

*Orig T Cole
Copy HS Owen
J Butcher
Jim Hale*

admn # 1368 M. Starns

*W. R. Key
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FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D. C. 20461

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WEST CENTRAL REGION
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EXECUTIVE DIRECTOR

7-100

Mr. Peter Baljet, Executive Director
State of Florida Department of
Pollution Control
2562 Executive Center Circle, East
Montgomery Building
Tallahassee, Florida 32301

Re: Case Number FEE-1326

Dear Mr. Baljet:

The Federal Energy Administration has considered the Application for Exception filed by Tampa Electric Company from the provisions of 10 CFR 215.3 based on undue economic hardship (Case No. FEE-1326).

Since your agency has indicated that it has an interest in the outcome of this exception request, we enclose a copy of the Decision and Order for your information. If you have any questions regarding this Decision and Order, please contact Mr. Steven Rabin, telephone number (202) 54-8780.

Sincerely,

Thomas Wieker

Thomas Wieker
Assistant Director
Office of Exceptions and Appeals

Enclosure

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FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

DECISION AND ORDER

OF THE FEDERAL ENERGY ADMINISTRATION

Request for Exception

Name of Petitioner: Tampa Electric Company

Date of Filing : December 18, 1974

Case Number : FEE-1326

On December 18, 1974, Tampa Electric Company (TECO) filed an Application for Exception from the provisions of 10 CFR 215.3 with the Office of Exceptions and Appeals of the Federal Energy Administration. The exception, if granted, would permit TECO to burn residual fuel oil rather than coal under electric power generating units 1 through 4 of its F. J. Gannon Station.

The Federal Energy Administration, having considered such Application for Exception, has concluded that:

- (a) TECO is an electric utility company with generating capacity of 2165 megawatts of electric power serving customers in West Central Florida. TECO operates several fossil fuel power generators including generators 1-4 of the F. J. Gannon Station (hereinafter Gannon units 1-4) located in Hillsborough County, Florida.
- (b) Section 215.3 of the FEA Regulations relating to the use of low sulfur petroleum products provides that "No petroleum product shall be sold or otherwise provided to or accepted by any firm for burning under power generators which were not using the petroleum product on December 7, 1973." On December 7, 1973 and at the present time TECO's Gannon units 1-4 have been using coal as their only fuel. Therefore, pursuant to Section 215.3, TECO is not permitted to accept petroleum products for burning under Gannon units 1-4.
- (c) In its exception application TECO indicates that the State of Florida's air pollution emission regulations limit sulfur dioxide stack emissions to an amount which is no greater than 1.1 pounds per million BTU heat input for oil use and 1.5 pounds per million BTU heat input for coal use. Since each of the Gannon units has a

separate stack, the Florida air pollution regulations apply individually to each of the Gannon units. TECO contends that in view of the State requirements compliance with the provisions of Section 215.3 will cause the firm an undue economic hardship.

(d) Section 215.6(b) of the FEA Regulations specifies that:

The FEA may also grant exceptions from the provisions of Section 215.3 in accordance with Subpart D of Part 205 of this Chapter if:

- (1) Any firm subject to this Part can demonstrate that compliance with the provisions of Section 215.3 would cause special hardship, inequity, or unfair distribution of burden; . . .

In Commonwealth Edison Company, CCH Fed. Energy Guidelines, Par. 20,709 (November 22, 1974), the FEA discussed the showing which would warrant exception relief based on economic hardship where a State requires the attainment of air quality standards which are higher than the applicable Primary Ambient Air Quality Standards:

Under these conditions, exception relief from the FEA Regulations set forth in Part 215 is appropriate to permit a firm to use petroleum products if an applicant establishes that:

- (i) . . . [it has] made all diligent efforts to obtain a variance from the appropriate state officials which, if granted, would permit it to continue to use fuels which are in conformity with the provisions of 10 CFR, Part 215, and the state authorities have denied its request for such a variance;
- (ii) The alternative means available to the firm which would permit it to continue to adhere to the requirements of Part 215 and still meet the state's air quality standards would result in an undue economic hardship to either the firm or the customers which it serves. These alternative means include, but are not limited to, the use of low sulfur coal and the installation of scrubbers, precipitators or other devices which would permit the firm to continue to use the fuel required by Part 215

and still meet the applicable state air quality standards. See, Detroit Public Lighting Commission, CCH Fed. Energy Guidelines, Par. 20,682 (October 22, 1974);

(iii) Shutting down the plant involved would result in an undue economic hardship to the firm or the consumers served by the firm.

(e) TECO indicates that the regulations limiting stack emission of sulfur dioxide are incorporated in the State's Implementation Plan (SIP) for meeting the Primary Ambient Air Quality Standards prescribed by the Clean Air Act. ^{1/} The Florida SIP for meeting the Primary Ambient Air Quality Standards (Primary Standards) was approved by the U.S. Environmental Protection Agency pursuant to the provisions of Section 110 of the Clean Air Act on January 27, 1972 and stipulates that with the exception of nitrogen oxides, the deadline for meeting source emission standards which will result in compliance with ambient air standards, is July 1, 1975. TECO maintains that it is therefore unable to obtain a variance to permit continued high sulfur coal burning in any of the Gannon Units 1 - 4 beyond July 1, 1975. TECO's argument in this respect is correct. EPA regulations relating to the approval and promulgation and to the preparation, adoption, and submission of State Implementation Plans for meeting National Ambient Air Quality Standards (40 CFR Parts 51 and 52), prohibit states from granting variances from SIP requirements beyond the "attainment date" for meeting Primary Standards (July 1, 1975 in the case of Florida). See 40 CFR § 51.11, 51.15, 51.32, 52.20, and 52.26. -2

(f) In connection with its application for exception, TECO has submitted data which indicates that it has explored alternative means, which if feasible, would permit it to

^{1/} Section 110 of the Clean Air Act, as amended (42 USC 1857 et seq.), provides that each State shall adopt and submit to the EPA Administrator for his approval, a plan (State Implementation Plan or "SIP") for the implementation, maintenance and enforcement of the Primary Ambient Air Quality Standards in each air quality control region in such state. Such plan must provide for the attainment of the Primary Ambient Air Quality Standards no later than three years from the date the plan is approved. Section 110(a)(2) of the Clean Air Act, 42 U.S.C. § 1857 c-5(a)(2).

continue to burn coal and comply with the State emission regulations. In particular, TECO has investigated whether it could continue to operate the Gannon units 1-4 by reducing the sulfur content of the coal used to 1% or less by weight or by installing flue gas desulfurization equipment to reduce sulfur dioxide emissions from each of the four stacks. The first alternative was found to be infeasible since TECO has been unable to locate coal of suitable quality for use in the Babcock and Wilcox cyclone furnaces of the Gannon units 1-4 which has a sufficiently low sulfur content to meet the emissions limitation described above. The installation of flue gas desulfurization equipment was also found to be unsuitable since the installation of such equipment would require at least three years to complete.

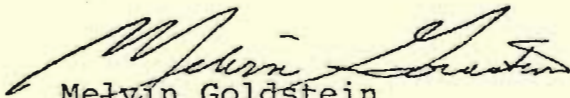
- (g) Finally, the data submitted by TECO indicates that if the firm were required to shut down its Gannon units 1-4 it would lose one-fourth of its generating capacity which would result in an undue economic hardship to TECO and serious adverse consequences to its customers.
- (h) TECO's application for exception satisfies the criteria set forth in Commonwealth Edison Company, supra and thereby makes a showing that the requirements of Section 215.3 result in an undue economic hardship to the firm at the present time. However, TECO has failed to demonstrate that it could not meet the requirements of Section 215.3 at some future date without experiencing an undue economic hardship. Although TECO has stated in its submission that because of the physical configuration of the Gannon plant, the installation of flue gas desulfurization equipment at the plant cannot be "realistically" accomplished, TECO has failed to submit information to substantiate its conclusion that the installation of pollution control equipment at Gannon is impossible. Additionally, TECO has not provided any data which would indicate the cost of such a project or the effect such a project would have upon the firm's financial position.

Based on the considerations set forth above and the data submitted by TECO and the U.S. Environmental Protection Agency in connection with TECO's exception request the FEA has concluded that TECO should be granted a 6 month exception from the provisions of 10 CFR 215.3.

IT IS THEREFORE ORDERED THAT:

- (1) The Application for Exception filed by Tampa Electric Company be and hereby is denied in the form submitted.

- (2) TECO is hereby granted an exception as set forth below.
- (3) Notwithstanding any contrary provisions of 10 CFR 215.3, residual fuel oil may be sold to and accepted by TECO for use in units 1-4 of the Gannon Station in the amount necessary to insure compliance with the air pollution emission regulations of the State of Florida for a period of 6 months from the date of this Order.
- (4) In the event TECO seeks an extension of the exception relief approved herein, it shall be at the time it applies for such an extension, set forth in detail the steps it has taken or will take to install flue gas desulfurization equipment at the Gannon Station which would permit TECO to meet all State air pollution emission regulations without using petroleum products. At that time, TECO may also submit documentation of its claim that the installation of such flue gas desulfurization equipment at the Gannon Station will result in an undue economic hardship to the firm.
- (5) In accordance with the provisions of 10 CFR, Part 205, any aggrieved party may file an appeal from this Decision and Order with the Federal Energy Administration. The provisions of 10 CFR, Part 205, Subpart H, set forth the procedures and criteria which govern the filing and determination of any such appeal.



Melvin Goldstein
Director
Office of Exceptions and Appeals

Date: APR 30 1975