

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: March 1, 2012

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Wu)
Office of the General Counsel (Murphy)

Wu *CPB* *EC* *M*
Commission Clerk

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COMMISSION CLERK

RE: Docket No. 110262-EI – Petition for approval of new environmental program for cost recovery through the Environmental Cost Recovery Clause, by Tampa Electric Company.

AGENDA: 03/13/12 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\110262.RCM.DOC

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

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

The Commission has jurisdiction over the subject matter of this Petition pursuant to Chapter 366, F.S. Electric utilities may petition the Commission to recover projected environmental compliance costs required by environmental laws or regulations. Section 366.8255(2), F.S. 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.” Section 366.8255(1)(c), F.S. If the Commission approves the utility's petition for cost recovery through this clause, only prudently incurred costs may be recovered. The Commission has jurisdiction over this matter pursuant to Section 366.8255(2), F.S.

Discussion of Issues

Issue 1: Should the Commission approve TECO's Petition for approval of the BB Gypsum Storage Facility Program and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.?

Recommendation: Yes. TECO's proposed BB Gypsum Storage Facility Program satisfies the statutory requirements specified in Section 366.8255, F.S. (Wu, Murphy)

Staff Analysis: The Commission has recognized that the operation of FGD systems to scrub the flue gases emanating from BB Units 1 through 4 is essential for compliance with the Clean Air Act Amendments of 1990 (CAAA) and the Company's 2000 Consent Decree with the United States Environmental Protection Agency (Consent Decree). In 1996, the Commission approved TECO's request to recover the capital costs and operating and maintenance (O&M) expenses associated with the BB Unit 3 FGD Integration Project through the ECRC.² The capital costs and O&M expenses were associated with modifying BB Unit 4 FGD system's capabilities to scrub the flue gases from BB Unit 3. In 1999, the Commission approved TECO's request to recover the costs to construct and install the FGD system to serve BB Units 1 and 2, through the ECRC.³ The Commission found TECO's proposed FGD project to be the most cost-effective alternative for compliance with the SO₂ emissions reduction requirements of CAAA. The Commission acknowledged that the Consent Decree requires that the BB Units not operate unscrubbed after 2010 (for BB Unit 3) and 2013 (for BB Units 1 and 2).⁴

Operation of the FGD systems serving BB Units 1 through 4 results in the production of gypsum which is a by-product of the operation of the FGD systems. TECO has been able to sell a portion of the gypsum by-product to manufacturers who use it in the production of sheetrock, also known as wallboard. Despite these sales, the Company, over time, has been left with a surplus of gypsum by-product from the operation of its FGD systems at BB Station. The company has stored the excess gypsum in a storage facility on site at the BB Station. That storage facility and associated conveyor system were built according to the requirements in place during the early 1980s. By its Petition, TECO reported that the capacity of the storage facility is nearly exhausted, and that there are issues with periodic dust emissions and uncertainty over ground water contamination. The company asserted that it must increase its gypsum storage capacity by constructing a new gypsum storage facility on site at BB Station.

The proposed new gypsum storage facility will cover approximately 27 acres constructed to meet current environmental standards. The design of the new storage facility includes a new lined gypsum pile management area, along with equipment for conveying, stacking, storing, and loading of gypsum. The Company has also incorporated advanced dust control and liner

² 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.

³ 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.

systems. TECO indicated that the new gypsum storage area addition is not being designed as a permanent storage area, but rather is intended to provide an appropriate amount of “working storage” to manage temporary imbalances in gypsum supply and demand. The Company asserted that continued selling of its gypsum by-product is clearly the most cost-effective alternative for its customers going forward, and that construction of the new storage facility is an essential step. With respect to the existing gypsum storage area, TECO indicated that it 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 is estimated to require an investment of approximately \$54,976,700 in capital costs and annual operation and maintenance expenses of \$365,000. The estimated residential bill impacts for 1,000 kWh associated with the proposed storage facility are shown in the following table.⁵

Year	Residential Rate \$/1,000 kWh
2015	0.52
2016	0.50
2017	0.48
2018	0.46
2019	0.45

TECO evaluated alternatives to the proposed facility, including switching to low sulfur coal, disposing of gypsum at an off-site Company-owned landfill, or disposing of gypsum at a third-party landfill. The Company also evaluated alternative designs for the new storage area. TECO concluded that its proposed facility at BB Station is the most reliable and cost-effective option. The facility will enable the Company to continue operating BB Units 1 through 4 in compliance with the CAAA and the Consent Decree, by providing a means to dispose of the gypsum resulting from operation of the emission control equipment serving the BB units.

TECO expected to begin incurring costs associated with the new gypsum storage facility in 2011. The Company indicated in its Petition that because the proposed program is appropriate for Allowance for Funds Used during Construction (AFUDC) accounting treatment, the facility’s costs will be separately accounted for while the new storage facility is under construction. These costs will not be proposed for inclusion for ECRC cost recovery until after the new storage facility is placed in-service, which is expected to occur in early 2015. TECO confirmed that all aspects of the proposed program would be subject to audit by the Commission. TECO plans to start the preliminary engineering in March 2012, and targets an in-service date of April 2015.

TECO affirmed that the proposed storage facility program is a compliance activity associated with the requirements of the CAAA and the Consent Decree. The Company asserted, therefore, that expenditures associated with the proposed program should be allocated to rate

⁵ TECO’s response to Staff’s First Set of Interrogatories, No. 3.

classes on an energy basis. TECO further confirmed that the need to construct the new storage facility was triggered after the Company's last test year upon which base rates are currently based, and that the costs of the facility are not recovered through some other cost recovery mechanism or through base rates.

Staff agrees with TECO that, based on prior Commission Orders and the circumstances present, the Company cannot operate BB Units 1 through 4 un-scrubbed, consistent with the CAAA and the Consent Decree, nor can the Company operate the units scrubbed without a new facility to store the gypsum by-product of the scrubbing process. Staff believes that 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. Staff also believes 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. Further, staff believes 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
- (c) none of the expenditures are being recovered through some other cost recovery mechanism or through base rates. *see id. at page 6*

Staff agrees with TECO that the costs associated with its proposed storage facility should be allocated to the rate classes on an energy basis. This is consistent with the Commission's precedential orders. In Orders No. PSC-94-0044-FOF-EI⁶ and PSC-05-0998-PAA-EI,⁷ the Commission found that costs associated with compliance with CAAA should be allocated to the 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.

Based on the above, staff recommends that TECO's petition for approval of ECRC cost recovery for its new BB Gypsum Storage Facility Program should be granted pursuant to Section 366.8255, F.S. Staff also recommends that the costs associated with the proposed program be allocated to rate classes on an energy basis.

⁶ Orders No. PSC-94-0044-FOF-EI, at pp. 21-23.

⁷ PSC-05-0998-PAA-EI, at pp. 6-7.

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 the 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.