

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Matthews, Hill, King)
Division of Economics (Wu) *Wu*
Office of the General Counsel (Ames) *Ames*

RE: Docket No. 150223-EI – Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

AGENDA: 02/02/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On October 15, 2015, Tampa Electric Company (TECO or Company) petitioned the Florida Public Service Commission (Commission) to approve its proposed Coal Combustion Residuals Compliance Program (CCR Compliance Program) for cost recovery through the Environmental Cost Recovery Clause (ECRC). No objections to the petition had been received at the time this recommendation was filed.

On April 17, 2015, the United States Environmental Protection Agency (EPA) published its Coal Combustion Residuals Rule (CCR Rule)¹, which establishes the minimum criteria for the safe disposal in new and existing surface impoundments and landfills of CCR generated from the

¹ 40 C.F.R. Parts 257 and 261 (2015).

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combustion of coal at electric utilities and independent power producers. The effective date of the Rule is October 19, 2015, and the Rule is self-implementing. According to TECO's petition, its CCR Compliance Program was developed in response to the EPA's CCR Rule, and is legally required.

By Section 366.8255, Florida Statutes (F.S.), the Florida Legislature authorized the recovery of prudently incurred environmental compliance costs through the environmental cost recovery factor. The method for cost recovery of such costs was first established by Order No. PSC-94-0044-FOF-EI issued on January 12, 1994.² The Commission has jurisdiction over this matter pursuant to Section 366.8255, F.S.

² 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, Florida Statutes by Gulf Power Company.*

Discussion of Issues

Issue 1: Should the Commission approve Tampa Electric Company's petition for approval of a new environmental program for cost recovery through the Environmental Cost Recovery Clause?

Recommendation: Yes. Staff recommends that the Commission approve TECO's proposed CCR Compliance Program designed to implement the Environmental Protection Agency's CCR Rule. Staff recommends that, as requested by TECO and consistent with approved similar programs for other IOUs, the costs associated with this new environmental program be allocated to rate classes on an energy basis. (Matthews)

Staff Analysis: The EPA's final CCR Rule sets forth the minimum criteria for the safe disposal of CCR in landfills and surface impoundments at sites where electric utilities use the combustion of coal as an energy source to fuel a steam generating unit, such as TECO's Big Bend Station. The CCR Rule applies to new and existing active landfills and surface impoundments that are used by electric utilities for the purpose of solid waste management of CCR, including CCR units located off the site of the power plant and certain inactive CCR impoundments. Inactive impoundments are those that no longer receive CCR on or after the October 19, 2015 effective date of the final rule.

TECO's CCR Compliance Program, submitted in this docket, is substantially similar to plans for compliance with the new CCR Rule approved for Florida Power & Light, Duke Energy Florida, and Gulf Power in the 2015 ECRC proceedings.³ The activities planned by TECO for compliance with the CCR Rule include capital expenditures beginning in 2016, and continuing in 2017. TECO has not yet determined whether additional capital expenses will be incurred in 2018. Operating and maintenance (O&M) expenses began in 2015 and will continue throughout the life of Big Bend Station. The projects planned include groundwater monitoring, increased inspections, evaluations of impoundments and potential liner installations, enhancements of existing CCR units, and potential construction of additional CCR units. The estimated amounts for capital expenditures and O&M expenses for the period from October 15, 2015, through 2018 are shown in Table 1-1 below.

³ See Order No. PSC-15-0536-FOF-EI, issued November 19, 2015, in Docket No. 150007-EI.

Table 1-1: Estimated Expenditures for CCR Rule Compliance

	Capital (\$)	O&M (\$)
2015	0	75,000
2016	700,000	2,000,000
2017	1,800,000	850,000
2018	TBD	500,000
Totals	2,500,000	3,425,000

Source: TECO's responses to staff's second data request, No. 1.

The costs in Table 1-1 were developed by TECO based on previous experience with similar work performed at Big Bend Station, discussions with professionals knowledgeable in these areas, and from guidance obtained from the CCR Rule itself. These costs are consistent with the costs approved in the 2015 ECRC for the other Florida investor-owned utilities (IOUs).⁴ TECO provided details on the projects and the development of estimated costs in its responses to staff's first data request.⁵ Staff notes that TECO's estimates may be adjusted in future filings based on its receipt of detailed engineering and construction bids for planned work, and that estimates for future projects will be submitted as available in annual ECRC proceedings.

Table 1-2 below, shows the estimated residential customer bill impacts resulting from the anticipated compliance activities associated with the CCR Rule.

Table 1-2: Estimated Residential Customer Bill Impacts⁶

	\$/1,000 kWh	\$/1,200 kWh
2016	0	0
2017	0.0219	0.0262
2018	0.0286	0.0343

Source: TECO's responses to staff's first data request, No.11.

Based on the petition and TECO's responses to staff data requests, staff recommends that the proposed new activities are necessary for compliance with the EPA's CCR Rule.

⁴ Docket No. 150007-EI, Environmental Cost Recovery Clause, Hearing EXH 29; EXH 34; EXH 42.

⁵ TECO's responses to staff's first data request Nos. 1 and 10.

⁶ In TECO's response to staff's first data request, No. 11, TECO indicated impacts of \$0.0055/1,000 kWh or \$0.0065/1,200 kWh in 2016. Staff has incorporated these amounts into the 2017 bill impacts appearing in this table because such impacts will not take place until 2017 based on the operation of the true-up mechanism in Docket No. 160007-EI (the ECRC docket).

The criteria for ECRC recovery relevant to this docket, established by Order No., PSC-94-0044-FOF-EI, are:

- (1) 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
- (2) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

Based on staff's analysis of the docket material, the activities proposed in TECO's petition meet these criteria. Staff recommends that, based on the information in the docket file, and the CCR Rule⁷, these activities are essential projects that would not be necessary but for TECO's obligation to comply with a government-imposed environmental regulation. The need for these compliance activities was triggered after TECO's last test year upon which rates are currently based. Finally, the costs of the proposed compliance activities are not currently being recovered through some other cost recovery mechanism or through base rates.

Staff notes that the reasonableness and prudence of individual expenditures related to TECO's CCR Compliance Program will continue to be subject to the Commission's review in future ECRC proceedings.

Staff recommends that the Commission approve TECO's request for approval of its proposed CCR Compliance Program activities for cost recovery through the ECRC. Staff recommends that, as requested by TECO and consistent with approved similar programs for other IOUs, the costs associated with this new environmental program be allocated to rate classes on an energy basis.

⁷ 40 C.F.R. Parts 257 and 261 (2015).

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. (Ames)

Staff Analysis: If no timely protest to the proposed agency action is filed within 21 days, this docket should be closed upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action.