



December 7, 2009

Ms. Lisa Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Ms. Jackson:

On behalf of Tampa Electric Company (Tampa Electric), I am writing to express our views regarding EPA's proposed regulation of coal combustion byproducts (CCB's). First, let me express Tampa Electric's commitment to environmental protection in all of its operations, including the management, storage and transportation of CCB's produced at its facilities. With a CCB recycling rate of over 97%, Tampa Electric is an industry leader in this area. However, we are concerned by reports that EPA may propose reclassifying and regulating CCB's as hazardous wastes under RCRA Subtitle C. We believe such an approach would be harmful to Tampa Electric's customers, the community and the environment.

For many years, Tampa Electric has focused on maximizing recycling and reuse, rather than disposal, of the CCB's produced at its two coal fired facilities - the Big Bend and Polk Power Stations. With one of the most comprehensive and advanced air emissions control programs in the United States, which includes electrostatic precipitators, flue gas desulfurization (FGD) systems and selective catalytic reduction (SCR) systems on the Big Bend units and an integrated coal gasification combined-cycle (IGCC) facility at Polk Power Station, Tampa Electric's emissions profile is one of the lowest for solid fuel power facilities in the nation. These emissions controls also produce one of the most diverse arrays of CCB's in the country. These byproducts include flyash, bottom ash, boiler slag, FGD gypsum, and gasifier slag. Tampa Electric has been extremely successful at developing markets for these materials through the hard work of our staff and management to promote their sale and beneficial reuse. However, it is very important to note that this success has also been, in large part, attributable to the inherent flexibility built into the federal and state non-hazardous solid waste regulatory programs which currently govern Tampa Electric's operations.

As you know, EPA's current solid waste regulations offer both categorical exclusions for certain classes of materials, such as CCB's, and general regulatory exemptions for recycled materials. The very intent of these exclusions and exemptions is to incentivize the beneficial reuse and recycling of spent materials and byproducts. These incentives have assisted Tampa Electric in achieving its remarkable CCB recycling rate of over 97% - one of the highest by any major power generating facility in the United States dealing with such a wide variety of materials. The success of this program provides great benefit to Tampa

Electric's customers, as well as the community and the economy in general. First, our ability to successfully market these materials without being required to manage them as hazardous wastes prior to sale allows us to reduce operating expenses, which in turn helps us control electric rates for our customers. Second, by recycling such a large percentage of our CCB's, consumption of valuable landfill space is greatly minimized, which is a tremendous benefit to the community and environment. Third, these potential waste materials become raw materials for valuable consumer products, including cement (using bottom ash), concrete (flyash and FGD gypsum), wallboard (FGD gypsum), sandblast media (gasifier slag), shingles (boiler slag) and fertilizer (FGD gypsum), providing a significant stimulus to the currently struggling economy.

It is Tampa Electric's firm belief that the listing and regulation of CCB's as a category of hazardous wastes would be a wholly disproportionate reaction to the unfortunate, yet isolated, events that occurred at the TVA Kingston facility in December 2008. The listing of CCB's as hazardous waste would definitely stigmatize and discourage the beneficial reuse of CCB's in the United States at a time when environmental and economic incentives are so desperately needed. The CCB recycling rate for all U.S. coal burning facilities in aggregate is currently less than 50%. This means that there is great potential for much greater beneficial reuse of CCB's. With this in mind, we believe EPA should encourage U.S. electric utilities to sustain recycling programs that approach the levels already achieved by Tampa Electric, rather than placing obstacles in their way. The proper disposal of CCB's that are not recycled is already required and fully enforceable under many state regulatory programs such as that which currently exists in the State of Florida. In states which do not have such regulatory programs, regulation under the federal Subtitle D program is the appropriate course of action and EPA's enforcement authority for the program could be enabled legislatively, if necessary. In our view, Subtitle D would be more appropriate and effective than either a Subtitle C or a Subtitle C/D "hybrid" regulatory approach, either of which would severely hinder existing and future efforts to recycle CCB's.

We appreciate the opportunity to comment on this extremely important issue and would be happy to provide additional information to your agency about Tampa Electric's CCB recycling initiatives or any of its many other environmental stewardship programs. Thank you for your consideration.

Sincerely,



Gordon L. Gillette, President
Tampa Electric Company