

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: May 26, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Mtenga, King) *MMW POE*
Division of Economics (Wu) *Wu*
Office of the General Counsel (Murphy) *QSH*
March for KY

RE: Docket No. 160027-EI – Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

AGENDA: 06/09/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Patronis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On November 3, 2015, the Environmental Protection Agency (EPA) published its final rule titled Steam Electric Power Generating Effluent Limitations Guidelines (ELG).¹ The ELG establishes limits for wastewater discharges from flue gas desulfurization processes, fly ash and bottom ash transport water, leachate from ponds and landfills containing coal combustion residuals, gasification processes, and flue gas mercury controls. The monthly averages and daily maximums will be exceeded under current processes at the Big Bend Station for arsenic, mercury and selenium. The effective date of the rule was January 4, 2016.

¹80 Fed. Reg. 67,838, 67,893 (Nov. 3, 2015) (to be codified at 40 CFR Part 423).

Docket No. 160027-EI

Date: May 26, 2016

On February 2, 2016, Tampa Electric Company (TECO or Company) petitioned the Florida Public Service Commission (Commission) to approve the Big Bend Station Effluent Limitations Guidelines Compliance Study Program (Big Bend ELG Study Program) for cost recovery through the Environmental Cost Recovery Clause (ECRC). The Company intends to file for ELG cost recovery at their Polk Station at a later date. No objections to the petition have been received as of the filing of this recommendation.

By Section 366.8255, Florida Statutes (F.S.), the Florida Legislature authorized the recovery of prudently incurred environmental compliance costs through the ECRC. 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.

²See 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 Big Bend Station Effluent Limitations Guidelines Compliance Study Program for cost recovery through the Environmental Cost Recovery Clause. Staff recommends the O&M costs associated with this new environmental program be allocated to rate classes on an energy basis. (Mtenga)

Staff Analysis: The EPA's ELG rule establishes limits for wastewater discharges from flue gas desulfurization processes, fly ash and bottom ash transport water, leachate from ponds and landfills containing coal combustion residuals, gasification processes, and flue gas mercury controls.³ TECO's facilities, including four coal-fired steam electric power generating units equipped with a flue gas desulfurization system located at the Big Bend Station, are affected by the ELG. The generating units' treatment system will need to be modified or replaced in order to achieve compliance with the new EPA regulations. The Company is proposing the Big Bend ELG Study Program to determine the most appropriate ELG compliance measures for the Big Bend Station. The measures selected in order to achieve ELG compliance will be the subject of a follow-up petition after completion of the Big Bend ELG Study Program and selection of the various compliance measures.

The activities planned by TECO for the Big Bend ELG Study Program include expenditures in 2016 to 2017. The expected scope of work for the study includes data review, site visits, design development, and technological evaluations including a conceptual design of selected alternatives. The estimated amounts for the Big Bend ELG Study Program are detailed in Table 1-1 below.

Table 1-1
Estimated Expenditures for Big Bend ELG Study Program

	Year	O&M Costs(\$)
Phase 1	2016	100,000
Phase 2	2017	300,000

Source: TECO's responses to staff's first data request No. 8 and TECO petition

TECO provided high level cost estimates based on experiences with previous studies and environmental compliance project management. Staff notes that the Company does not currently have a breakdown of the component activities.⁴ Table 1-2 below, shows the estimated residential customer bill impacts resulting from the compliance study program.

³80 Fed. Reg. 67,838, 67,893 (Nov. 3, 2015) (to be codified at 40 CFR Part 423).

⁴TECO's responses to staff's first data request No. 8.

Table 1-2
Estimated Residential Customer Bill Impacts

Year	¢/1,000 kWh	¢/ 1,200 kWh
2017	2.126	2.551
2018	0.000	0.000
2019	0.000	0.000

Source: TECO's response to staff's first data request No. 10

Based on the petition and TECO's responses to staff data requests, staff recommends that the proposed Big Bend ELG Study Program is necessary for compliance with the EPA's ELG rule.

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 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 mechanisms 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 in the ELG rule, these activities are essential projects that would not be necessary but for TECO's obligation to comply with government-imposed environmental regulation.⁵ The need for these compliance activities was triggered after TECO's last test year upon which rates are currently based.⁶ Finally, the costs of the proposed compliance study activities are not currently being recovered through some other cost recovery mechanisms or through base rates.

Staff notes that the resonanableness and prudence of the individual expenditures related to TECO's Big Bend ELG Study Program will continue to be subject to the Commission's review in future ECRC proceedings.

Conclusion

Staff recommends that the Commission approve TECO's proposed Big Bend ELG Study Program for cost recovery through the ECRC. Staff recommends the O&M costs associated with this new environmental program be allocated to rate classes based on energy basis.

⁵40 C.F.R Part 423.11(n).

⁶See Order No. PSC-13-0443-FOF-EI issued September 20, 2013, in Docket 130040-EI, *In re: Petition for rate increase by Tampa Electric Company*.

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. (Murphy)

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.