

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

RECEIVED
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IN RE:)
TAMPA ELECTRIC COMPANY)
BIG BEND STATION UNIT 4)
MODIFICATION REQUEST)
NO. PA 79-12)
HILLSBOROUGH COUNTY, FLORIDA)

OGC No. 81-0143

DER-BAQM

FINAL ORDER
APPROVING A MODIFICATION OF CONDITIONS OF CERTIFICATION

Pursuant to Section 403.516, Florida Statutes, the Tampa Electric Company submitted a request to modify the Conditions of Certification for its Big Bend Station Unit No. 4. Having considered the written request and all supporting documentation, the following Findings of Fact, Conclusions of Law, and Order are entered:

FINDINGS OF FACT

1. On August 7, 1989, Tampa Electric Company submitted a petition to the Department requesting approval of a modification of Condition of Certification XXX for the Big Bend Station Unit 4. The modification would extend variances to water quality standards and related effluent limitations applicable to flue gas desulfurization blowdown discharges.

2. The requested modification was submitted pursuant to Section 403.516, Florida Statutes, and Condition of Certifica-

tion XXV, which delegates to the Department the authority to make modifications to the conditions.

3. On October 13, 1989, a Notice of Proposed Agency Action was published in the Florida Administrative Weekly and served on all parties with a provision that a hearing would be held if requested on or before November 27, 1989. No hearing was requested.

4. After review of the record and performance of the facility, the Department determined that a modification of the variance would be consistent with the intention of the original certification.

CONCLUSIONS OF LAW

1. Sections 403.201 and 403.511, Florida Statutes, allow the Department to issue variances to water quality standards in power plant siting proceedings.

2. Section 403.516, Florida Statutes, allows the Siting Board to delegate the authority to modify conditions of certification to the Department.

3. Condition of Certification XXV delegates to the Secretary of the Department the authority to modify conditions of certification after notice and opportunity for hearing.

4. Proper notice was given and no request for hearing was received.

5. The requested modification is appropriate because the bottom ash pond discharge no longer exists, and the blowdown

discharge from the flue gas desulfurization system could not be tested prior to July 1989.

THEREFORE, IT IS ORDERED THAT:

1. The request by the Tampa Electric Company is GRANTED.
2. Condition of Certification XXX, Variances, is modified as follows:

TECO is granted variances for discharges of FGD system blowdown and ~~bottom ash pond blowdown~~ pursuant to Sections 403.201 and 403.511(2), F.S., for a period of two years ~~after the start of commercial operation~~ from October 1, 1989, for the following parameters:

- a. Arsenic - 17-3.061(2)(a)
- b. Cadmium - 17-3.121(9)
- c. Chromium - 17-3.061(2)(d)
- d. Copper - 17-3.121(11)
- e. Iron - 17-3.121(16)
- f. Mercury - 17-3.121(18)
- g. Nickel - 17-3.121(19)
- h. Selenium - 17-3.121(26)

During the period that the variance is in effect, TECO shall (1) determine the concentrations of the above metals as well as lead in the two discharge streams; (2) operate the FGD blowdown treatment system so as to minimize the metal content of the discharge from the system; (3) submit reports of the above studies ~~and analysis by October 31, 1990, and June 30, 1991 after the first year and at least twenty months after the start of commercial operations of Unit-4.~~

Upon receipt of the aforementioned reports, the Secretary shall determine whether the variances should be renewed and may impose appropriate conditions to minimize the discharges and their impacts.

RIGHT TO APPEAL

Any party to this Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes,

by filing a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of the General Counsel, 2600 Blair Stone Road, Tallahassee, Florida, 32399-2400; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days form the date of this Order is filed with the Clerk of the Department.

PETITION FOR ADMINISTRATIVE REVIEW

1. A person whose substantial interests are affected by the Department's decision may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of the General Counsel of the Department at 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this Order. Petitioner shall mail a copy of the petition to the applicant at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes.

2. The Petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department Permit File Number and the county in which the project is proposed;

(b) A statement of how and when each petitioner received notice of the Department's action or proposed action;

(c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;

(d) A statement of the material facts disputed by petitioner, if any;

(e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;

(f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; and

(g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

3. If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Order. Any person whose substantial interests will be affected by any decision of the Department with regard to the application has the right to petition to become a party to the proceeding. The petition must conform with the requirements specified above and be filed (received) within 21

days of receipt of this notice in the Office of General Counsel at 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, F.A.C.

4. This Order constitutes final agency action unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition and conforms to Rule 17-103.070. F.A.C. Upon timely filing of a petition or request for an extension of time this Order will not be effective until further Order of the Department.

DONE AND ORDERED this 6 day of June, 1990, in Tallahassee, Florida.

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

[Signature] Clerk 6-6-90 Date

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

[Signature]
DALE TWACHTMANN
Secretary

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Certificate of Service

I hereby certify that copies of the foregoing FINAL ORDER were furnished by United States mail, to the following on this 7th day of June, 1990.

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STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION



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