

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost
recovery clause.

DOCKET NO. 030002-EI
ORDER NO. PSC-03-1246-PHO-EI
ISSUED: November 5, 2003

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on October 23, 2003, in Tallahassee, Florida, before Commissioner Braulio L. Baez, as Prehearing Officer.

APPEARANCES:

JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter, Reeves, McGlothlin, Davidson, Kaufman & Arnold, P.A., 400 N. Tampa Street, Suite 2450, Tampa, Florida 33601-3350; and VICKI GORDON KAUFMAN, ESQUIRE, McWhirter, Reeves, McGlothlin, Davidson, Kaufman & Arnold, P.A., 114 South Gadsden Street, Tallahassee, Florida 32301
On behalf of Florida Industrial Power Users Group (FIPUG).

CHARLES A. GUYTON, ESQUIRE, Steel, Hector & Davis, LLP, 215 S. Monroe Street, Suite 601, Tallahassee, Florida 32301
On behalf of Florida Power & Light Company (FP&L).

NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello & Self, P.A., P.O. Box 1876, Tallahassee, Florida 32302-1876
On behalf of Florida Public Utilities Company (FPUC).

JEFFREY A. STONE, ESQUIRE, and RUSSELL A. BADDERS, ESQUIRE, Beggs & Lane, P.O. Box 12950, Pensacola, Florida 32591-2950
On behalf of Gulf Power Company (GULF).

JAMES A. MCGEE, ESQUIRE, P.O. Box 14042, St. Petersburg, Florida 33733-4042
On behalf of Progress Energy Florida (PEF).

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LEE L. WILLIS, ESQUIRE, and JAMES D. BEASLEY, ESQUIRE,
Ausley & McMullen, P.O. Box 391, Tallahassee, Florida
32302
On behalf of Tampa Electric Company (TECO).

ROBERT D. VANDIVER, ESQUIRE, Associate Public Counsel,
Office of Public Counsel, c/o The Florida Legislature,
111 West Madison Street, Room 812, Tallahassee, Florida
32399-1400
On behalf of the Citizens of the State of Florida (OPC).

LORENA A. HOLLEY, ESQUIRE, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee,
Florida 32399-0850
On behalf of the Florida Public Service Commission
(FPSC).

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

As part of the Commission's ongoing fuel cost recovery, energy conservation cost recovery, gas conservation recovery, and environmental cost recovery proceedings, a hearing is set for November 12-14, 2003, in this docket and in Docket Nos. 030001-EI, 030003-GU, 030004-GU, and 030007-EI. The Commission has the option to render a bench decision in this matter. Opening statements, if any, shall not exceed ten minutes per party.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such

request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.

- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Commission Clerk and Administrative Service's confidential files.

IV. POST-HEARING PROCEDURES

A bench decision may be made at the conclusion of the hearing, in which case post-hearing statements and briefs will not be necessary. If a bench decision is not made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

As a result of discussions at the prehearing conference, each witness whose name is preceded by an asterisk (*) has been excused from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified by Wednesday, November 5, 2003, as to whether any such witness shall be required to be present at hearing. The testimony of excused witnesses will be inserted into the record as though read, and all exhibits submitted with those witnesses' testimony shall be

identified as shown in Section IX of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*Ken Getchell	FP&L	1, 2, 3
*Michael A. Peacock	FPUC	1-3, and 5
*Angela T. Carter	GULF	1, 2, 3
*John a. Masiello	PEF	1, 2, 3
*Howard T. Bryant	TECO	1, 2, 3, 4

VII.. BASIC POSITIONS

FIPUG: None.

FP&L: FP&L's proposed Conservation Cost Recovery Factors for the January 2004 through December 2004 recovery period and true-up amounts for prior periods should be approved.

FPUC: FPUC has properly projected its costs and calculated its true-up amounts and conservation cost recovery factors. Those amounts and factors should be approved by the Commission.

GULF: It is the basic position of Gulf Power Company that the proposed ECCR factor presents the best estimate of Gulf's Conservation expense for the period January 2004 through December 2004, including the true-up calculations and other adjustments allowed by the Commission.

PEF: None necessary.

TECO: The Commission should determine that Tampa Electric has properly calculated its conservation cost recovery true-up and projections and that the appropriate conservation cost recovery factor to be applied by Tampa Electric during the period January 2004 through December

2004 is 0.028 cents per KWH for Interruptible, 0.111 cents per KWH for Residential, 0.104 cents per KWH for General Service Non-Demand and Temporary Service, 0.093 cents per KWH for General Service Demand - Secondary, 0.092 cents per KWH for General Service Demand - Primary, 0.085 cents per KWH for General Service Large Demand and Firm Standby - Secondary, 0.084 cents per KWH for General Service Large Demand and Firm Standby - Primary, 0.083 cents per KWH for General Service Large Demand and Firm Standby - Subtransmission, and 0.060 cents per KWH for Lighting.

The Commission should also approve the \$4.28 per KW Contracted Credit Value Tampa Electric has calculated for the GSLM-2 and GSLM-3 rate riders for use during the period January 2004 through December 2004.

OPC: None at this time.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

Generic Conservation Cost Recovery Issues

ISSUE 1: Proposed Stipulation. See Section X.

ISSUE 2: Proposed Stipulation. See Section X.

ISSUE 3: Proposed Stipulation. See Section X.

Company Specific Issues

Tampa Electric Company:

ISSUE 4: Proposed Stipulation. See Section X.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Ken Getchell	FP&L	<u> </u> (KG-1)	Schedules CT-1 through CT-6 (redacted)
Ken Getchell	FP&L	<u> </u> (KG-2)	Schedules C-1 through C-5.
Michael A. Peacock	FPUC	<u> </u> (MAP-1)	True-up calculations and Schedules CT-1, CT-2, CT-3, CT-4, CT-5, and CT-6 (Marianna and Fernandina Beach Divisions)
Michael A. Peacock	FPUC	<u> </u> (MAP-2)	Schedules C-1, C-2, C-3, C-4, and C-5 (Marianna and Fernandina Beach Divisions)
Michael A. Peacock	FPUC	<u> </u> (MAP-3)	Consolidated Electric Division Schedules C-1, C-2, C-3, and C-4
Angela T. Carter	GULF	<u> </u> (ATC-1)	Schedules CT-1 through CT-6

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Angela T. Carter	GULF	(ATC-2)	Schedules C-1 through C-5
John A. Masiello	PEF	(JAM-1)	ECCR Adjusted Net True-Up for January -December 2001, Schedules CT1 - CT5.
John A. Masiello	PEF	(JAM-2)	ECCR Factors for Billings in January -December 2003, Schedules C1 - C5.
Howard T. Bryant	TECO	(HTB-1)	Schedules supporting cost recovery factor, actual January 2002 - December 2002.
Howard T. Bryant	TECO	(HTB-2)	Schedules supporting conservation costs projected for the period January 2004 - December 2004

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

XI. PROPOSED STIPULATIONS

ISSUE 1: What is the final end-of-the-period true-up amount for the period January 2002 through December 2002?

FPL:	\$ 7,852,926 Over Recovery
FPUC: (Mari.)	\$ 1,998 Over Recovery
FPUC: (Fern.)	\$ 42,657 Over Recovery
FPUC: (Cons.)	\$ 44,655 Over Recovery
GULF:	\$ 493,581 Over Recovery
PEF:	\$ 8,743,330 Over Recovery
TECO:	\$ 1,138,692 Over Recovery

FIPUG and OPC take no position.

ISSUE 2: What are the appropriate conservation cost recovery factors by customer class for the period January 2004 through December 2004?

FPL:	<u>Rate Class</u>	<u>ECCR Factor</u>
	Residential	0.145 cents/Kwh
	General Svc.	0.143 cents/Kwh
	General Svc. Demand	0.131 cents/Kwh
	Sports Service 2	0.141 cents/Kwh
	General Svc. Large 1/Curtailable 1	0.125 cents/Kwh
	General Svc. Large 2/Curtailable 2	0.120 cents/Kwh
	General Svc. Large 3/Curtailable 3	0.114 cents/Kwh
	Interruptible Standby ID	0.000 cents/Kwh
	Standby Supplemental 1T	0.100 cents/Kwh
	Standby Supplemental 1D	0.124 cents/Kwh
	Commercial Load Control D & G	0.115 cents/Kwh
	Commercial Load Control T	0.106 cents/Kwh
	Metropolitan Transit	0.137 cents/Kwh
	Outdoor/Street Lighting 1	0.070 cents/Kwh
	Street Lighting 2	0.110 cents/Kwh
FPUC:	<u>Rate Class</u>	<u>ECCR Factor</u>
	(Marianna)	0.069 cents/Kwh
	(Fernandina Beach)	0.044 cents/Kwh
	(Consolidated)	0.054 cents/Kwh

<u>GULF: Rate Class</u>	<u>ECCR Factor</u>
RS, RST	0.076 cents/Kwh
GS	0.075 cents/Kwh
GSD, GSDT, GSTOU	0.070 cents/Kwh
LP, LPT	0.067 cents/Kwh
PX, PXT, RTP, CSA	0.064 cents/Kwh
OSI, OSII	0.056 cents/Kwh
OSIII	0.066 cents/Kwh
OSIV	0.056 cents/Kwh
SBS	0.064 cents/Kwh

<u>PEF: Rate Class</u>	<u>ECCR Factor</u>
Residential	0.174 cents/Kwh
General Svc. Non-Demand	0.162 cents/Kwh
@ Primary Voltage	0.160 cents/Kwh
@ Transmission Voltage	0.159 cents/Kwh
General Svc. 100% Load Factor	0.117 cents/Kwh
General Svc. Demand	0.147 cents/Kwh
@ Primary Voltage	0.146 cents/Kwh
@ Transmission Voltage	0.144 cents/Kwh
Curtailable	0.135 cents/Kwh
@ Primary Voltage	0.134 cents/Kwh
@ Transmission Voltage	0.132 cents/Kwh
Interruptible	0.120 cents/Kwh
@ Primary Voltage	0.119 cents/Kwh
@ Transmission Voltage	0.118 cents/Kwh
Lighting	0.063 cents/Kwh

<u>TECO: Rate Class</u>	<u>ECCR Factor</u>
Interruptible	28 cents/Mwh
Residential	0.111 cents/Kwh
General Svc. Non-Demand	0.104 cents/Kwh
General Svc. Demand	0.093 cents/Kwh
@ Primary Voltage	0.092 cents/Kwh
General Svc. Large Demand	0.085 cents/Kwh
@ Primary Voltage	0.084 cents/Kwh
@ Subtransmission Voltage	0.083 cents/Kwh
Lighting	0.060 cents/Kwh

FIPUG and OPC take no position.

ISSUE 3: What should be the effective date of the energy conservation cost recovery factors for billing purposes?

The factors should be effective beginning with the specified conservation cost recovery cycle and thereafter for the period January, 2004, through December, 2004. Billing cycles may start before January 1, 2004, and the last cycle may be read after December 31, 2004, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

FIPUG and OPC take no position.

ISSUE 4: What is the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric for the period January 2004 through December 2004?

In accordance with Order No. PSC-99-1778-FOF-EI, issued September 10, 1999 in Docket No. 990037-EI, Tampa Electric has calculated that, for the forthcoming cost recovery period, January 2004 - December 2004, the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders will be \$4.28 per KW.

FIPUG and OPC take no position.

XII. PENDING MOTIONS

There are no pending motions.

XIII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIV. RULINGS

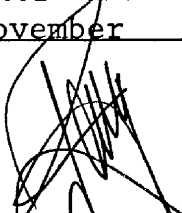
Opening statements, if any, shall not exceed ten minutes per party.

Based on the foregoing, it is

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ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 5th day of November, 2003.

 for Commissioner Braulio Baez

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

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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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review 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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida

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Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.