

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery clause. | DOCKET NO. 050002-EG
ORDER NO.PSC-05-1066-PHO-EG
ISSUED: November 1, 2005

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on October 24, 2005, in Tallahassee, Florida, before Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer.

APPEARANCES:

JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter, Reeves & Davidson, P.A.,
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and

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South Gadsden Street, Tallahassee, Florida 32301.

On behalf of Florida Industrial Power Users Group.

MR. R. WADE LITCHFIELD AND MS. NATALIE F. SMITH, 700 Universe
Boulevard, Juno Beach, Florida 33408

On behalf of Florida Power & Light Company.

NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello & Self, P.A., Post
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On behalf of Florida Public Utilities Company.

JEFFREY A. STONE, ESQUIRE, RUSSELL A. BADDERS, ESQUIRE AND
STEVEN R. GRIFFIN, ESQUIRE, Beggs & Lane, Post Office Box 12950,
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On behalf of Gulf Power Company.

GARY V. PERKO, ESQUIRE AND CAROLYN R. RAEPPE, ESQUIRE,
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And

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On behalf of Progress Energy Florida.

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On behalf of Tampa Electric Company.

DOCUMENT NUMBER-DATE

10594 NOV-1 05

FPSC-COMMISSION CLERK

PATRICIA A. CHRISTENSEN, Esquire, Associate Public Counsel, JOSEPH A. MCGLOTHLIN, Esquire, Associate Public Counsel, CHARLES J. BECK, Esquire, Deputy 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.

MARTHA CARTER BROWN, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission.

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 cost recovery, purchased gas adjustment, and environmental cost recovery proceedings, a hearing is set for November 7-9, 2005, in this docket and in docket nos. 050001-EI, 050003-GU, 050004-GU and 050007-EI. The parties in this docket have reached agreement concerning all issues identified for resolution at the hearing. The staff is prepared to present the panel with a recommendation at the hearing for approval of the stipulated positions set forth herein. The Commission may render a bench decision in this matter.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes. This hearing will be governed by said Chapter and Chapters 25-17, 25-22, and 28-106, Florida Administrative Code.

IV. 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 parties 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.

V. POST-HEARING PROCEDURES

If no bench decision is 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.

VI. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) 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.

VII. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
*Kenneth Getchell	FPL	1,2,3,4
*Marc S. Seagrave	FPUC	1
*Geoffrey Hartman	FPUC	2,3
*William D. Eggart	GULF	1,2,4
*John A. Masiello	PEF	1,2,3,4
*Howard T. Bryant	TECO	1,2,3,4

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 2, 2004, whether any of those witnesses shall be required to be present at the 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 X of this Prehearing Order and be admitted into the record.

VIII. BASIC POSITIONS

The parties and staff support the proposed stipulations on the issues set out below. FIPUG and OPC take no position on those issues.

IX. ISSUES AND POSITIONS

STIPULATED

ISSUE 1: What are the appropriate final conservation cost recovery true-up amounts for the period January 2004 through December 2004?

POSITIONS

PEFI:	\$ 8,154,738	over-recovery
FPL:	\$ 4,091,188	over-recovery
GPC:	\$ 210,612	over-recovery
TECO:	\$ 2,405,000	over-recovery
FPUC: (Cons.)	\$ 131,832	over-recovery

STIPULATED

ISSUE 2: What are the appropriate conservation cost recovery factors by customer class for the period January 2005 through December 2005?

POSITIONS**FPL:**

<u>Rate Class</u>	<u>ECCR Factor</u>
RS1/RST1	0.142 cents/Kwh
GS1/GST1.	0.137 cents/Kwh
GSD1/GSDT1	0.129 cents/Kwh
OS2	0.122 cents/Kwh
GSLD1/GSLDT1/CS1/CST1	0.122 cents/Kwh
GSLD2/GSLDT2/CS2/CST2	0.117 cents/Kwh
GSLD3/GSLDT3/GS3/GST3	0.107 cents/Kwh
ISST1D	0.111 cents/Kwh
ISST1T	0.082 cents/Kwh
SST1T	0.082 cents/Kwh
SST1D1/SST1D2/SST1D3	0.111 cents/Kwh
CILCD/CILCG	0.113 cents/Kwh
CILCT	0.106 cents/Kwh
MET	0.133 cents/Kwh
OL1/SL1/PL1	0.071 cents/Kwh
Street Lighting 2	0.109 cents/Kwh

FPUC:

<u>Rate Class</u>	<u>ECCR Factor</u>
(Consolidated)	0.046 cents/Kwh

GPC:

<u>Rate Class</u>	<u>ECCR Factor</u>
RS, RSVP	0.088 cents/Kwh
GS	0.087 cents/Kwh
GSD, GSDT, GSTOU	0.084 cents/Kwh
LP, LPT	0.079 cents/Kwh
PX, PXT, RTP, CSA, SBS	0.074 cents/Kwh
OSI, OSII	0.069 cents/Kwh
OSIII	0.077 cents/Kwh

PEF:

<u>Rate Class</u>	<u>ECCR Factor</u>
Residential	0.169 cents/Kwh
General Svc. Non-Demand	0.158 cents/Kwh
@ Primary Voltage	0.156 cents/Kwh
@ Transmission Voltage	0.155 cents/Kwh

General Svc. 100% Load Factor	0.119 cents/Kwh
General Svc. Demand	0.145 cents/Kwh
@ Primary Voltage	0.144 cents/Kwh
@ Transmission Voltage	0.142 cents/Kwh
Curtaillable	0.134 cents/Kwh
@ Primary Voltage	0.133 cents/Kwh
@ Transmission Voltage	0.131 cents/Kwh
Interruptible	0.122 cents/Kwh
@ Primary Voltage	0.121 cents/Kwh
@ Transmission Voltage	0.120 cents/Kwh
Lighting	0.072 cents/Kwh

TECO:

<u>Rate Class</u>	<u>ECCR Factor</u>
Interruptible	0.048 cents/Kwh
Residential	0.076 cents/Kwh
General Svc., TS	0.070 cents/Kwh
General Svc. Demand	0.060 cents/Kwh
@ Primary Voltage	0.060 cents/Kwh
General Svc. LD, SBF	0.057 cents/Kwh
@ Primary Voltage	0.056 cents/Kwh
@ Subtransmission Voltage	0.055 cents/Kwh
SL, OL	0.024 cents/Kwh

STIPULATED

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

POSITION: The factors should be effective beginning with the specified conservation cost recovery cycle and thereafter for the period January, 2006, through December, 2006. Billing cycles may start before January 1, 2006, and the last cycle may be read after December 31, 2006, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

Company Specific Issues

Tampa Electric Company

STIPULATED

ISSUE 4: What is the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric for the period January 2006 through December 2006?

POSITION: 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 2006 through December 2006, the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders will be \$5.17 per KW.

X. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Kenneth Getchell	FPL	<u>KG-1</u>	Schedules CT-1 through CT-6, Appendix A
Marc S. Seagrave	FPUC	<u>MSS-1 (Composite)</u>	True-up calculations and Schedules CT-1, CT-2, CT-3, CT-4, CT-5, and CT-6
Geoffrey Hartman	FPUC	<u>GLH-1 (Composite)</u>	Schedules C-1, C-1, C-2, C-3, C-4, and C-5
William D. Eggart	GULF	<u>WDE-1</u>	Schedules CT-1 through CT-6
		<u>WDE-2</u>	Schedules C-1 through C-5
John A. Masiello	PEF	<u>JAM-1T</u>	ECCR Adjusted Net True-Up for January – December 2004, Schedules CT-1 – CT-5
		<u>JAM-1P</u>	ECCR Factors for Billings in January – December 2006, Schedules C1 – C5
Howard T. Bryant	TECO	<u>HTB-1</u>	Schedules supporting cost recovery factor, actual January 2004 – December 2004.
		<u>HTB-2</u>	Schedules supporting conservation costs projected for the period January 2006 – December 2006.

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

XI. PROPOSED STIPULATIONS

The parties propose the stipulations for ISSUES 1, 2, 3 and 4 set out in Section IX above. FIPUG and OPC take no position on the issues.

XII. PENDING MOTIONS

There are no pending motions at this time.

XIII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters.


XIV. RULINGS

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

It is therefore,

ORDERED by Commissioner Rudolph "Rudy" Bradley, 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 Rudolph "Rudy" Bradley, as Prehearing Officer, this 1st day of November, 2005.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(S E A L)

MCB

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 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.