

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 150007-EI  
ORDER NO. PSC-15-0536-FOF-EI  
ISSUED: November 19, 2015

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
JULIE I. BROWN  
JIMMY PATRONIS

APPEARANCES:

R. WADE LITCHFIELD, JOHN T. BUTLER and MARIA J. MONCADA,  
ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408-0420  
On behalf of Florida Power & Light Company (FPL)

MATTHEW R. BERNIER, and DIANNE M. TRIPLETT, ESQUIRES, 106 East  
College, Avenue, Suite 800, Tallahassee, Florida 32301-7740  
On behalf of Duke Energy Florida, LLC. (DEF)

JAMES D. BEASLEY, J. JEFFRY WAHLEN, and ASHLEY M. DANIELS,  
ESQUIRES, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida  
32302  
On behalf of Tampa Electric Company (TECO)

JEFFREY A. STONE, RUSSELL A. BADDERS, and STEVEN R. GRIFFIN,  
ESQUIRES, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32591-  
2950  
On behalf of Gulf Power Company (Gulf)

PATRICIA A. CHRISTENSEN, Associate Public Counsel, and CHARLES  
REHWINKEL, Deputy Public Counsel, ESQUIRES, Office of Public Counsel,  
c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee,  
Florida 32399-1400  
On behalf of the Citizens of the State of Florida (OPC)

JON MOYLE, JR. and KAREN PUTNAL, ESQUIRES, Moyle Law Firm, P.A.,  
118 North Gadsden Street, Tallahassee, Florida 32312  
On behalf of the Florida Industrial Power Users Group (FIPUG)

JAMES W. BREW, OWEN J. KOPON and LAURA A. WYNN, ESQUIRES,  
Stone Mattheis Xenopoulos & Brew, P.C., 1025 Thomas Jefferson St., N.W.,  
Eighth Floor, West Tower, Washington, D.C. 20007

On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate –  
White Springs (PCS PHOSPHATE or PCS)

CHARLES W. MURPHY, ESQUIRE, Florida Public Service Commission, 2540  
Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, Deputy General Counsel, Florida Public Service  
Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

Advisor to the Florida Public Service Commission.

#### FINAL ORDER

#### APPROVING PROJECTED EXPENDITURES AND TRUE-UP AMOUNTS FOR ENVIRONMENTAL COST RECOVERY

#### BACKGROUND

As part of this Commission's continuing Environmental Cost Recovery Clause proceedings, a hearing was held in this docket on November 2, 2015. We are vested with jurisdiction over the subject matter by the provisions of Section 366.8255, Florida Statutes (F.S.).

#### DECISION

The parties have resolved all issues by stipulation as follows: DEF, FPL, Gulf and TECO support the stipulations. PCS Phosphate and FIPUG do not oppose the stipulations. OPC does not oppose the stipulation of any issue and supports the stipulation of 11A, set forth below, as it relates to the Plant Scholz Coal Combustion Residuals unit closure costs.

**1. Final Environmental Cost Recovery True-Up Amounts:  
January 2014, Through December 2014**

The final environmental cost recovery true-up amounts for the period ending December 31, 2014, are:

FPL	\$3,164,408	Under Recovery
DEF	\$1,419,043	Over Recovery
GULF	\$912,783	Under Recovery
TECO	\$3,915,636	Under Recovery

**2. Estimated/Actual Environmental Cost Recovery True-Up Amounts:  
January 2015, Through December 2015**

The estimated/actual environmental cost recovery true-up amounts for the period January 2015, through December 2015, are

FPL	\$37,619,712	Under Recovery
DEF	\$779,602	Under Recovery
GULF	\$1,699,128	Under Recovery
TECO	\$4,535,273	Over Recovery

**3. Projected Environmental Cost Recovery Amounts:  
January 2016, Through December 2016**

The projected environmental cost recovery amounts for the period January 2016, through December 2016, are:

FPL	\$229,580,392
DEF	\$69,394,937
GULF	\$197,765,402
TECO	\$81,255,576

**4. Environmental Cost Recovery Amounts, Including True-Up Amounts:  
January 2016, Through December 2016**

The environmental cost recovery amounts, including true-up amounts, for the period January 2016, through December 2016, are:

FPL	\$270,559,175
DEF	\$68,805,000
GULF	\$200,521,584
TECO	\$80,693,997

**5. Depreciation Rates:  
January 2016, Through December 2016**

The depreciation rates used to calculate the depreciation expense shall be the rates that are in effect during the period the allowed capital investment is in service.

**6. Jurisdictional Separation Factors:  
January 2016, Through December 2016**

The appropriate jurisdictional separation factors for the projected period January 2016, through December 2016 are:

**FPL**

Retail Energy Jurisdictional Factor	94.88715%
Retail CP Demand Jurisdictional Factor	94.67506%
Retail GCP Demand Jurisdictional Factor	100.00000%

**DEF**

The Energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total kWh sales. The remaining separation factors are below, consistent with the Revised Stipulation and Settlement Agreement approved in Order No. PSC-13-0598-FOF-EI, at p. 54.

Transmission Average 12 CP Demand – 70.203%

Distribution Primary Demand – 99.561%

Production Demand:

Production Demand (2012) – 91.683%

Production Base – 92.885%

Production Intermediate – 72.703%

Production Peaking – 95.924%

Production A&G – 93.221%

**TECO**

The appropriate jurisdictional separation factors are 1.0000000.

**GULF**

The demand jurisdictional separation factor is 97.07146%. Energy jurisdictional separation factors are calculated each month based on retail KWH sales as a percentage of projected total territorial KWH sales.

**7. Environmental Cost Recovery Factors by Rate Group:  
January 2016, Through December 2016**

The appropriate environmental cost recovery factors for the period January 2016, through December 2016, for each rate group, are:

**FPL**

RATE CLASS	Environmental Cost Recovery Factor (cents/kWh)
RS1/RTR1	0.263
GS1/GST1	0.251
GSD1/GSDT1/HLFT1	0.233
OS2	0.210
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.232
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.205
GSLD3/GSLDT3/CS3/CST3	0.200
SST1T	0.186
SST1D1/SST1D2/SST1D3	0.217
CILC D/CILC G	0.205
CILC T	0.192
MET	0.228
OL1/SL1/PL1	0.100
SL2	0.192
Total	0.247

**DEF**

Rate Class	ECRC Factors
Residential	0.184 cents/kWh
General Service Non-Demand	
@ Secondary Voltage	0.181 cents/kWh
@ Primary Voltage	0.179 cents/kWh
@ Transmission Voltage	0.177 cents/kWh
General Service 100% Load Factor	0.178 cents/kWh
General Service Demand	
@ Secondary Voltage	0.180 cents/kWh
@ Primary Voltage	0.178 cents/kWh
@ Transmission Voltage	0.176 cents/kWh
Curtaillable	
@ Secondary Voltage	0.173 cents/kWh
@ Primary Voltage	0.171 cents/kWh
@ Transmission Voltage	0.170 cents/kWh
Interruptible	
@ Secondary Voltage	0.175 cents/kWh
@ Primary Voltage	0.173 cents/kWh
@ Transmission Voltage	0.172 cents/kWh
Lighting	0.173 cents/kWh

**TECO**

<u>Rate Class</u>	<u>Factor (¢/kWh)</u>
RS	0.432
GS, TS	0.431
GSD, SBF	
Secondary	0.429
Primary	0.424
Transmission	0.420
IS	
Secondary	0.423
Primary	0.419
Transmission	0.414
LS1	0.427
Average Factor	0.430

**GULF**

<b>RATE CLASS</b>	<b>ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH</b>
RS, RSVP, RSTOU	2.109
GS	1.895
GSD, GSDT, GSTOU	1.678
LP, LPT	1.488
PX, PXT, RTP, SBS	1.417
OS-I/II	0.503
OSIII	1.353

**8. Effective Date For New Environmental Cost Recovery Factors**

The factors shall be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2016 through December 2016. Billing cycles may start before January 1, 2016 and the last cycle may be read after December 31, 2016, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. These charges shall continue in effect until modified by subsequent order of this Commission.



**9A. FPL's Proposed Coal Combustion Residuals Disposal Project**

Pursuant to Section 366.8255(2), F.S., electric utilities may petition the Commission to recover projected environmental compliance costs that are required by environmental laws or regulations. The Commission has interpreted the statute to prescribe two criteria, relevant to this docket, for recovery of environmental compliance costs through the clause. Pursuant to Order No. PSC-94-0044-FOF-EI, these criteria are:

- (1) The activities are legally required to comply with a governmentally imposed environmental regulation that was created, became effective, or whose effect was triggered after the company's last test year upon which rates are based.
- (2) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

On April 17, 2015, The United States Environmental Protection Agency published in the Federal Register a final rule to regulate the disposal of coal combustion residuals (CCR). The rule is self-implementing with an effective date of October 19, 2015. The CCR rule establishes minimum criteria for the safe disposal of CCR in landfills and surface impoundments. The CCR rule will apply to Plant Scherer and St. John's River Power Park, in which FPL has an ownership interest.

Although FPL has not included any costs associated with its proposed CCR project in its projected ECRC factors, FPL has identified several activities necessary to meet the requirements of the CCR rule. There is no indication that any costs associated with CCR rule compliance are currently being recovered through base rates or any other cost recovery mechanism. Therefore, FPL's proposed project satisfies the criteria established in Order No. PSC-94-0044-FOF-EI, and the Company shall be allowed to recover prudently incurred costs associated with the project through the ECRC. The reasonableness and prudence of individual expenditures related to the CCR project will continue to be subject to the Commission's review in future ECRC proceedings.

**9B. Allocation Of Costs Associated With FPL's Proposed CCR Disposal Project**

At this time, only Capital costs are being projected. Consistent with the Settlement Agreement approved by the Commission in FPL's most recent rate case, Capital costs associated with FPL's proposed CCR Project shall be allocated to the rate classes on the basis of the 12CP and 1/13th average demand allocator.

**10A. DEF's Proposed Coal Combustion Residual Rule Program**

Pursuant to Section 366.8255(2), F.S., electric utilities may petition the Commission to recover projected environmental compliance costs that are required by environmental laws or regulations. The Commission has interpreted the statute to prescribe two criteria, relevant to this

docket, for recovery of environmental compliance costs through the clause. Pursuant to Order No. PSC-94-0044-FOF-EI, these criteria are:

- (1) The activities are legally required to comply with a governmentally imposed environmental regulation that was created, became effective, or whose effect was triggered after the company's last test year upon which rates are based.
- (2) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

On April 17, 2015, The United States Environmental Protection Agency published in the Federal Register a final rule to regulate the disposal of coal combustion residuals (CCR). The rule is self-implementing with an effective date of October 19, 2015. The CCR rule establishes minimum criteria for the safe disposal of CCR in landfills and surface impoundments. The CCR rule will apply to DEF's Crystal River site.

DEF's 2016 ECRC factors reflect approximately \$1.9 million in costs associated with CCR related activities. There is no indication that any costs associated with CCR rule compliance are currently being recovered through base rates or any other cost recovery mechanism. Therefore, DEF's proposed project satisfies the criteria established in Order No. PSC-94-0044-FOF-EI, and the Company shall be allowed to recover prudently incurred costs associated with the project through the ECRC. The reasonableness and prudence of individual expenditures related to the CCR project will continue to be subject to the Commission's review in future ECRC proceedings.

#### **10B. Allocation of Costs Associated with DEF's Proposed CCR Rule Program**

Capital costs associated with the CCR Rule Program should be allocated to rate classes on a demand basis (12 CP and 1/13th AD) and O&M costs associated with the CCR Rule Program should be allocated to rate classes on an energy basis. This allocation represents a minimal change to DEF's projection filings, and therefore DEF should not be required to amend its filings but should account for the minimal difference in the 2016 true-up filings and continue with this allocation going forward.

#### **11A. Gulf's Proposed Coal Combustion Residual Program**

Pursuant to Section 366.8255(2), F.S., electric utilities may petition the Commission to recover projected environmental compliance costs that are required by environmental laws or regulations. The Commission has interpreted the statute to prescribe two criteria, relevant to this docket, for recovery of environmental compliance costs through the clause. Pursuant to Order No. PSC-94-0044-FOF-EI, these criteria are:

- (1) The activities are legally required to comply with a governmentally imposed environmental regulation that was created, became effective, or whose effect was triggered after the company's last test year upon which rates are based.

(2) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

On April 17, 2015, The United States Environmental Protection Agency published in the Federal Register a final rule to regulate the disposal of CCR. The rule is self-implementing with an effective date of October 19, 2015. The CCR rule establishes minimum criteria for the safe disposal of CCR in landfills and surface impoundments.

There is no indication that any costs associated with CCR rule compliance are currently being recovered through base rates or any other cost recovery mechanism. Therefore, Gulf's proposed project satisfies the criteria established in Order No. PSC-94-0044-FOF-EI, and the Company shall be allowed to recover<sup>1</sup> prudently incurred costs associated with the project through the ECRC. The reasonableness and prudence of individual expenditures related to the CCR project will continue to be subject to the Commission's review in future ECRC proceedings.

#### **Carve out and Deferral of Plant Scholz CCR closure cost**

All aspects of Issue 11A are approved with the exception of the Scholz CCR closure costs which are deferred to a future proceeding either in the ongoing ECRC docket or in a separate limited scope proceeding. In the event the issue being deferred is addressed in a separate docket, the hearing shall not occur until after Gulf submits an actual closure plan to the FDEP for its review and approval under the applicable NPDES permit. Whether or not the hearing on the deferred issue occurs in the ongoing ECRC docket or in a separate docket, OPC will be allowed to litigate its concerns in such hearing over (1) eligibility of the Scholz CCR closure costs for ECRC recovery, (2) prudence of such costs, and/or (3) assurances that there is no duplication of cost recovery already provided for in mechanisms other than ECRC. In order to preserve the relative positions of the parties pending such future proceeding, and to minimize the total costs ultimately recovered from Gulf's customers in the event that Gulf ultimately prevails on the deferred issue regarding ECRC recovery, the projections of costs for Scholz CCR closure included in Gulf's proposed cost recovery rates for 2016 shall remain in the total amount on which the proposed 2016 cost recovery rates are based pending the ultimate resolution of the issue hereby deferred. Such amounts collected through the 2016 cost recovery rates will be subject to refund and true up with interest upon final resolution of the deferred issue. If necessary, such true up will occur through the true up processes provided in the ECRC mechanism. The testimony and exhibits of Gulf witnesses Vick and Boyett shall be inserted into the record without objection as a basis for recovery pending ultimate resolution of the issue hereby deferred. Although the testimony and exhibits of Gulf witness Vick are included in the record, there shall be no presumption of correctness applied to evidence regarding Scholz CCR closure costs when the carved out and deferred issue is addressed in a future proceeding by virtue of this stipulation.

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<sup>1</sup> Subject to the carve out and deferral of CCR closure cost associated with Plant Scholz.

**11B. Allocation of Costs Associated with Gulf's Proposed CCR Program**

Capital costs for the CCR program shall be allocated to the rate classes on an average 12-MCP demand and 1/13<sup>th</sup> energy basis. O&M cost for the program shall be allocated to the rate classes on a demand basis.

**12A. Gulf's Steam Electric Power Effluent Limitations Guidelines (ELG) Program**

Gulf's proposed Effluent Limitations Guidelines program meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI, therefore Gulf shall be allowed to recover prudently incurred costs associated with the project through the ECRC. Title 40 Code of Federal Regulations Part 423, which was promulgated under the authority of the Clean Water Act, limits the discharge of pollutants into navigable waters and into publicly owned treatment works by existing and new sources of steam electric power plants. These limits are found in the Steam Electric Power Effluent Limitations Guidelines, which were signed by the EPA Administrator on September 30, 2015. The EPA issued a copy of the ELG rule on September 30, 2015, and has submitted the rule for publication in the Federal Register. These new rules require the installation of additional controls such as wastewater treatment systems and/or dry ash handling systems at Gulf's generating facilities. In 2016, Gulf expects to spend approximately \$175,000 for the preliminary engineering studies to evaluate ways to minimize discharges from wastewater units that are subject to the ELG rule.

**12B. Allocation of Costs Associated with Gulf's Proposed ELG Program**

Capital cost for the ELG program shall be allocated to the rate classes on an average 12-MCP demand and 1/13<sup>th</sup> energy basis. O&M cost for the program shall be allocated to the rate classes on demand basis.

**13. Approval of Revised Tariffs Reflecting the Environmental Cost Recovery Amounts and Factors**

The Commission approves the revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding. Staff is directed to verify that the revised tariffs are consistent with the Commission's decision.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the stipulations and findings set forth in the body of this order are hereby approved. It is further

ORDERED that each utility that was a party to this docket shall abide by the stipulations and findings herein which are applicable to it. It is further

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ORDERED that the utilities named herein are authorized to collect the environmental cost recovery amounts and use the factors approved herein beginning with the first billing cycle for 2016. The first billing cycle may start before January 1, 2016, and thereafter, the environmental cost recovery factors shall remain in effect until modified by this Commission. It is further

ORDERED that the Environmental Cost Recovery Clause docket is an on-going docket and shall remain open.

By ORDER of the Florida Public Service Commission this 19th day of November, 2015.

  
CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
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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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.