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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION NO. 99-2524
v.	)	CIV-T-23F
	)	
	)	
TAMPA ELECTRIC COMPANY,	)	
	)	
Defendant.	)	
	)	

AMENDMENT TO CONSENT DECREE

WHEREAS, on October 4, 2000, this Court entered a Consent Decree resolving this matter;

WHEREAS Tampa Electric Company ("Tampa Electric") has for some time been undertaking work related to carrying out its obligations under that Consent Decree, including but not limited to work involving air pollution control devices known as scrubbers, which are part of Tampa Electric's "Big Bend" electric generating plant;

WHEREAS Tampa Electric reports that it has not issued its final acceptance to the scrubber contractor for the supply and installation of the scrubber that serves Big Bend electric generating Units

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1 and 2 and has also retained a consultant to analyze options for improving performance of that scrubber, and Tampa Electric further reports that detailed inspection of the scrubber serving Big Bend Units 3 and 4 reveals that this scrubber will require more maintenance and upgrading than originally anticipated as part of bringing the scrubber up to performance levels required by the Consent Decree;

WHEREAS Tampa Electric reports that scrubber work necessary for Big Bend Units 3 and 4 would be most easily performed during the next scheduled outage for those units, which should be during May or June 2001;

WHEREAS Tampa Electric also reports that current, day-to-day, operating reliability of its scrubbers is less than previously estimated, based on recent performance of those scrubbers;

WHEREAS Tampa Electric has proposed certain adjustments to the Consent Decree to address these issues concerning scrubbers and also has identified several small corrections to the Decree;

WHEREAS the United States believes that the adjustments and corrections effected by this amendment are appropriate;

NOW, THEREFORE, without any admission of fact or law, it is hereby ORDERED AND DECREED that the Consent Decree is amended as follows:

A. ADJUSTMENTS

1. Alter first sentence of Paragraph 29 to extend deadline for certain work on the scrubber serving Big Bend Units 1 and 2, by replacing "September 1, 2000," with "December 31, 2000,".

2. Add New Paragraph 30.1, as follows:

"30.1. One-Time Increase in Number of Days Tampa Electric May Operate Big Bend Unit 3 Without Treatment by a Scrubber. In addition to the number of calendar days that Tampa Electric may, under Paragraph 30.A(1) of this Decree, operate Big Bend Unit 3 without treating emissions from that Unit with a scrubber, Tampa Electric also may operate Unit 3 for up to an additional 30 calendar days without treating emissions from that Unit with a scrubber if and only if:

A. Each day of such operation (and scrubber outage) under this provision takes place prior to midnight on June 30, 2001;

B. The purpose of the scrubber outage during such operation of Unit 3 is repair, improvement, and/or upgrade of the scrubber;

C. Tampa Electric complies with paragraph 30.B of this Decree while operating Unit 3 during such scrubber outage; and

D. Tampa Electric documents in detail each day of Unit 3 operation and scrubber outage that the company claims under this provision, and supplies such documentation as part of the periodic reporting requirements that apply to Tampa Electric under this Decree."

3. Alter Paragraph 53.I by adding "30.1" between "30" and "31" in the list of paragraphs identified in Paragraph 53.I.

4. Add the following at the end of Paragraph 29.A(1) "(Only for purposes of this subparagraph, a "calendar day" means the indivisible period of twenty-four consecutive hours commencing at the beginning of the hour in which the scrubber outage commences.)"

5. Add the following at the end of Paragraph 30.A.(1): "(Only for purposes of this subparagraph, a "calendar day" means the indivisible period of twenty-four consecutive hours commencing at the beginning of the hour in which the scrubber outage commences)"

6. Alter Paragraph 2 by deleting the last sentence of that paragraph and replacing it with the following: "Tampa Electric shall not purchase or otherwise acquire capacity and/or energy from a third party to replace capacity and/or energy lost, in whole or part, from the Shutdown or Reserve / Standby status of any Gannon or Big Bend Unit, unless the seller or provider of such capacity and/or energy meets the emission control requirements set forth in this Decree for that Gannon or Big Bend Unit or such equivalent requirements approved in advance by the United States."

7. Add new Paragraph 86.1, as follows: "86.1 Netting. For any and all emission control actions taken by Tampa Electric to comply with the terms of this Consent Decree, including but not limited to upgrading of ESPs and scrubbers, installation of scrubbers, installation of SCRs, and the Re-powering of Gannon or Big Bend Units, any emission reductions generated thereby shall not be considered as a creditable contemporaneous emission decrease for the purpose of obtaining a netting credit under the Clean Air Act's New Source Review program, provided, however, that nothing in this Decree shall be

construed to prohibit Tampa Electric's seeking such treatment for emissions decreases resulting from the difference in emissions between:

(i) those that would have resulted from installing on an existing Gannon or Big Bend coal-fired Unit: an SCR that maintains 0.10 lb/mmBTU NO_x Emission Rate, a scrubber that maintains an SO2 Removal Efficiency of 95%, and an ESP that maintains a PM Emission Rate of less than 0.010 lb/mmBTU and

(ii) those that result from Re-Powering that same Unit and meeting a NO_x Emission Rate of no greater than 3.5 ppm."

8. Adjustments to Paragraph 35. Add the following at the end of Paragraph 35: "At Tampa Electric's option, if combustion control techniques approved by EPA are installed and commence operation on Big Bend Units 1 and 2 on or before April 30, 2001, Tampa Electric may then install combustion controls on either Big Bend Units 3 or 4, so long as: Tampa Electric submits its proposals to EPA for such controls at least 90 days prior to the date Tampa Electric wishes to commence installation of such controls, EPA finds the proposed controls acceptable, and Tampa Electric installs and routinely operates such controls on Unit 3 or 4, as the case may be, on or before December 31, 2003. If Tampa Electric exercises this option, the report required by this paragraph to document this early NO_x reduction work shall be due on July 1, 2004 rather than April 1, 2003.

9. Adjustments to Paragraph 37. Add new sentence to end of Paragraph 37.B, as follows: "In calculating the "installation cost ceiling" all references to "installing SCR at Big Bend Unit 4" are to one

which would maintain a NO_x removal efficiency of no less than seventy-five percent, and thus would have produced a NO_x Emission Rate no greater than 0.10 lb/mmBTU at Big Bend Unit 4, based on that Unit's 1998 configuration and emissions."

B. CORRECTIONS

1. At page 6, in first line of Paragraph 4 of the Decree, delete "2.2 lb/mmBTU" and replace with "2.2 lbs SO_2 /mmBTU".

2. At page 14, in the third line of Paragraph 29.D of the Decree, delete "with".

3. At page 23, in the first line of Paragraph 34.D of the Decree, delete "this Paragraph" and insert "Sub-paragraphs B and C, above,".

4. At page 23, in the fourth and fifth lines of Paragraph 34.D of the Decree, delete "any of these Units" and insert "this Unit".

5. At page 24, in the last sentence of Paragraph 35 of the Decree, delete the comma that appears between "the" and "plan".

6. At page 31, in the fourth line of Paragraph 43 of the Decree, delete period that appears between "Gannon" and ",".

7. At page 32, in Paragraph 44.B of the Decree, correct the numbering of the subparts of Paragraph 44.B so that the second subpart -- which is now numbered as "(1)" – is instead numbered as "(2)".

C. EFFECT OF THIS AMENDMENT

1. All provisions of this amendment shall be treated as part of the original Consent Decree and are to be construed, implemented, and enforced as part of that Decree.

SO ORDERED THIS 10th DAY OF September 2001.

UNITED STATES DISTRICT JUDGE

Signature Page:
Amendment to Tampa Electric Consent Decree (99-2524 CIV-T-23F) (M.D. Fla.)

THROUGH ITS UNDERSIGNED REPRESENTATIVES, THE UNITED STATES AGREES AND CONSENTS TO ENTRY OF THE FOREGOING CONSENT DECREE:

FOR PLAINTIFF
UNITED STATES OF AMERICA:

Date: 5-28-01

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Amendment to Tampa Electric Consent Decree (99-2524 CIV-T-23F) (M.D. Fla.)

United States Attorney for the
Middle District of Florida

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Amendment to Tampa Electric Consent Decree (99-2524 CIV-T-23F) (M.D. Fla.)

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U.S. Environmental Protection Agency
Washington, D.C.

Bruce Buckheit
Director
Air Enforcement Division
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Signature Page:
Amendment to Tampa Electric Consent Decree (99-2524 CIV-T-23F) (M.D. Fla.)

A. Stanley Meiburg
Acting Regional Administrator
U.S. Environmental Protection Agency (Region 4)
Atlanta, Georgia

Signature Page:
Amendment to Tampa Electric Consent Decree (99-2524 CIV-T-23F) (M.D. Fla.)

THROUGH ITS UNDERSIGNED REPRESENTATIVES, TAMPA ELECTRIC COMPANY AGREES AND CONSENTS TO ENTRY OF THE FOREGOING CONSENT DECREE AMENDMENT:

FOR TAMPA ELECTRIC COMPANY

Date: 5/21/01

John B. Ramil
President
Tampa Electric Company

Sheila M. McDevitt
General Counsel
Tampa Electric Company

F I L E C O P Y

Date Printed: 09/12/2001

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