

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

DOCKET NO. 050683-EI
ORDER NO. PSC-06-0138-PAA-EI
ISSUED: February 23, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION
ORDER ON COST RECOVERY THROUGH THE ENVIRONMENTAL COST RECOVERY
CLAUSE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On September 29, 2005, Tampa Electric Company ("TECO" or "Company") petitioned for approval of a new Arsenic Groundwater Standard Program for cost recovery through the Environmental Cost Recovery Clause ("ECRC" or "statute"). TECO is proposing the program to comply with new arsenic standards required by the Florida Department of Environmental Protection ("DEP"). The new standards are contained in Rule 62-550.310, Florida Administrative Code ("F.A.C."), concerning Drinking Water Standards, Monitoring and Reporting, and Rule 62-520.420(1), F.A.C., concerning Groundwater Classes, Standards and Exemptions.

Section 366.8255, Florida Statutes, authorizes us to review and decide whether a utility's environmental compliance costs are recoverable through an environmental cost recovery factor. Electric utilities may petition to recover projected new environmental compliance costs required by environmental laws or regulations, not included in base rates. Environmental laws or regulations include "all federal, state, or local statutes, administrative regulations, orders, ordinances, resolutions, or other requirements that apply to electric utilities and are designed to

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protect the environment.” Section 366.8255(1)(c), Florida Statutes. Only prudently incurred costs may be recovered through the clause. Section 366.8255(2), Florida Statutes.

On June 7, 2005, the DEP issued TECO an Industrial Wastewater (“IWW”) Facility Permit, Permit Number FLA 184713-006-IWIN, to operate a wastewater treatment system at Bayside Power Station. Attached to the IWW permit is an Administrative Order. The Administrative Order cites the change in the groundwater quality standard for arsenic as the basis of a new compliance requirement. To meet the new arsenic standard, TECO is required to develop and implement a treatment plan, or a “plan of study.” The plan of study is required to be submitted to DEP within six months of permit issuance for DEP’s approval. TECO’s petition for the Arsenic Groundwater Standard Program seeks to recover the costs of developing and implementing the plan of study.

TECO has shown that its Arsenic Groundwater Standard Program at Bayside is legally required to comply with a new governmentally imposed environmental regulation. The costs of developing the plan of study for Bayside shall be eligible for recovery. After the plan of study is approved by DEP, the costs of implementing the plan of study shall be found eligible for recovery through the ECRC.

The new arsenic standard also applies to TECO’s Polk Power Station and Big Bend Power Station. According to TECO, Polk Power Station is already in compliance with the new standard. The company anticipates an IWW permit for Big Bend Station to be issued in 2006 which will contain requirements similar to those contained in Bayside Power Station’s IWW permit.

Although there currently is no administrative order requiring the implementation of the new arsenic standard for the Big Bend Station at this time, administrative efficiency will be gained by considering the Arsenic Groundwater Standard Program for Bayside and Big Bend at the same time. TECO has shown that there is a high probability that Big Bend will be subject to the new compliance requirements associated with the new arsenic standard in 2006. TECO understands that it will need to provide the IWW permit for the Big Bend Station for verification as a condition for future cost recovery. Such verification can be conducted concurrent with the review and audit activities in the ongoing ECRC docket.

TECO has shown that there is a high probability that Big Bend will be required to develop a plan of study as part of its IWW permit renewal. Recovery of the cost of developing the plan of study and implementing it shall be found conditionally eligible for approval. Before TECO incurs any costs that it wants to pass through the ECRC, it shall provide evidence that Big Bend’s new IWW permit requires TECO to develop and implement a plan of study to ensure compliance with the new arsenic standard. Once this condition is met, the costs of developing the study would be eligible for recovery through the ECRC. Once the plan of study is approved by DEP, the costs of implementing it would be eligible for recovery through the ECRC.

Based on the assumption that Big Bend’s new IWW permit will have a requirement like that of Bayside’s, TECO projects the following program costs, which include the actual costs incurred in 2005:

Table 1
TECO's Arsenic Groundwater Standard Program Costs

Affected Power Plants	O&M Expenses		
	2005 (Actual)	2006 (Projected)	2007 (Projected)
Bayside	\$21,145	\$45,000	\$30,000
Big Bend	0	\$51,000	\$84,000
Total	\$21,145	\$96,000	\$114,000

The current ECRC factors approved by Order No. PSC-05-1251-FOF-EI, in Docket No. 050007-EI, issued December 22, 2005, In re: Environmental cost recovery clause, do not include the costs associated with TECO's Arsenic Groundwater Standard Program. By this order, we approved a stipulation regarding Progress Energy Florida's request for recovery of costs to assess groundwater arsenic levels and consultant costs for development of an arsenic remediation plan at Plants Anclote, Bartow, Hines, and Crystal River. TECO proposes that all activity costs incurred subsequent to the filing of this petition will be included in its ECRC true-up filings and projection filing in 2006.

TECO has incurred quarterly monitoring costs to comply with the existing arsenic standard. These ongoing monitoring costs are recovered through base rates, thus, they are not eligible for recovery through the ECRC. TECO confirms that the company does not seek to recover such ongoing monitoring costs through the ECRC.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that, costs incurred by Tampa Electric to develop the plan of study for Bayside's Groundwater Standard Program are eligible for recovery through the Environmental Cost Recovery Clause. After the plan of study has been approved by the Department of Environmental Protection, the costs of implementing the plan of study shall be eligible for recovery through the ECRC. It is further

ORDERED that recovery of the costs of developing and implementing the plan of study for Big Bend are conditionally eligible for recovery. Before Tampa Electric incurs any costs that it wants to pass through the Environmental Cost Recovery Clause it shall provide evidence that Big Bend's new industrial wastewater permit requires Tampa Electric to develop and implement a plan of study to ensure compliance with the new arsenic standard. Once this condition is met, the costs of developing the study shall be eligible for recovery through the Environmental Cost Recovery Clause. Once the plan of study is approved by the Department of Environmental Regulation, the costs of implementing it shall be eligible for recovery through the Environmental Cost Recovery Clause. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by

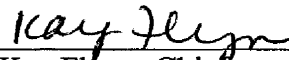
the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 23rd day of February, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By:



Kay Flynn, Chief
Bureau of Records

(SEAL)

MKS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on .

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.