 14042  
St. Petersburg, Florida 33733

Signature: \_\_\_\_\_  
Name (print): \_\_\_\_\_  
Date: \_\_\_\_\_

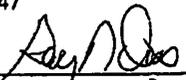
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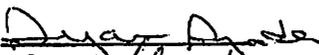
Tampa Electric Company  
702 North Franklin Street  
Tampa, Florida 33602

Signature: \_\_\_\_\_  
Name (print): \_\_\_\_\_  
Date: \_\_\_\_\_

Witness: \_\_\_\_\_  
Witness: \_\_\_\_\_

Mosaic Fertilizer, LLC  
13830 Circa Crossing Drive  
Lithia, Florida 33547

Signature:   
Name (print): GARY N DAVIS  
Date: 7/23/15

Witness:   
Witness: 