

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery clause. | DOCKET NO. 080002-EG
ORDER NO. PSC-08-0713-PHO-EG
ISSUED: October 30, 2008

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 20, 2008, in Tallahassee, Florida, before Commissioner Katrina J. McMurrian, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD, ESQUIRE, JOHN T. BUTLER, ESQUIRE, and CARLA G. PETTUS, ESQUIRE, 700 Universe Boulevard, Juno Beach, Florida 33408-0420

On behalf of Florida Power & Light Company (FPL).

NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello & Self, P.A., Post Office Box 15579, Tallahassee, Florida 32317

On behalf of Florida Public Utilities Company (FPUC).

JEFFREY A. STONE, ESQUIRE, RUSSELL A. BADDERS, ESQUIRE, and STEVEN R. GRIFFIN, ESQUIRE, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32591-2950

On behalf of Gulf Power Company (Gulf).

JOHN T. BURNETT, ESQUIRE, Associate General Counsel, Progress Energy Service Co., LLC, Post Office Box 14042, St. Petersburg, Florida 33733-4042

On behalf of Progress Energy Florida, Inc. (PEF).

LEE L. WILLIS, ESQUIRE, and JAMES D. BEASLEY, ESQUIRE, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302

On behalf of Tampa Electric Company (TECO).

PATRICIA A. CHRISTENSEN, ESQUIRE, Associate Public Counsel, JOSEPH A. MCGLOTHLIN, ESQUIRE, Associate Public Counsel, and STEPHEN C. BURGESS, 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).

JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter, Reeves & Davidson, P.A., 400 North Tampa Street, Suite 2450, Tampa, Florida 33602

On behalf of the Florida Industrial Power Users Group (FIPUG).

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

KATHERINE E. FLEMING, ESQUIRE, Florida Public Service Commission,
2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Commission's continuing energy conservation cost recovery proceedings, an administrative hearing is set for November 4-6, 2008. The parties have reached agreement concerning all issues identified for resolution at this hearing. 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.

II. CONDUCT OF PROCEEDINGS

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

III. JURISDICTION

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

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 119.07(1), F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. 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.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

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 Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

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 (*) will be excused from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified as soon as possible as to whether any such witness 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 IX of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*Maria Besada The prefiled testimony of Maria Besada will be adopted by C. Dennis Brandt	FPL	1
*C. Dennis Brandt (Adopts Besada)	FPL	2 – 5
*Marc S. Seagrave	FPUC	1 – 5
*John N. Floyd	GULF	1 – 5
*John A. Masiello	PEF	1 – 5
*Howard T. Bryant	TECO	1 – 7

VII. BASIC POSITIONS

FPL: FPL's proposed Conservation Cost Recovery Factors for the January 2009 through December 2009 recovery period and true-up amounts for prior periods should be approved.

FPUC: FPU 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 factors present the best estimate of Gulf's Conservation expense for the period January 2009 through December 2009, 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 the conservation cost recovery factors set forth in the testimony and exhibits of witness Howard T. Bryant during the period January 2009 through December 2009.

The Commission should also approve the Contracted Credit Value Tampa Electric has calculated for the GSLM-2 and GSLM-3 rate riders for use during the period January 2009 through December 2009, also set forth in witness Bryant's testimony and exhibits.

OPC: None at this time.

FIPUG: As a matter of general principle FIPUG contends that it would be in the interest of energy efficiency for the Commission to direct those utilities that have filed or contemplate filing a base rate case in the near term to roll all fixed conservation costs into base rates. FIPUG further recommends that the Commission revise the RIM test to encourage energy efficiency rather than focusing primarily on the benefits of delaying the construction of utility owned power plants. Prolonging the life of inefficient power plants benefits utility earnings while customers bear the increased fuel cost. FIPUG respectfully suggests that the Commission focus on distributed generation and rewarding customer originated conservation programs. These issues are important and relevant to conservation cost recovery, but have not been raised by the utilities filing evidence in this proceeding and may be addressed in other pending dockets.

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

STIPULATED

ISSUE 1: What are the final conservation cost recovery true-up amounts for the period January 2007 through December 2007?

POSITIONS:

Florida Power & Light Company	\$4,285,620	Underrecovery
Florida Public Utilities Company	\$18,012	Overrecovery
Gulf Power Company	\$1,597,656	Overrecovery
Progress Energy Florida, Inc.	\$1,646,442	Overrecovery
Tampa Electric Company	\$566,948	Overrecovery

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 2: What are the actual/estimated conservation cost recovery true-up amounts for the period January 2008 through December 2008?

POSITIONS:

Florida Power & Light Company	\$17,197,367	Underrecovery
Florida Public Utilities Company	43,660	Underrecovery
Gulf Power Company	\$1,248,047	Overrecovery
Progress Energy Florida, Inc.	\$1,589,434	Overrecovery
Tampa Electric Company	\$147,136	Overrecovery

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 3: What are the total conservation cost recovery amounts to be collected during the period January 2009 through December 2009?

POSITIONS:

Florida Power & Light Company	\$205,084,073
Florida Public Utilities Company	\$597,991
Gulf Power Company	\$9,687,579
Progress Energy Florida, Inc.	\$82,097,033
Tampa Electric Company	\$18,401,850

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 4: What are the conservation cost recovery factors for the period January 2009 through December 2009?

POSITIONS:

FPL	Rate Class	ECCR Factor (Cents/kWh)
	RS1/RST1	0.203
	GS1/GST1	0.204
	GSD1/GSDT1/HLTF (21-499kW)	0.186
	OS2	0.162
	GSLD1/GSLDT1/CS1/CST1/HLTF (500-1,999 kW)	0.180
	GSLD2/GSLDT2/CS2/CST2/HLTF (2,000+kW)	0.170
	GSLD3/GSLDT3/CS3/CST3	0.160
	ISST1D	0.150
	ISST1T	0.147
	SST1T	0.147
	SST1D1/SST1D2/SST1D3	0.150
	CILC D/CILC G	0.167
	CILC T	0.160
	MET	0.187
	OL1/SL1/PL1	0.098
	SL2, GSCU1	0.154
FPUC	Rate Class (Consolidated)	ECCR Factor 0.078 cents/Kwh
GULF	Rate Class	ECCR Factor
	RS, RSVP	0.085 cents/Kwh
	GS	0.083 cents/Kwh
	GSD, GSDT, GSTOU	0.080 cents/Kwh
	LP, LPT	0.076 cents/Kwh
	PX, PXT, RTP, SBS	0.073 cents/Kwh
	OSI, OSII	0.066 cents/Kwh
	OSIII	0.075 cents/Kwh

PEF	Rate Class	ECCR Factor
	Residential	0.223 cents/Kwh
	General Svc. Non-Demand	0.202 cents/Kwh
	@ Primary Voltage	0.200 cents/Kwh
	@ Transmission Voltage	0.198 cents/Kwh
	General Svc. 100% Load Factor	0.164 cents/Kwh
	General Svc. Demand	0.182 cents/Kwh
	@ Primary Voltage	0.180 cents/Kwh
	@ Transmission Voltage	0.178 cents/Kwh
	Curtable	0.153 cents/Kwh
	@ Primary Voltage	0.151 cents/Kwh
	@ Transmission Voltage	0.150 cents/Kwh
	Interruptible	0.169 cents/Kwh
	@ Primary Voltage	0.167 cents/Kwh
	@ Transmission Voltage	0.166 cents/Kwh
	Lighting	0.102 cents/Kwh

TECO	Rate Class	ECCR Factor (Cents/kWh)*
	Interruptible	0.050
	Residential	0.106
	General Svc., TS	0.102
	General Svc. Demand	0.086
	@ Primary Voltage	0.085
	General Svc. LD, SBF	0.079
	@ Primary Voltage	0.078
	@ Subtransmission Voltage	0.077
	SL, OL	0.040

*The factors are subject to change pending the resolution of certain rate design modifications in TECO's pending base rate proceeding in Docket No. 080317-EI.

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 5: What should be the effective date of the new 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 2009 through December 2009. Billing cycles may start before January 1, 2009, and the last cycle may be

read after December 31, 2009, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

OPC: No position.

FIPUG: No position.

Company Specific Conservation Cost Recovery Issues

Tampa Electric Company

STIPULATED

ISSUE 6: What is the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric Company for the period January 2009 through December 2009?

POSITION: In accordance with Order No. PSC-99-1778-FOF-EI, issued September 10, 1999, in Docket No. 990037-EI, the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders will be \$10.91 per KW for the period January 2009 through December 2009.

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 7: What are the residential Price Responsive Load Management (RSVP-1) rate tiers for Tampa Electric Company for the period January 2009 through December 2009?

POSITION: In accordance with Order No. PSC-07-0740-TRF-EG, issued September 17, 2007, in Docket No. 070056-EG, the rate tiers for RSVP-1 will be as follows:

Rate Tier	Cents/kWh*
P4	57.802
P3	10.264
P2	(1.419)
P1	(3.856)

*The rate tiers for RSVP-1 are subject to change pending the resolution of certain rate design modifications in TECO's pending base rate proceeding in Docket No. 080317-EI.

OPC: No position.

FIPUG: No position.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
Maria Besada The prefiled exhibit of Maria Besada will be adopted by C. Dennis Brandt	FPL	MB-1	Schedules CT-1 through CT-6, Appendix A
C. Dennis Brandt (Adopts Besada)	FPL	DB-1	Schedules C-1 through C-5
Marc S. Seagrave	FPUC	MSS-1 (Composite)	True-up calculations and Schedules CT-1, CT-2, CT-3, CT-4, CT-5, and CT-6
Marc S. Seagrave	FPUC	MSS-2 (Composite)	Projections calculations and Schedules C-1, C-2, C-3, C-4, and C-5
John N. Floyd	GULF	JNF-1	Schedules CT-1 through CT-6
John N. Floyd	GULF	JNF-2	Schedules C - 1 through C - 6
John A. Masiello	PEF	JAM-1T	ECCR Adjusted Net True-Up for January – December 2007, Schedules CT1 – CT5
John A. Masiello	PEF	JAM-1P	Estimated/Actual True-Up, January – December 2008 and ECCR Factors for Billings in January – December 2009, Schedules C1 – C5
Howard T. Bryant	TECO	HTB-1	Schedules supporting cost recovery factor, actual January 2007 - December 2007
Howard T. Bryant	TECO	HTB-2	Schedules supporting conservation costs projected for the period January 2009 - December 2009

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

X. PROPOSED STIPULATIONS

There are proposed stipulations on all issues, noting that OPC and FIPUG have taken no position.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

FPL's Request for Confidential Classification of materials provided in Energy Conservation Cost Recovery Clause Audit No. 08-037-4-2, filed August 12, 2008.

XIII. 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 this 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, F.A.C., 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.

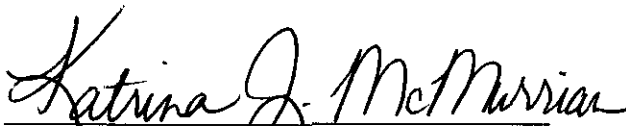
XIV. RULINGS

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

It is therefore,

ORDERED by Commissioner Katrina J. McMurrian, 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 Katrina J. McMurrian, as Prehearing Officer, this 30th day of October, 2008.


KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(S E A L)

KEF

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 Office of Commission Clerk, 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.