

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 120302-EI
ORDER NO. PSC-13-0191-PAA-EI
ISSUED: May 6, 2013

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF
PROPOSED AGENCY ACTION ORDER
APPROVING ENVIRONMENTAL PROGRAM

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission (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 (F.A.C.).

Case Background

On November 30, 2012, Tampa Electric Company (TECO or Company) petitioned this Commission for approval of a new Mercury and Air Toxics Standards (MATS) environmental compliance program (Petition), and to recover the associated costs through the Environmental Cost Recovery Clause (ECRC). TECO's Petition was filed pursuant to Section 366.8255, Florida Statutes (F.S.), and Order Nos. PSC 94-0044-FOF-EI and PSC-99-2513-FOF-EI.¹

In March of 2005, the U. S. Environmental Protection Agency (EPA) promulgated the Clean Air Mercury Rule (CAMR). On February 8, 2008 the Circuit Court of Appeals for the District of Columbia vacated the CAMR and ordered the EPA to propose a new rule by March

¹ Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, in Docket No. 930613-EI, In re: Petition to establish an environmental cost recovery clause pursuant to Section 366.0825, F.S., by Gulf Power Company; Order No. PSC 99-2513-FOF-EI, issued December 22, 1999, in Docket No. 990007-EI, In re: Environmental Cost Recovery Clause.

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2011. On March 16, 2011, the EPA proposed the new rule.² On December 21, 2011, the EPA issued the MATS rule which applies to all coal and oil-fired electric generating units with a capacity of 25 MW or more, and requires compliance by April 16, 2015, with a possible one year extension and a possible additional year if there are reliability issues. By its Petition, TECO describes activities for complying with various emission standards of the MATS rule at the Company's Big Bend (BB) and Polk Power Stations.

Pursuant to Section 366.8255(2), F.S., electric utilities may petition this Commission to recover projected environmental compliance costs required by environmental laws or regulations. Pursuant to Section 366.8255(1)(c), F.S., 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 protect the environment." If we approve a utility's petition for cost recovery, only prudently incurred costs may be recovered.³ We have jurisdiction over this matter pursuant to Section 366.8255(2), F.S.

Decision

The MATS rule sets forth Hazardous Air Pollutants (HAPs) standards for (1) Mercury, (2) Non-mercury metal HAPs, and (3) Acid Gases. Compliance with these standards must be determined using on-line or manual monitoring methods. In its Petition, TECO asserts that some of the emission standards in the new MATS rule are more rigorous than current emission limits and actual current emission levels. However, the Company's preliminary evaluations indicate that modest enhancements to current control devices should achieve compliance with the standards.

Compliance with the Mercury Standard

In November of 2006, we approved TECO's CAMR Phase I Emission Monitoring Compliance Program for cost recovery through the ECRC.⁴ Since 2007, the Company has been recovering costs for its mercury monitoring activities at BB and Polk Power Stations. This monitoring data has been used by TECO to evaluate compliance options under the new standards. Based on the data collected, TECO asserts that mercury requirements can be met using the Company's current control and monitoring systems. The Company has projected costs associated with this program for purchasing new mercury sorbent systems and an additional mercury spectrometer. These expenditures have been included in TECO's 2013 ECRC Projection Filing.

² Under the Clean Air Act National Emission Standards for Hazardous Air Pollutants under Maximum Achievable Control Technology criteria that included all Hazardous Air Pollutants.

³ See Order No. PSC 11-0080-PAA-EI, issued January 31, 2011, in Docket No. 100404-EI, In re: Petition by Florida Power & Light Company to recover Scherer Unit 4 Turbine Upgrade costs through environmental cost recovery clause or fuel cost recovery clause at pp. 2-5, recounting history of ECRC eligibility criteria pursuant to Section 366.8255, F.S.

⁴ Order No. PSC-06-0926-PAA-EI, issued November 6, 2006, in Docket No. 060583-EI, In re: Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

Compliance with the Non-mercury Metal HAPs Standard

The MATS rule requires compliance with at least one of three parameters relating to non-mercury metal HAPs: (1) individual non-mercury metal HAPs, (2) total non-mercury metal HAPs, or (3) filterable particulate matter (PM) and continuous monitoring using a particulate matter continuous emissions monitoring system (PM CEMS) or stack testing. For BB Station, TECO's engineering studies indicate that the PM CEMS is the most technically feasible option to demonstrate compliance. The Company has installed PM CEMS on Units 3 and 4 pursuant to its Consent Decree.⁵ TECO contends that these PM CEMS will demonstrate compliance with the MATS rule and Clean Air Act (CAA) requirements. TECO indicates that it needs to install a PM CEMS unit (and its necessary ports for operation) on the common stack serving BB Units 1 and 2. TECO asserts that it is prudent to install this PM CEMS unit now in order to avoid potential cost increases that are expected to occur based on the very limited pool of manufacturers of this equipment and anticipated demand for the units resulting from the MATS rule.

At Polk Power Station, TECO plans to demonstrate compliance by obtaining low emitting electric generating unit (LEE) status for Polk Unit 1.⁶ LEE status is achieved by testing quarterly for three years and meeting the LEE status for each test. Testing can start as early as one year before the compliance date. Once LEE status is achieved, Polk Unit 1 will only need to test for PM once every three years and continue to meet the LEE status during such testing. The Company indicates that it will incur only operation and maintenance (O&M) cost to bring Polk Unit 1 into compliance.

Compliance with the Acid Gases Standard

The MATS rule requires continuous emissions monitoring or quarterly stack testing to demonstrate compliance with sulfur dioxide (SO₂) or hydrogen chloride (HCl) emissions standards. For its BB Units, TECO has evaluated several monitoring and stack testing alternatives in order to minimize the cost of compliance. Based on the frequency of required testing, the HCl stack testing alternative is considered uneconomical and difficult to meet. In lieu of HCl testing, HCl continuous emission monitors were also considered; however, the BB Units are not believed to be capable of meeting the compliance limit and this option would add significant operating and capital expenses. The SO₂ monitors are already installed and will not require any additional monitoring costs to implement. Consequently, the Company determined that the SO₂ monitoring is the most cost-effective compliance option.

The SO₂ emission limit of the Acid Gases Standard set by the MATS rule is 0.2 lb/MMBtu on a 30-day-rolling average basis. For the BB Station, the Company's data showed that the maximum SO₂ emission rates were 0.20 lb/MMBtu for Unit 1 and 2, 0.19 lb/MMBtu for Unit 3, and 0.38 lb/MMBtu for Unit 4 on a heat weighted 30-day-rolling average. Hence, flue gas desulfurization (FGD) enhancements will be required in order to satisfy the SO₂ emission

⁵ Consent Decree entered into in 2000, in *United States v. Tampa Electric Company*, Civ. No. 99-2524-CIV-T-23F.

⁶ LEE status is 50 percent of the applicable emissions limit.

limit. Currently, the average removal efficiency rate is 97 percent for Units 1 and 2, 98 percent for Unit 3, and 95 percent for Unit 4. In order to achieve compliance, the removal efficiencies of all of the FGDs must be increased with particular emphasis on the Unit 4 system. To this end, TECO plans to modify the FGD absorber towers of all BB Units and replace all spray nozzles with a new design that is intended to increase gas liquid contact. The Unit 4 FGD system will receive additional modifications to further increase its removal efficiency.

For Polk Power Station, TECO's engineering studies indicate that achieving LEE status for acid gases represents the most feasible option to comply with the MATS rule. To obtain LEE status, Polk Unit 1 will need to be tested every quarter for three years and meet 50 percent of the applicable emissions limit. Once LEE status is achieved, Unit 1 will need to be tested once every three years and continue to meet the LEE emissions limit during such testing.

The estimated total costs of the proposed MATS compliance program will be approximately \$15.4 million for the period 2012 through 2015. TECO indicates that collection of 2013 projected expenditures for the CAMR portion of the program is included in the ECRC factors for 2013. The Company has incurred costs associated with the other components of the proposed MATS compliance program in 2012. These costs are included in TECO's 2012 ECRC true-up, which was filed in April 1, 2013. TECO will include program costs projected for 2013 and beyond in the appropriate projection filings. The Company confirmed that all of the expenditures will be subject to audit by this Commission. Table 1 below illustrates the projected customer bill impact resulting from the proposed compliance program.

Year	(\$/1,000 kWh)
2013	0.04
2014	0.07
2015	0.11
2016	0.11
2017	0.11

As part of its request for a comprehensive MATS compliance program, TECO asks that the existing CAMR program be subsumed into the overall MATS compliance program. The Company contends that this will better facilitate the execution of all MATS compliance program activities as well as create a central collection point for all costs associated with the MATS compliance program.

TECO asserts that the proposed components of the MATS compliance program are compliance activities associated with the requirements of the CAA. The Company proposes that the associated capital expenditures be allocated to rate classes on an energy basis. Upon review, we find that this is reasonable and consistent with our prior decisions. In Order Nos. PSC-94-0044-FOF-EI and PSC-05-0998-PAA-EI, we found that costs associated with CAA compliance should be allocated to rate classes in the ECRC on an energy basis, due to the strong nexus

between the level of emissions which the CAA seeks to reduce and the number of kilowatt-hours generated.⁷

Upon review, we find that the proposed new activities of the MATS compliance program are not discretionary or voluntary. Instead, they are essential projects that would not be carried out but for TECO's obligation to comply with a government-imposed environmental regulation. The need for these compliance activities has been triggered after the Company's last test year upon which rates are currently based. Further, the costs of the proposed new components for the MATS compliance program are not recovered through some other cost recovery mechanism or through base rates. Thus, we find that the new MATS compliance program meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI, in that:

- (a) all expenditures will be prudently incurred after April 13, 1993;
- (b) the activities are legally required to comply with a governmentally imposed environmental regulation enacted, became effective, or whose effect was triggered after the Company's last test year upon which rates are based; and
- (c) none of the expenditures are being recovered through some other cost recovery mechanism or through base rates. See *Id.* at page 6.

As such, we shall approve TECO's proposed MATS compliance program for ECRC recovery pursuant to Section 366.8255, F.S. The costs associated with the proposed projects shall be allocated to rate classes on an energy basis. TECO's existing CAMR program shall be subsumed into the overall MATS compliance program in the ECRC.

Based on the foregoing, it is

⁷ Order Nos. PSC-94-0044-FOF-EI, at pp. 21-23, and PSC-05-0998-PAA-EI, issued October 14, 2005, in Docket No. 050316-EI, In re: Petition for approval of integrated Clean Air Regulatory Compliance Program for cost recovery through Environmental Cost Recovery Clause, by Progress Energy Florida, Inc., at pp. 6-7.

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ORDERED by the Florida Public Service Commission that Tampa Electric Company's Petition for approval of its mercury and air toxics standards compliance program and the recovery of the associated cost through the environmental cost recovery clause is hereby approved as set forth in the body of this Order. It is further,

ORDERED that this docket shall be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by our decision files a protest within 21 days of the issuance of the proposed agency action.

By ORDER of the Florida Public Service Commission this 6th day of May, 2013.



ANN COLE
Commission Clerk
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CWM

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.

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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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 27, 2013.

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.