

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause, by Tampa Electric Company.

DOCKET NO. 090508-EI
ORDER NO. PSC-10-0157-PAA-EI
ISSUED: March 22, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING TAMPA ELECTRIC COMPANY'S NEW ENVIRONMENTAL
PROGRAM FOR COST RECOVERY THROUGH THE ENVIRONMENTAL COST
RECOVERY CLAUSE

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.

BACKGROUND

On November 12, 2009, Tampa Electric Company (TECO or Company) filed a petition for approval of a Greenhouse Gas (GHG) Reduction Program and the recovery of the costs of this program through the Environmental Cost Recovery Clause (ECRC). TECO's 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

On September 22, 2009, the U.S. Environmental Protection Agency (EPA) enacted a new rule, Mandatory Reporting of Greenhouse Gases, 40 CFR Parts 86, 87, 89 et al. The rule requires the reporting of GHG emissions from large sources and suppliers, effective January 1, 2010, in preparation for the first annual GHG report, which is due March 31, 2011. It is intended

¹ Order No. PSC-94-0044-FOF-EI, issued on 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 on October 3, 1994, in Docket No. 940042-EI, In re: Environmental Cost Recovery Clause.

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to collect accurate and timely emission data to inform future policy decisions. This rule is supported by the Florida Climate Protection Act, Section 403.44, F.S.

The nationwide GHG emissions mandatory reporting rule will impact TECO's generation fleet, components of its transmission and distribution system, and its service vehicles. According to the rule, TECO must begin collecting GHG emission data effective January 1, 2010, to establish a baseline inventory to report to the EPA.

The costs for which TECO is seeking ECRC recovery are for operation and maintenance (O&M) expenditures associated with purchasing monitoring equipment and software to establish the GHG emission testing platform. At the time of filing this petition, TECO expected to begin incurring costs associated with the program in December 2009. As stated in the petition, these costs will be included in TECO's 2009 ECRC True-Up, which will be filed in April 2010. The Company is not requesting a change in its projected ECRC factors for 2010. Instead, the Company has proposed to include in its 2010 Actual/Estimated True-Up filing the program costs incurred or projected to be incurred during 2010. Beyond 2010, the Company will include projected program costs in the appropriate ECRC projection filing. The Company has agreed that all program expenditures will be subject to audit by this Commission.

We have jurisdiction over the subject matter of this petition pursuant to Section 366.8255, F.S.

ANALYSIS AND RULING

By Order No. PSC-08-0775-FOF-EI,² we approved for cost recovery through the ECRC the GHG Reduction Program requested by Florida Power & Light Company, the GHG Inventory and Reporting Program requested by Progress Energy Florida, Inc., and the Annual Climate Registry Project requested by Gulf Power Company, pursuant to Sections 366.8255 and 403.44(3), F.S. TECO anticipated its requirement to initiate a GHG reduction program and notified us by letter dated July 21, 2008. However, the Company did not request that we approve such a program for cost recovery during the 2008 ECRC annual hearing. This decision was based on TECO's interpretation of Section 403.44(4), F.S., which states that the Florida Department of Environmental Protection (FDEP) "shall establish the methodologies, reporting periods and reporting systems that shall be used when major emitters report to the climate Registry." TECO anticipated that the FDEP would develop the reporting procedures which would require TECO to incur costs in 2009. Since the FDEP did not take such action, TECO believed that it could not take action and incur costs.

The recent environmental requirement that triggered TECO's petition for approval of the GHG Reduction Program was the EPA's Mandatory Reporting of Greenhouse Gas Rule, signed on September 22, 2009, and effective on December 29, 2009. Reporters must begin collecting data on January 1, 2010, and the first annual report is due on March 31, 2011, for GHG emitted or products supplied during 2010. The rule requires the reporting of annual emissions of carbon

² Order No. PSC-08-0775-FOF-EI, issued on November 24, 2008, in Docket No. 080007-EI, In re: Environmental Cost Recovery Clause.

dioxide, methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorocarbons and other fluorinated gases as defined in 40 CFR part 98, subpart A. In addition, pursuant to Section 403.44(5), F.S., the FDEP is not to adopt a GHG reduction program until after January 2010.

Through the GHG Reduction Program, TECO will have the ability to report emissions according to the Climate Registry protocol or the EPA GHG reporting requirement. TECO asserted that since the key step outlined in Section 403.44(4), F.S., has not been taken, nor is it currently contemplated by the FDEP, the Company is not participating in the Climate Registry at this time. However, the Company will begin collecting emissions data in January 2010, to comply with the EPA Mandatory Reporting of GHG Rule's first annual reporting date of March 31, 2011. There are no costs associated with the reporting requirements with the EPA, while the Climate Registry currently requires a \$10,000 annual membership fee.

TECO's GHG Reduction Program consists of three major tasks: (1) project planning, solution design and data discovery; (2) solution configuration and deployment; and (3) project management and closure. The estimated completion date of the program is approximately 60 days following the start of the program. The Company has projected \$100,000 for initial operation and maintenance (O&M) costs, which consist of approximately \$70,000 in services to configure the program to TECO's specific system and \$30,000 in software licensing fees. TECO has selected the software and associated solutions, which the Company indicates have been demonstrated to meet or exceed the requirements of the Climate Registry and other registries by companies with similar emission profiles. The Company plans to use in-house resources for the data collection associated with the program. The scope of the program does not include third-party verification of GHG emissions. The Company has indicated that it will not seek third-party verifiers until such time that emissions are reported pursuant to the Climate Registry or other registry requirement; however, the selected software has a built-in mechanism that can be used by third-party verifiers, if needed.

Electric utilities may petition us 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 we approve the utility's petition for cost recovery through this clause, only prudently incurred costs may be recovered. Section 366.8255(2), F.S.

The GHG Reduction Program is a compliance activity associated with the requirements of the Clean Air Act Amendments. The Company has, therefore, proposed that the O&M expenditures associated with the program be allocated to rate classes on an energy basis. This is consistent with our rulings on other utilities' GHG reduction-related programs in Order No. PSC-

08-0775-FOF-EI.³ Furthermore, the GHG Reduction Program meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI,⁴ 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.

In conclusion, TECO's GHG Reduction Program complies with the statutory requirements specified in Sections 366.8255 and 403.44, F.S. Accordingly, we hereby grant TECO's petition for approval of ECRC cost recovery for its GHG Reduction Program. The O&M costs associated with the program shall be allocated to the rate classes on an energy basis.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Tampa Electric Company's petition for approval of the Greenhouse Gas Reduction Program for cost recovery through Environmental Cost Recovery Clause is hereby granted. It is further

ORDERED that the operation and maintenance costs associated with the Greenhouse Gas Reduction Program shall be allocated to the rate classes on an energy basis. 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.

³ Order No. PSC-08-0775-FOF-EI, issued on November 24, 2008, in Docket No. 080007-EI, In re: Environmental Cost Recovery Clause.

⁴ Order No. PSC-94-0044-FOF-EI, issued on 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.

By ORDER of the Florida Public Service Commission this 22nd day of March, 2010.



ANN COLE
Commission Clerk

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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 April 12, 2010.

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.