

**Ashley Quick**

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**From:** Angela Charles on behalf of Records Clerk  
**Sent:** Friday, June 03, 2016 3:29 PM  
**To:** 'Diana Csank'  
**Cc:** Cobb, Paula; Marc.Harris@dep.state.fl.us; JR Kelly; Morse, Stephanie; Stephanie Kunkel  
**Subject:** RE: Docket No. 160027, Big Bend environmental compliance cost recovery  
**Attachments:** 2016 06 03 Comments Docket No. 160027 vfin.pdf

Good afternoon Ms. Csank,

We will be placing your comments below in consumer correspondence in Docket No. 160027-EI and forwarding your comments to the Office of Consumer Assistance and Outreach.

Sincerely,

Angela M. Charles  
Commission Deputy Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee FL 32399-0850  
850-413-6826

**From:** Diana Csank [<mailto:diana.csank@sierraclub.org>]  
**Sent:** Friday, June 03, 2016 3:21 PM  
**To:** Office of Commissioner Brown; Office of Commissioner Brisé; Office Of Commissioner Edgar; Office of Commissioner Patronis; Office Of Commissioner Graham  
**Cc:** Cobb, Paula; [Marc.Harris@dep.state.fl.us](mailto:Marc.Harris@dep.state.fl.us); JR Kelly; Morse, Stephanie; Records Clerk; Charles Murphy; Tom Ballinger; Baldwyn English; Ana Ortega; Katherine Fleming; Jim Varian; Ryan West; Stephanie Kunkel  
**Subject:** Docket No. 160027, Big Bend environmental compliance cost recovery

Dear Commissioners:

Attached please find comments on Docket No. 160027 by the Sierra Club, Waterkeeper Alliance, Suncoast Waterkeeper, and Southern Alliance for Clean Energy.

Regards,  
Diana

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*I check email infrequently. Please call me if you need a quick reply.*



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June 3, 2016

Chairman Brown, Comm'rs. Brisé, Edgar, Graham, and Patronis  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Protecting customers from imprudent costs as TECO fails to study coal phase-out as an environmental compliance option

Dear Commissioners:

As TECO embarks on a new environmental compliance program for its coal plants, Big Bend and Polk, the undersigned groups urge you to protect customers from imprudent costs, as required by Section 366.8255(2), Florida Statutes (“the Environmental Cost Recovery Clause” or “Clause”). Specifically, in Docket No. 160027, we respectfully request that you deny TECO’s petition, direct TECO to study phasing out coal, and deny any cost recovery for the “Big Bend ELG Study Program” so long as it fails to include phasing out coal as a compliance option.

TECO itself estimated that bringing its two coal plants into compliance with modern environmental standards will cost as much as \$550 million dollars—without factoring in the Effluent Limitations Guidelines or the Clean Power Plan, not to mention the Startup, Shutdown, Malfunction Rule and so many other factors straining the operations and economics of burning coal to generate electricity.<sup>1</sup> Now TECO proposes to study ELG compliance to the tune of almost a half million dollars, for Big Bend alone, but nowhere acknowledges that phasing out coal rather than expensive updates to aging coal plants may be the most prudent option and, indeed, is the overwhelming trend nationwide.<sup>2</sup>

As discussed below, we have serious concerns about TECO’s plan to saddle customers with the cost of a study that it hardly described, and the cavalier way that TECO (and other utilities) refuse to address the prudence requirement—set out so plainly in the Clause.

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<sup>1</sup> TECO, Undocketed Review of TYPS, Response to Staff Data Request No. 34 (May 15, 2014).

<sup>2</sup> See, e.g., EIA, *Coal made up more than 80% of retired electricity generating capacity in 2015* (Mar. 8, 2016) available at <https://goo.gl/b0xcAq>; see also Sierra Club, *Open Letter To Coal Industry: United States And The World Are Moving Away From Coal, Toward Clean Energy* (Apr. 21, 2016) available at <http://goo.gl/kE94J6>.

Our aim here, as in past comments,<sup>3</sup> is to protect everyday Floridians from the high costs and high risks associated with coal plants, and to spur the transition to the abundantly available lower-cost, lower-risk alternatives.

Given today's market conditions, coal is no longer a bad deal, it is a terrible deal: Not only is burning coal one of the priciest<sup>4</sup> and most polluting<sup>5</sup> ways to generate electricity, importing coal from out of state stunts local economic growth.<sup>6</sup> At the same time, solar power is available for less than \$1.25 per watt in our region,<sup>7</sup> and customers in other states are saving hundreds of million dollars through smart investments in distributed resources, such as the combination of energy efficiency and rooftop solar, to avoid conventional generation and transmission costs.<sup>8</sup> Tellingly, as the Georgia Public Service Commission is in the midst of reviewing the integrated resource plan for that state's major utility, that commission's staff just recommended "all capital investment" on costly coal plants be "minimize[d]."<sup>9</sup>

Here in Florida, under Florida Statutes, the Commission is well equipped to protect customers from imprudent coal costs. The Environmental Cost Recovery Clause provides in pertinent part:

An electric utility may submit to the commission a petition describing the utility's proposed environmental compliance activities and projected environmental compliance costs . . . . If approved, the commission shall

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<sup>3</sup> See, e.g., Sierra Club comments of Feb. 1, 2016 (urging the Commission to conduct early prudence reviews to protect customers from imprudent coal plant expenditures), *available at* <http://goo.gl/IYXjbr>; Sierra Club comments of Dec. 15, 2015 (urging the Commission to collect information missing from ten-year site plans on clean energy alternatives), *available at* <http://goo.gl/6OaOd4> ["2016 TYSP Comments"]; Sierra Club et al. letter of Feb. 29, 2016 (urging FDEP to help prevent piecemeal regulatory decisions that rob customers of the benefits of clean energy alternatives) *available at* <http://goo.gl/im83pd> ["2016 Comments to DEP"].

<sup>4</sup> See 2016 TYSP Comments, *supra* n. 3 (citing sources on how coal generation costs compare to alternatives).

<sup>5</sup> See Mother Jones, *Environmentalists Hate Fracking. Are They Right?* (May 11, 2016) *available at* <http://goo.gl/dGtFju>.

<sup>6</sup> See Union of Concerned Scientists, *Burning Coal, Burning Cash: 2014 Update; Fact Sheet: Florida's Dependence on Imported Coal* (Jan. 2014) *available at* <http://goo.gl/Y3Yw21>.

<sup>7</sup> See Energywire, *Solar growth in the Southeast eclipses much of U.S.* (May 31, 2016) *available at* <http://goo.gl/ZoTgwo>.

<sup>8</sup> See Greentech Media, *Californians Just Saved \$192 Million Thanks to Efficiency and Rooftop Solar* (May 31, 2016) *available at* <https://goo.gl/r4hOvY>.

<sup>9</sup> GPSC Docket No. 40161, Direct Testimony of T. Newsome and P. Hayet, at 7 and 51 (May 6, 2016) *available at* <http://goo.gl/SF9rba>.

allow recovery of the utility's prudently incurred environmental compliance costs.<sup>10</sup>

The Clause plainly limits cost recovery to only the “prudently incurred” costs that are consistent with the environmental compliance activities pre-approved by the Commission. Prudence is thus the overarching, mandatory criterion for the Commission’s approval of cost recovery under the Clause. To be judged prudent and allowed to recover, the plain meaning of the word “prudent”—and the absence of any indication to the contrary in the Clause—requires utilities to be “circumspect” and “careful[ly . . .] consider all circumstances and possible consequences”<sup>11</sup> before embarking on a new environmental compliance program.

Today, utilities have an extra high burden—commensurate with the high stakes for their customers—to show and withstand scrutiny by the Commission and the public that any more monies spent on coal plants—even for environmental compliance<sup>12</sup>—are in fact prudent.

TECO’s Big Bend ELG Study Program fails the prudence test for many reasons, any one of which is grounds for the Commission to deny TECO’s petition in Docket No. 160027. Here we highlight the three main reasons:

First, TECO failed to explain why it is coming forward with the Big Bend ELG Study Program now, after numerous studies have already been completed focusing on Big Bend’s ELG compliance options.<sup>13</sup> In fact, Big Bend is one of a handful of coal plants in the country that EPA and industry selected for detailed compliance studies while the ELG were developed. This begs the question of how TECO’s new study compares to the existing, Big Bend-specific studies—studies in which TECO presumably participated or otherwise knows well since TECO and its agents cite them in comments to EPA. Yet we can find no answer in this docket; it hardly describes what TECO plans to do and reflects zero effort on TECO’s part to substantiate the prudence of the underlying costs, again, amounting to nearly a half million dollars-worth of studies, by TECO’s estimate.<sup>14</sup>

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<sup>10</sup> Section 366.8255(2), F.S. [emphasis added].

<sup>11</sup> Merriam Webster Dictionary, *available at* <http://goo.gl/clqEIB>.

<sup>12</sup> To be clear, we support regulatory compliance, and we consistently advocate for planning and procurement to consider all factors bearing on electric utility services to customers. This includes existing regulations for coal plants such as the ELG, as well as regulations not yet finalized or under judicial review.

<sup>13</sup> The relevant studies and comments by TECO, trade associations representing TECO, EPA, and others are available in EPA’s rulemaking docket for the Effluent Limitations Guidelines, *available at* <https://goo.gl/LQehNX>.

<sup>14</sup> *See* Petition at 6 (baldly asserting that “the costs of the program will be prudently incurred”).

Under the prudence requirement in the Clause, it is arguably TECO's burden to show that it has considered the existing, germane studies and avoided duplicate efforts. The Commission should therefore deny the petition because TECO failed to make the required prudence showing under the Clause.

Second, TECO failed to disclose to the Commission and the public its long-held position that the ELG will impose a massive toll on the operations and the economics of its coal plants, and nowhere acknowledged, much less investigated that a coal phase-out may better serve customers. A prudent utility would certainly have done so. Indeed, EPA developed and the electric utility industry, including TECO, anticipated the updates to the ELG for several decades. Yet in all that time, TECO steadily refused to disclose the compliance implications for Big Bend and Polk even as it conveyed to EPA (on September 20, 2013) that the ELGs would require TECO to "install tens of millions of dollars of treatment equipment," and would impose "stringent limitations" on its coal plants operations.

Why did TECO fail to share this with the Commission? If its coal plants faced such significant regulatory risks, why are these risks not mentioned in TECO's ten-year site plan filed several months later (on April 1, 2014), or (to our best knowledge) any filing with the Commission? And why is TECO still<sup>15</sup> not acknowledging that a coal phase-out could be the best way to cut losses?

There is no excuse for this, especially knowing what TECO knew in 2013 (if not earlier) about the steep regulatory compliance costs and risks facing its coal plants, and the well-documented trend of coal phase-outs, measured in multi-gigawatt generation retirement announcements per year.<sup>16</sup>

The Commission should deny the petition for this imprudence, direct TECO to complete an expedited coal phase-out study, and deny any cost recovery for the Big Bend ELG Study Program so long as it fails to include a coal phase-out as a compliance option.

Third, TECO's new study is imprudent because it is late and will lead to untimely results. Compare other utilities' ELG compliance studies approved by the Commission in 2010.<sup>17</sup> Now,

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<sup>15</sup> See, e.g., TECO 2016 Ten-Year Site Plan and responses to staff data requests, on file with the Commission.

<sup>16</sup> See, e.g., Sierra Club, *Beyond Coal Campaign Crosses 100,000 MW Milestone for America's Clean Energy Transition* (May 4, 2016) available at <http://goo.gl/k8bBvK> ("Since 2010 when we turned our focus from stopping new coal plants to replacing the nation's 500+ existing plants with renewable energy, there's been an average of one coal plant announced for retirement every ten days." [emphasis added]).

<sup>17</sup> See Order No. PSC-10-0683-PAA-EI.

less than a month before TECO expects to start “negotiations” with state water regulators on the critically important “exact compliance date” for Big Bend under the ELG,<sup>18</sup> TECO is just starting to retain outside experts to conduct the new study that TECO estimates will take two years to complete.<sup>19</sup> This is not prudent.

As discussed in our comments to the Department of Environmental Protection,<sup>20</sup> November 1, 2018, is the default ELG compliance deadline. Absent a well-documented justification for an extension from coal plant owners/operators, the Department has indicated it will incorporate the default deadline in this round of NPDES permit renewals. For Big Bend, that is between June 29 (when the renewal application is due) and the end of this calendar year (when the current permit expires).<sup>21</sup> TECO’s new study results will not be ready in time to yield the documentation needed for the extension, making the study untimely for this crucial negotiation.

Moreover, we are not aware of any other utility in the country that plans to take two more years to complete an ELG compliance study. Other utilities, for example, in Indiana have indicated that they are prepared to propose ELG compliance options when their NPDES permit renewal applications are due later this year. TECO has not provided any justification for why it needs more time. Nor has TECO offered any assurance that it is prepared to meet the November 1, 2018, deadline, if the Department denies its extension request.

This is one more reason to deny the petition and deny cost recovery until TECO satisfies the Commission that it is on a prudent path forward and reasonably expending time and money on behalf of its customers. In addition, we respectfully suggest that the Commission confer with the Department about the applicable compliance timelines for TECO’s coal plants, not only for the ELG but also for the other applicable regulations. By doing so the Commission can work with the Department and TECO to ensure that TECO completes its compliance analysis—including coal phase-out as a compliance option—in time to select, permit, and implement the option that will best protect customers from imprudent costs.

For all the foregoing reasons, we respectfully request that you deny TECO’s petition, direct TECO to study phasing out coal, and deny any cost recovery for the Big Bend ELG Study Program so long as it fails to include phasing out coal as a compliance option.

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<sup>18</sup> TECO Response to Staff Data Request No. 1.

<sup>19</sup> See TECO Response to Staff Data Request No. 7, *available at* <http://goo.gl/Ur3ZUf>.

<sup>20</sup> See 2016 Comments to DEP, *supra* n. 3.

<sup>21</sup> TECO Response to Staff Data Request No. 1.

Thank you for your consideration.

Respectfully submitted,

/s/

Diana Csank  
**Sierra Club**

Justin Bloom  
**Suncoast Waterkeeper**

Peter Harrison  
**Waterkeeper Alliance**

Amelia Shenstone  
**Southern Alliance for Clean Energy**

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