

BEFORE THE FLORIDA 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. 110262-EI
ORDER NO. PSC-12-0493-PAA-EI
ISSUED: September 26, 2012

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 AMENDED PETITION

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.

Case Background

On August 29, 2011, Tampa Electric Company (TECO or Company) petitioned the Florida Public Service Commission (Commission) for approval of a new Big Bend (BB) Station Gypsum Storage Facility Program and the recovery of the costs of this program through the Environmental Cost Recovery Clause (ECRC) (Petition). The TECO Petition was filed pursuant to Section 366.8255, Florida Statutes (F.S.), and Commission Order Nos. PSC-94-0044-FOF-EI and PSC-94-1207-FOF-EI.¹

In its Petition, the Company asserted that in order to continue operating its BB Units 1 through 4 in compliance with applicable environmental requirements, it needs to construct and place into service a new facility at BB Station within which to store gypsum, which is a

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-94-1207-FOF-EI, issued October 3, 1994, in Docket No. 940042-EI, In re: Environmental Cost Recovery Clause.

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byproduct of the operation of the flue gas desulfurization (FGD) systems, commonly referred to as scrubbers, currently serving these coal-fired units.

We addressed TECO's Petition at our March 13, and May 8, 2012 agenda conferences. In each instance, the matter was deferred so that we could obtain additional information needed to reach a decision. TECO subsequently provided the information and filed an amendment to its Petition which significantly reduced the scope and the cost of the proposed new storage facility. This Order addresses the Petition as amended ("Amended Petition").

Pursuant to Section 366.8255(2), electric utilities may petition this Commission to recover projected environmental compliance costs required by environmental laws or regulations. Section 366.8255(1)(c), F.S., provides that 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." Only prudently incurred costs may be recovered.² We have jurisdiction over this matter pursuant to Section 366.8255(2), F.S.

Review

Gypsum is an unavoidable by-product of the operation of the FGD systems which are used to control sulfur dioxide (SO₂) emissions. In order to comply with the Clean Air Act Amendments of 1990 (CAAA) and a Consent Decree entered into in 2000, in *United States v. Tampa Electric Company*, Civ. No. 99-2524-CIV-T-23F (Consent Decree), TECO has constructed and operated FGD systems to scrub the flue gases emanating from BB Units 1 through 4. In accordance with the Consent Decree, TECO cannot operate its base load units at BB without scrubbing the flue gas from those units. We previously have found TECO's FGD projects to be the most cost-effective alternative for compliance with the SO₂ emissions reduction requirements of CAAA, and approved recovery of the associated costs through the ECRC.³ The Consent Decree requires that the BB Units not operate un-scrubbed after 2010 (for Unit 3) and 2013 (for Units 1 and 2).⁴

TECO has been able to sell a portion of the gypsum by-product to manufacturers who use it, primarily in the production of wallboard and cement, or for agricultural applications. The Company historically has managed to market 50 percent to 130 percent of the gypsum produced at the BB Station and the Company is actively seeking to contract with new buyers, and has an aggressive marketing plan in place for 2012 and beyond.

² See Order No. PSC-11-0080-PAA-EI, issued January 31, 2011, in Docket No. 100404-EI, recounting history of ECRC eligibility criteria pursuant to Section 366.8255, F.S.

³ Order No. PSC-96-1048-FOF-EI, issued August 14, 1996, in Docket No. 960688-EI, In re: Petition for approval of certain environmental compliance activities for purposes of cost recovery by Tampa Electric Company at pp. 2-3; and Order No. PSC-99-0075-FOF-EI, issued January 11, 1999, in Docket No. 980693-EI, In re: Petition by Tampa Electric Company for approval of cost recovery for a new environmental program, the Big Bend Units 1 & 2 Flue Gas Desulfurization System at pp. 22-23.

⁴ Order No. PSC-07-0499-FOF-EI, issued June 11, 2007, in Docket No. 050958-EI, In re: Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause by Tampa Electric Company at p. 1.

Despite its marketing efforts and its ability to sell much of its gypsum, the Company, over time, has been left with a surplus of gypsum by-product. The capacity of the existing storage facility is nearly exhausted and there are issues with periodic dust emissions and uncertainty over ground water contamination. Absent appropriate storage, the Company could be faced with curtailment or shutdown of the units at BB Station. Ceasing operation of these units would result in the loss of nearly 1,600 MWs of generation. The Company asserted that it must increase its gypsum storage capacity by constructing a new gypsum storage facility on site at BB Station. The existing storage facility will continue to be utilized and serve as a secondary storage area once the new storage facility is built.

The proposed new gypsum storage facility will cover approximately 27 acres. It is designed to benefit customers throughout the operating life of the BB Station. The new gypsum storage area addition is not being designed as a permanent storage area. It is intended to provide an appropriate amount of "working storage" to manage temporary imbalances in supply and demand. The new facility will hold 870,000 tons of gypsum at full capacity, complementing the existing storage area which has 1,000,000 tons of total capacity. TECO also indicates that the proposed facility will satisfy all applicable federal and state environmental regulations, and all relevant pending environmental regulations. Specifically, the design of the new facility will meet the criteria contained in the EPA's proposed regulations for the management of Coal Combustion Residuals

TECO considered various alternatives to the proposed storage facility. The Company 1) examined the potential for switching to a low sulfur coal in an effort to lessen the amount of gypsum produced in the scrubbing process, 2) evaluated the option of constructing a company-owned landfill for permanently disposing of its gypsum, and 3) considered the option of disposing the BB gypsum at a third-party landfill. TECO concluded that each of these options is more expensive than the proposed new storage area and presents obstacles to TECO's goal of managing the gypsum through beneficial reuse at the lowest and most reliable long-run cost to its customers. In the context of the new facility, the Company initially proposed covering portions of the added storage area with a dome and transporting the gypsum from the generating units to the storage area with an enclosed conveyor system. However, based on concerns regarding the cost of the proposed facility, TECO amended its initial Petition to significantly reduce the scope and cost of the project by eliminating the dome and conveyor system. The revised capital cost of the new storage facility is \$21.7 million (offset somewhat by higher O&M costs) compared to \$55 million for the storage facility originally proposed. The levelized cost of the reduced scope project is \$2,602,507.

The proposed storage facility is a compliance activity associated with the requirements of the CAAA and the Consent Decree. Thus, the Company asserts that expenditures associated with the proposed program should be allocated to rate classes on an energy basis. This is consistent with our precedential orders. By Orders Nos. PSC-94-0044-FOF-EI⁵ and PSC-05-

⁵ Order No. PSC-94-0044-FOF-EI, at pp. 21-23.

0998-PAA-EI,⁶ we found that costs associated with compliance with CAAA 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 CAAA seeks to reduce and the number of kilowatt-hours generated. The estimated residential monthly rate impacts for a 1,000 kWh bill associated with the proposed new storage area are as follows:

Year	Rate Impact
2014	\$0.18
2015	\$0.14
2016	\$0.12
2017	\$0.11
2018	\$0.10

Decision

Upon review, we find that the Company cannot operate the BB Units un-scrubbed, consistent with the CAAA and paragraph 40 of the Consent Decree, nor can the Company operate the units scrubbed without a facility to store the gypsum by-product of the scrubbing process. The proposed storage facility will enable TECO to continue operating the BB Units in compliance with the CAAA and the Consent Decree, by providing a cost-effective means to dispose of the gypsum resulting from operation of the emissions control equipment serving the BB units.

We find that construction and operation of the new gypsum storage facility is not a discretionary or voluntary project. Instead, it is an essential environmental project that would not be constructed but for TECO's obligation to scrub the flue gases emanating from its BB coal-fired units consistent with government-imposed environmental regulations. The proposed storage facility is the most reliable and cost-effective alternative for TECO to remain in compliance with the applicable environmental mandates at BB Station, given that the capacity of the existing storage facility is nearly exhausted. The need to construct the new storage facility was triggered after the Company's last rate case upon which base rates are currently based, and the costs of the proposed facility are not recovered through some other cost recovery mechanism or through base rates. Therefore, we find that TECO's proposed new Gypsum Storage Facility Program meets the criteria for ECRC cost recovery established by the Commission 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

⁶ Order No. 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.

- (c) none of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

Thus, we shall approve TECO's Amended Petition for a new gypsum storage facility program at its BB Station pursuant to Section 366.8255, F.S. The costs associated with the proposed project shall be allocated to rate classes on an energy basis.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Tampa Electric Company's Amended Petition for approval of the BB Gypsum Storage Facility Program and recovery of associated costs through the ECRC pursuant to Section 366.8255, F.S., is hereby approved. It is further,

ORDERED that costs associated with the proposed project shall be allocated to rate classes on an energy basis. 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 this proposed agency action.

By ORDER of the Florida Public Service Commission this 26th day of September, 2012.



HONG WANG
Chief Deputy 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.

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 17, 2012.

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.