

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of the second phase of CCR program for cost recovery through the environmental cost recovery clause, by Tampa Electric Company.

DOCKET NO. 20170168-EI  
ORDER NO. PSC-2017-0483-PAA-EI  
ISSUED: December 22, 2017

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman  
ART GRAHAM  
RONALD A. BRISÉ  
DONALD J. POLMANN  
GARY F. CLARK

NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING THE SECOND PHASE  
OF CCR PROGRAM FOR COST RECOVERY THROUGH THE ENVIRONMENTAL  
COST RECOVERY CLAUSE BY TAMPA ELECTRIC COMPANY

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 (F.A.C.).

On July 28, 2017, Tampa Electric Company (TECO or Company) petitioned the Florida Public Service Commission (Commission) to approve the second phase of its Coal Combustion Residuals Compliance Program (CCR Program) for cost recovery through the Environmental Cost Recovery Clause (ECRC). The first phase of TECO's CCR Program was approved in Docket 20150223-EI, and included activities such as dust control, inspections, groundwater monitoring, and engineering evaluations of other compliance measures.<sup>1</sup> TECO has determined that the Big Bend Economizer Ash & Pyrites Ponds (EAPP), one of its CCR management units, must be closed in order to comply with the provisions of the CCR Rule.

On April 17, 2015, the United States Environmental Protection Agency (EPA) published its CCR Rule which established the minimum criteria for the safe disposal in new and existing surface impoundments and landfills of CCR generated from the combustion of coal at electric

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<sup>1</sup>Order No. PSC-16-068-PAA-EI, issued February 9, 2016, in Docket No. 20150223-EI, *In re: Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.*

utilities and independent power producers.<sup>2</sup> The effective date of the Rule was October 19, 2015, and the Rule is self-implementing. The second phase of TECO's program was developed in response to the EPA's CCR Rule.

In the 2017 Environmental Cost Recovery Docket, this Commission approved the following stipulation regarding Phase II of the TECO CCR Program:

Approval of the projected revenues for the costs associated with the Phase II of the CCR Program is conditioned on this Commission's approval of the CCR Program in Docket No. 20170168-EI. To the extent the scope of the CCR Program costs differ from costs of the approved program in Docket No. 20170168-EI, the revenues collected for the CCR Program in Docket No. 20170007-EI shall be subject to true-up.

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 clause. The method for cost recovery for such costs was first established by Order No. PSC-94-0044-FOF-EI issued on January 12, 1994.<sup>3</sup> This Commission has jurisdiction over this matter pursuant to Section 366.8255, F.S.

### Decision

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 steam generating units, 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 CCR Rule.

The second phase of TECO's CCR Compliance Program and the Economizer Ash Closure Project is substantially similar to the compliance plans filed by TECO in Docket No. 20150223-EI. It is also similar to plans for compliance with the CCR Rule approved for Florida Power & Light Company, Duke Energy Florida, LLC, and Gulf Power Company in previous ECRC proceedings.<sup>4</sup> At 40 C.F.R. Part 257.60(a), the CCR rule requires a five-foot separation between the base of any CCR impoundment and the uppermost aquifer. Water level data that was collected during the first phase of the CCR Compliance Program indicate the bottom of the EAPP is significantly less than five feet from the uppermost aquifer. After evaluation of allowable alternatives, TECO decided to perform closure through removal because the project

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<sup>2</sup>40 C.F.R. Parts 257 and 261 (2015).

<sup>3</sup>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*.

<sup>4</sup>Docket No. 20150007-EI, Environmental Cost Recovery Clause, Hearing EXH 29, EXH 34, EXH 42.

was the most cost effective alternative that satisfied the rule requirements.<sup>5</sup> TECO has proposed the closure of the EAPP by October 19, 2021, with the O&M expenditures for the project beginning in the fourth quarter of 2017.<sup>6</sup> The work to be completed includes dewatering and excavation of the site, CCR transport and disposal, site restoration, engineering, and post closure groundwater monitoring. The estimated cost for the closure project is approximately \$30 million, as shown in the table below.

#### Estimated O&M and Capital Costs

Description of Work	Capital (\$)	O&M (\$)	Total (\$)
Dewatering & Excavation	-	2,714,800	2,714,800
CCR Transport & Disposal	-	25,752,000	25,752,000
Engineering	400,000	-	400,000
Site Restoration	1,009,000	-	1,009,000
Post Closure Groundwater Demonstration/Monitoring	-	116,400	116,400
<b>Total</b>	<b>1,409,000</b>	<b>28,583,200</b>	<b>29,992,200</b>

The costs shown in Table 1-1 above were developed by TECO based on previous experience with similar work performed at the Big Bend Station, discussions with professionals knowledgeable in these areas, and guidance obtained from the CCR Rule. These costs are consistent with costs approved in the TECO CCR Project in Docket No. 20150223-EI. TECO provided details on the projects and the development of estimated costs in its responses to our First Data Request. The table below shows the estimated impact of this project on residential customer monthly bills.

#### Monthly Bill Impact (1,000 kWh Bill)

Year	Monthly Impact(\$)
2018	0.41
2019	0.61
2020	0.43
2021	0.02
2022	0.01

Based on the petition and TECO's responses to our data request, we find that TECO's second phase of its CCR Compliance Program is necessary for compliance with the EPA's CCR

<sup>5</sup>TECO's response to Staff's First Data Request No. 15.

<sup>6</sup>TECO's response to Staff's First Data Request No. 1.

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 mechanism or through base rates.

Based on our analysis of the docket material, the activities proposed in TECO's petition meet these criteria. Based on the information in the docket file and the CCR Rule, we find these activities are essential projects that would not be necessary but for TECO's obligation to comply with 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. We note that the reasonableness and prudence of individual expenditures related to the second phase of TECO's CCR Compliance Program will continue to be subject to this Commission's review in future ECRC proceedings.

We find it appropriate to approve TECO's second phase of its proposed CCR Compliance Program to comply with the CCR Rule. The Economizer Ash Closure Project is a compliance activity associated with the Company's previously approved CCR Compliance Program. We find that the O&M cost associated with this project shall be allocated to rate classes on an energy basis and capital costs to complete this project shall be allocated to appropriate rate classes on a demand basis.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the petition for approval of the second phase of CCR program for cost recovery through the environmental cost recovery clause by Tampa Electric Company is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd day of December, 2017.



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HONG WANG  
Chief Deputy Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SAC

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 January 12, 2018.

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.