

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 130007-EI  
ORDER NO. PSC-13-0513-PHO-EI  
ISSUED: October 28, 2013

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 17, 2013, in Tallahassee, Florida, before Commissioner Eduardo E. Balbis, as Prehearing Officer.

APPEARANCES:

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On behalf of FLORIDA POWER & LIGHT COMPANY (FPL)

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On behalf of DUKE ENERGY FLORIDA, INC. (DEF)

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On behalf of Tampa Electric Company (TECO)

JEFFREY A. STONE, RUSSELL A. BADDERS, and STEVEN R. GRIFFIN, ESQUIRES, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32591-2950  
On behalf of Gulf Power Company (Gulf)

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On behalf of the Citizens of the State of Florida (OPC)

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

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Eighth Floor, West Tower, Washington, DC 20007  
On behalf of the WHITE SPRINGS AGRICULTURAL CHEMICALS, INC.  
d/b/a PCS PHOSPHATE – WHITE SPRINGS (PCS)

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1300 Thomaswood Drive, Tallahassee, Florida 32308  
On behalf of the DeSoto County Generating Company, LLC (DeSoto)

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On behalf of the Florida Public Service Commission (Staff)

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Advisor to the Florida Public Service Commission.

## **PREHEARING ORDER**

### **I. CASE BACKGROUND**

As part of the Commission's continuing environmental cost recovery clause proceedings, the Commission has set a hearing in this docket for November 4-6, 2013. By Order No. PSC-13-0490-PCO-EI, issued in this docket on October 16, 2013, a hearing also will be held in this docket on December 19-20, 2013, to address issues related to FPL's Proposed NO<sub>2</sub> Compliance Project. The December hearing will be a continuation of the November 4-6, 2013 hearing and will be based on the same prefiled testimony and record, with the addition of live testimony and exhibits that may be introduced. A final order will be issued after the November 4-6, 2013 hearing addressing all issues in this docket that are not scheduled to be heard at the December hearing. FPL's environmental costs and factors, determined during the Commission's November hearing, shall be subject to "true up" based on the Commission's decisions regarding the FPL Project, in accordance with the routine environmental cost recovery clause process.

### **II. CONDUCT OF PROCEEDINGS**

Pursuant to Rule 28-106.211, F.A.C., this Prehearing 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 Section 366.8255, Florida Statutes (F.S.). This hearing will be governed by that statute, Chapter



120, F.S., and Rules 25-22.075 and 28-106, F.A.C., as well as any other applicable provisions of law.

#### **IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION**

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, 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**

All witnesses are excused from the November 4-6, 2013 hearing in this docket. The testimony of excused witnesses shall 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 shall be admitted into the record.

Each witness who provided testimony regarding FPL's proposed NO<sub>2</sub> project has an asterisk by his or her name at Section VI below and must attend the December 19-20, 2013 hearing at which time each such witness will have the opportunity to orally summarize his or her testimony upon taking the stand. Summaries of testimony shall be limited to five minutes. After all parties and staff have had the opportunity to cross-examine the witness, additional exhibits may be admitted into the record.

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.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

**VI. ORDER OF WITNESSES<sup>1</sup>**

Witnesses at the December 19-20, 2013 hearing have been identified with an asterisk below and, generally, will be heard in the following order.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
T.J. Keith*	FPL	1-8, 10,11
R.R. LaBauve*	FPL	9, 10, 10A-B
M. Debock*	FPL	10
M. Domenech*	FPL	10

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<sup>1</sup> It is understood that witness availability will necessitate that some witnesses be taken out of order.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
J.E. Enjamio*	FPL	10, 10C
Thomas G. Foster	DEF	1-8, 15
Corey Ziegler	DEF	1-3
Mark Hellstern	DEF	1-3
Patricia Q. West	DEF	1-3, 12-14
Benjamin Borsch	DEF	12
Jeffrey Swartz	DEF	1-3, 12
Howard T. Bryant	TECO	1, 2, 3, 4, 5, 6, 7, 8
Paul L. Carpinone	TECO	3
J. O. Vick	Gulf	1, 2, 3, 16, 17
M. T. O'Sheasy	Gulf	17
R. W. Dodd	Gulf	1, 2, 3, 4, 5, 6, 7, 8, 17
Jeffry Pollock*	FIPUG	10A, 10B, 10C, and 11
Kathy A. French*	DeSoto	10 and 10.C
Carolyn Wass*	DeSoto	10 and 10.C
<u>Rebuttal</u>		
T.J. Keith*	FPL	10, 11
J.E. Enjamio*	FPL	10, 10C
W.L. Yeager*	FPL	10, 10C
<u>Surrebuttal</u>		
Kathy A. French*	DeSoto/OPC	10, 10C
Carolyn Wass & Casey Carroll*	DeSoto/OPC	10, 10C

**VII. BASIC POSITIONS**

**FPL:** FPL's 2014 Environmental Cost Recovery factors, including the prior period true-ups reflected therein, are reasonable and should be approved. The Commission should approve FPL's Supplemental Clean Air Interstate Rule (CAIR), Mercury and Air Toxics Standards (MATS) and Clean Air Visibility Rule (CAVR)/ Best Available Retrofit Technology (BART) Filing as reasonable. The Commission also should approve the proposed NO<sub>2</sub> Compliance Project involving the retirement and installation of peaking generating units for cost recovery through the ECRC, with such costs allocated to the rate classes on an average 12 CP demand basis and 1/13th energy basis.

**DEF:** None necessary.

**Gulf:** It is the basic position of Gulf Power Company that the environmental cost recovery factors proposed by the Company present the best estimate of Gulf's environmental compliance costs recoverable through the Environmental Cost Recovery Clause (ECRC) for the period January 2014 through December 2014 including the true-up calculations and other adjustments allowed by the Commission.

**TECO:** The Commission should approve the compliance programs described in the testimony and exhibits of Tampa Electric Witnesses Bryant and Carpinone for environmental cost recovery. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period January 2012 through December 2012, the actual/estimated environmental cost recovery true-up for the current period January 2013 through December 2013, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2014 through December 2014.

**OPC:** FPL seeks to receive ECRC recovery of \$822 million in generation plant and related investment that the company not required for compliance with an existing, defined governmentally imposed environmental regulation. This is the first time generation plants have been proposed for recovery through the ECRC. The Commission should reject the effort to transform the ECRC into a de facto generation clause merely because a company decides that building a new power plant – be it peaking unit or baseload unit – is a convenient way to avoid the possible strictures of potential future environmental regulations. Putting aside the policy reasons for rejecting the request, FPL's request should also be rejected because FPL has not met its burden of showing that there is an environmental regulation that it must comply with at the three generating locations and because the type of generation (and related transmission) investment that the company proposes to make is not required as an environmental compliance measure. Along



these lines, FPL has not met its burden of demonstrating that the proposed scope of the so-called compliance project is the least required, even if there is a discreet, demonstrable regulation with which FPL must comply with at the three generation sites. Additionally FPL has not demonstrated that any proposed measure to comply with an existing environmental regulation is designed using the lowest cost solution, including, for example, purchase of existing facilities.

**FIPUG:**

FIPUG maintains that the respective utilities must satisfy their burden of proof for any and all monies sought in this proceeding. Furthermore, FPL's request to recover \$825 million dollars for the costs of new peaking power plants through the environmental clause should be denied. The environmental regulation that FPL relies upon is not new and does not compel FPL to install new generating capacity. Additionally, FPL is contractually precluded from recovering these costs through the environmental clause by the terms of its settlement agreement with FIPUG. Specifically, the parties agreed in pertinent part that, "It is the intent of the Parties in this Paragraph 6 that FPL not be allowed to recover through cost recovery clauses increases in the magnitude of costs of types or categories (including but not limited to, for example, investment in and maintenance of transmission assets) that have been and traditionally, historically, and ordinarily would be recovered through base rates." Hundreds of millions of dollars in costs for new power plants have not traditionally, historically and ordinarily been recovered through the environmental clause, and thus, as a matter of contract, should not be recovered in this proceeding. Finally, the power plants for which FPL seeks recovery are scheduled to become operational in December of 2016. FPL is free to file for a base rate increase that would become effective in January of 2017. FPL should seek recovery of these new peaking power plants in its next base rate case proceeding, not through the environmental cost recovery clause.

**PCS:**

At this time, PCS Phosphate generally accepts and adopts the positions taken by OPC.

**DeSoto:**

FPL seeks to receive ECRC recovery of \$822 million in generation plant and related investment that FPL asserts is required for compliance with an existing, defined governmentally imposed environmental regulation. Assuming that FPL does in fact need to add generation to meet environmental standards, FPL is still obligated to select the least costly means of satisfying its needs, whatever they are. In this case, DeSoto disputes FPL's assertions that FPL's "self-build" CT option is the most cost-effective alternative for meeting its needs, and further disputes whether FPL adequately explored all available alternatives, and combinations of alternatives, to meeting its needs. Accordingly, the Commission should direct FPL to fully explore available alternatives, withhold its approval of FPL's proposed NO2 Compliance Project until FPL has demonstrated that it has, in fact, fully explored all available alternatives and attempted to get the most cost-effective solution for customers, and disallow recovery of any portion of FPL's

proposed new CT investment that is not demonstrated to represent the most cost-effective alternative for FPL's customers.

DeSoto takes no positions with respect to the issues in this docket relating to utilities other than FPL.

**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 stated herein.

### **VIII. ISSUES AND POSITIONS**

The parties have resolved Issues 1 through 9 and 12 through 17 as set forth immediately below.<sup>2</sup> Issues 10, 10A-D, and 11, set forth below following the issues that have been resolved, remain in dispute and will be the subject of a hearing scheduled for December 19-20, 2013, in this docket.

#### **GENERIC ISSUES**

**ISSUE 1** What are the final environmental cost recovery true-up amounts for the period January 2012 through December 2012?

#### Proposed Stipulation

<b><u>FPL</u></b>	\$1,227,750	Over Recovery
<b><u>DEF</u></b>	\$2,001,164	Under Recovery
<b><u>Gulf</u></b>	\$3,704,022	Under Recovery
<b><u>TECO</u></b>	\$3,702,886	Under Recovery

**FPL** Yes.

**DEF** Yes.

**Gulf** Yes.

**TECO** Yes.

**OPC** Does not object but does not join.

**FIPUG** Does not object but does not join.

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<sup>2</sup> FPL's cost recovery amounts and factors are subject to "true up" based on the Commission's decision regarding Issues 10, 10A-D, and 11.



**PCS** Does not object but does not join.

**DeSoto** Does not object but does not join.

**Staff** Yes.

**ISSUE 2:** What are the estimated/actual environmental cost recovery true-up amounts for the period January 2013 through December 2013?

Proposed Stipulation

<b>FPL</b>	\$3,614,555	Under Recovery
<b>DEF</b>	\$17,567,172	Under Recovery
<b>Gulf</b>	\$4,084,856	Under Recovery
<b>TECO</b>	\$1,243,352	Over Recovery

**FPL** Yes.

**DEF** Yes.

**Gulf** Yes.

**TECO** Yes.

**OPC** Does not object but does not join.

**FIPUG** Does not object but does not join.

**PCS** Does not object but does not join.

**DeSoto** Does not object but does not join.

**Staff** Yes.

**ISSUE 3:** What are the projected environmental cost recovery amounts for the period January 2014 through December 2014?

Proposed Stipulation

<b>FPL</b>	\$218,223,346
<b>DEF</b>	\$67,232,968
<b>Gulf</b>	\$142,486,731
<b>TECO</b>	\$85,797,813

**FPL** Yes.

**DEF** Yes.

**Gulf** Yes.

**TECO** Yes.

**OPC** Does not object but does not join.

**FIPUG** Does not object but does not join.

**PCS** Does not object but does not join.

**DeSoto** Does not object but does not join.

**Staff** Yes.

**ISSUE 4:** What are the environmental cost recovery amounts, including true-up amounts, for the period January 2014 through December 2014?

Proposed Stipulation

<b>FPL</b>	\$220,768,991
<b>DEF</b>	\$86,863,801
<b>Gulf</b>	\$150,383,807
<b>TECO</b>	\$88,320,892

**FPL** Yes.

**DEF** Yes.

**Gulf** Yes.

**TECO** Yes.  
**OPC** Does not object but does not join.  
**FIPUG** Does not object but does not join.  
**PCS** Does not object but does not join.  
**DeSoto** Does not object but does not join.  
**Staff** Yes.

**ISSUE 5:** **What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2014 through December 2014?**

Proposed Stipulation

The depreciation rates used to calculate the depreciation expense shall be the rates that are in effect during the period the allowed capital investment is in service.

**FPL** Yes.  
**DEF** Yes.  
**Gulf** Yes.  
**TECO** Yes.  
**OPC** Does not object but does not join.  
**FIPUG** Does not object but does not join.  
**PCS** Does not object but does not join.  
**DeSoto** Does not object but does not join.  
**Staff** Yes.

**ISSUE 6:** **What are the appropriate jurisdictional separation factors for the projected period January 2014 through December 2014?**

Proposed Stipulation



The appropriate jurisdictional separation factors for the projected period January 2014 through December 2014 follow:

<b><u>FPL</u></b>	Retail Energy Jurisdictional Factor	95.56846%
	Retail CP Demand Jurisdictional Factor	95.20688%
	Retail GCP Demand Jurisdictional Factor	100%

**DEF** The jurisdictional energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total system kWh sales.

Transmission Average 12 CP demand jurisdictional factor –70.203%  
Distribution Primary demand jurisdictional factor – 99.561%  
Production Demand jurisdictional factors:  
Production Base – 92.885%  
Production Intermediate – 72.703%  
Production Peaking – 95.924%  
Production A&G – 93.221%

**Gulf** The demand jurisdictional separation factor is 97.07146%. Energy jurisdictional separation factors are calculated each month based on retail kWh sales as a percentage of projected total territorial kWh sales.

**TECO** The jurisdictional separation factor for demand and energy is 100.00%. The energy jurisdictional separation factors are calculated each month based on projected retail kWh sales as a percentage of projected total system kWh sales.

**FPL** Yes.

**DEF** Yes.

**Gulf** Yes.

**TECO** Yes.

**OPC** Does not object but does not join.

**FIPUG** Does not object but does not join.

**PCS** Does not object but does not join.

**DeSoto** Does not object but does not join.

**Staff** Yes.

**ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2014 through December 2014 for each rate group?**

Proposed Stipulation

The appropriate environmental cost recovery factors for the period January 2014 through December 2014 for each rate group follow:

**FPL**

RATE CLASS	Environmental Cost Recovery Factor (\$/KWH)
RS1/RTR1	0.00230
GS1/GST1/WIES1	0.00196
GSD1/GSDT1/HLFT1	0.00190
OS2	0.00178
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.00189
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.00165
GSLD3/GSLDT3/CS3/CST3	0.00160
SST1T	0.00178
SST1D1/SST1D2/SST1D3	0.00172
CILC D/CILC G	0.00159
CILC T	0.00151
MET	0.00187
OL1/SL1/PL1	0.00072
SL2, GSCU1	0.00155
Total	0.00209

**DEF**

<b>Rate Class</b>	<b>ECRC Factors</b>
Residential	0.243 cents/kWh
General Service Non-Demand	
@ Secondary Voltage	0.235 cents/kWh
@ Primary Voltage	0.233 cents/kWh
@ Transmission Voltage	0.230 cents/kWh
General Service 100% Load Factor	0.205 cents/kWh
General Service Demand	
@ Secondary Voltage	0.220 cents/kWh
@ Primary Voltage	0.218 cents/kWh
@ Transmission Voltage	0.216 cents/kWh
Curtaillable	
@ Secondary Voltage	0.293 cents/kWh
@ Primary Voltage	0.290 cents/kWh
@ Transmission Voltage	0.287 cents/kWh
Interruptible	
@ Secondary Voltage	0.201 cents/kWh
@ Primary Voltage	0.199 cents/kWh
@ Transmission Voltage	0.197 cents/kWh
Lighting	0.183 cents/kWh



**Gulf**

<b>RATE CLASS</b>	<b>ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH</b>
RS, RSVP	1.554
GS	1.402
GSD, GSDT, GSTOU	1.249
LP, LPT	1.114
PX, PXT, RTP, SBS	1.062
OS-I/II	0.419
OSIII	1.020

**TECO**

<b><u>Rate Class</u></b>	<b><u>Factor (¢/kWh)</u></b>
RS	0.483
GS, TS	0.483
GSD, SBF	
Secondary	0.482
Primary	0.477
Transmission	0.472
IS	
Secondary	0.472
Primary	0.468
Transmission	0.463
LS1	0.478
Average Factor	0.482

**FPL**      Yes.

**DEF**      Yes.

**Gulf**      Yes.

**TECO** Yes.  
**OPC** Does not object but does not join.  
**FIPUG** Does not object but does not join.  
**PCS** Does not object but does not join.  
**DeSoto** Does not object but does not join.  
**Staff** Yes.

**ISSUE 8:** **What should be the effective date of the new environmental cost recovery factors for billing purposes?**

Proposed Stipulation

The new factors should be effective beginning with the first billing cycle for January 2014 and thereafter through the last billing cycle for December 2014. The first billing cycle may start before January 1, 2014, and the last cycle may be read after December 31, 2014, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. The new factors shall continue in effect until modified by this Commission.

**FPL** Yes.  
**DEF** Yes.  
**Gulf** Yes.  
**TECO** Yes.  
**OPC** Does not object but does not join.  
**FIPUG** Does not object but does not join.  
**PCS** Does not object but does not join.  
**DeSoto** Does not object but does not join.  
**Staff** Yes.

**COMPANY-SPECIFIC ISSUES<sup>3</sup>**

**FPL**

**ISSUE 9:**     **Should the Commission approve FPL’s Supplemental Clean Air Interstate Rule (CAIR), Mercury and Air Toxics Standards (MATS) and Clean Air Visibility Rule (CAVR)/ Best Available Retrofit Technology (BART) filing as reasonable?**

Proposed Stipulation

Yes. Completion of the compliance activities discussed in FPL’s Supplemental CAIR/MATS/CAVR Filing of April 1, 2013, is required by existing federal and state environmental rules and regulatory requirements for air quality control and monitoring; and the associated project costs appear reasonable and prudent. FPL shall continue to file, as part of its annual ECRC final true-up testimony, a review of the efficacy of its CAIR/MATS/CAVR compliance plans, and the cost-effectiveness of its retrofit options for each generating unit in relation to expected changes in environmental regulations and ongoing state and federal CAIR legal challenges. The reasonableness and prudence of individual expenditures, and FPL’s decisions on the future compliance plans made in light of subsequent developments, will continue to be subject to the Commission’s review in future ECRC proceedings on these matters.

- |                      |                                    |
|----------------------|------------------------------------|
| <b><u>FPL</u></b>    | Yes.                               |
| <b><u>DEF</u></b>    | Does not object but does not join. |
| <b><u>Gulf</u></b>   | Does not object but does not join. |
| <b><u>TECO</u></b>   | Does not object but does not join. |
| <b><u>OPC</u></b>    | Does not object but does not join. |
| <b><u>FIPUG</u></b>  | Does not object but does not join. |
| <b><u>PCS</u></b>    | Does not object but does not join. |
| <b><u>DeSoto</u></b> | Does not object but does not join. |
| <b><u>Staff</u></b>  | Yes.                               |

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<sup>3</sup> There are no company-specific issues for TECO.



**DEF**

**ISSUE 12: Should the Commission approve DEF's Review of Integrated Clean Air Compliance Plan as reasonable?**

Proposed Stipulation

Yes. DEF's Review of its Integrated Clean Air Compliance Plan provides an adequate summary of its plan for timely compliance with applicable environmental regulations. DEF is continuing to evaluate future compliance options concerning the EPA's recently remanded Cross-State Air Pollution Rule (CSAPR), finalized Mercury & Air Toxics Standards (MATS), and other environmental regulatory developments affecting fossil fuel-fired generating units.

DEF shall continue to file, as part of its annual ECRC final true-up testimony, an update of its Integrated Clean Air Compliance Plan. The reasonableness and prudence of individual expenditures, and DEF's decisions on the future compliance plans made in light of subsequent environmental rule developments, will continue to be subject to the Commission's review in future ECRC proceedings on these matters.

**FPL** Does not object but does not join.

**DEF** Yes.

**Gulf** Does not object but does not join.

**TECO** Does not object but does not join.

**OPC** Does not object but does not join.

**FIPUG** Does not object but does not join.

**PCS** Does not object but does not join.

**DeSoto** Does not object but does not join.

**Staff** Yes.

**ISSUE 13: Should the Commission approve modification of DEF's previously approved Integrated Clean Air Compliance Program to encompass alternative coal trials associated with the Crystal River Units 1 and 2 MATS compliance project, such that the costs associated with such activities may be recovered through the ECRC?**

Proposed Stipulation

Yes. The Commission recognized in Order No. PSC-08-0775-FOF-EI, issued November 24, 2008, in Docket No. 080007-EI, In re: Environmental Cost Recovery Clause, that utilities are expected to take steps to control the level of costs that must be incurred for environmental compliance. DEF's proposed coal trials will allow the Company to evaluate whether firing alternative coals in Crystal River Units 1 and 2 would be a cost-effective means of complying with the requirements of MATS. Based on the evidence in the record, the proposed project meets the criteria for cost recovery established by the Commission in 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

**FPL** Does not object but does not join.

**DEF** Yes.

**Gulf** Does not object but does not join.

**TECO** Does not object but does not join.

**OPC** Does not object but does not join.

**FIPUG** Does not object but does not join.

**PCS** Does not object but does not join.

**DeSoto** Does not object but does not join.

**Staff** Yes.

**ISSUE 14: Should the Commission approve DEF's petition for approval of the Revised Effluent Limitations Guidelines and Standards Project and recovery of the associated cost through the ECRC?**

Proposed Stipulation

Yes. In April 2013, the U.S. Environmental Protection Agency (EPA) proposed revised effluent limitation guidelines and standards for the Steam Electric Generating Industry pursuant to the federal Clean Water Act. The proposed rule would establish new or additional requirements for wastewater streams from various processes and byproducts associated with steam electric power generation, including: flue gas desulfurization, fly ash, bottom ash, non-chemical metal cleaning wastes and flue gas mercury control. The EPA is considering several options in this rulemaking and has identified four preferred alternatives for regulation of discharges from existing sources. DEF is in the process of analyzing potential compliance options for affected units and expects to incur compliance costs in 2014.

By Order No. PSC-11-0553-FOF-EI, issued December 7, 2011, in Docket No. 110007-EI, In re: Environmental cost recovery clause, the Commission approved DEF's Maximum Achievable Control Technology Project. In that Order the Commission stated:

PEF's proposed activities are necessary for the Company to assess the proposed rule, prepare comments to the EPA, and develop compliance strategies within aggressive regulatory timeframes.

Similarly, in the instant case, the costs associated with DEF's Revised Effluent Limitations Guidelines and Standards Project are associated with engineering studies that are needed in order for DEF to evaluate the proposed options and to develop compliance strategies or plans for potentially affected systems.

The reasonableness and prudence of individual expenditures, and DEF's decisions on future compliance plans made in light of subsequent environmental rule developments, will continue to be subject to the Commission's review in future ECRC proceedings on these matters. Based on the evidence in the record, the proposed project meets the criteria for cost recovery established by the Commission in 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.

**FPL** Does not object but does not join.

**DEF** Yes.



<b><u>Gulf</u></b>	Does not object but does not join.
<b><u>TECO</u></b>	Does not object but does not join.
<b><u>OPC</u></b>	Does not object but does not join.
<b><u>FIPUG</u></b>	Does not object but does not join.
<b><u>PCS</u></b>	Does not object but does not join.
<b><u>DeSoto</u></b>	Does not object but does not join.
<b><u>Staff</u></b>	Yes.

**ISSUE 15: How should the costs associated with DEF's proposed Revised Effluent Limitations Guidelines and Standards Project be allocated to the rate classes?**

Proposed stipulation

Capital costs for the ELG Project shall be allocated to rate classes on a demand basis. O&M costs for the project shall be allocated to the rate classes on an energy basis.

<b><u>FPL</u></b>	Does not object but does not join.
<b><u>DEF</u></b>	Yes.
<b><u>Gulf</u></b>	Does not object but does not join.
<b><u>TECO</u></b>	Does not object but does not join.
<b><u>OPC</u></b>	Does not object but does not join.
<b><u>FIPUG</u></b>	Does not object but does not join.
<b><u>PCS</u></b>	Does not object but does not join.
<b><u>DeSoto</u></b>	Does not object but does not join.
<b><u>Staff</u></b>	Yes.

**Gulf**

**ISSUE 16:    **Should the Commission approve Gulf's Environmental Compliance Program Update as reasonable?****

Proposed Stipulation

On October 10, 2013, the Commission issued Order No. 13-0454-PCO-EI. In this Order the Commission (among other things) granted OPC's Motion to Consolidate issues related to the proposed Plant Crist and Plant Smith transmission line upgrade projects that Gulf included in its Environmental Compliance Program Update with Docket No. 130140-EI, which is Gulf's pending petition for an increase in base rates. As ordered by the Commission, the regulatory treatment of Plant Crist and Plant Smith's transmission line upgrades shall be litigated as an issue in Docket No. 130140-EI. Accordingly, those transmission projects are no longer a part of this docket or Docket No. 130092-EI and are excluded from this stipulation.

Yes. On April 1, 2013, Gulf Power filed its annual environmental Compliance Program Update with the Commission. The document is an update of Gulf's original Compliance Plan set forth in the stipulation between OPC, FIPUG, and Gulf which was approved by the Commission by Order No. PSC-07-0721-S-EI, issued September 5, 2007, in Docket No. 070007-EI, In re: Environmental cost recovery clause. The update reflects all of the changes to Gulf's Compliance Plan since the initial plan was approved. In the update, Gulf outlines ongoing compliance projects as well as new MATS compliance projects.

The update provides an adequate assessment of Gulf's compliance plan and strategies for meeting environmental regulations. The reasonableness and prudence of individual expenditures, and Gulf's decisions on future compliance plans made in light of subsequent environmental rule developments, will continue to be subject to the Commission's review in future ECRC proceedings on these matters.

**FPL**            Does not object but does not join.

**DEF**            Does not object but does not join.

**Gulf**            Yes.

**TECO**           Does not object but does not join.

**OPC**            Does not object but does not join.

**FIPUG**           Does not object but does not join.

PCS Does not object but does not join.  
DeSoto Does not object but does not join.  
Staff Yes.

**ISSUE 17: Should Gulf's proposal to allocate costs associated with the Clean Air Act Amendments of 1990 (CAAA) and other air quality capital costs to the rate classes on a 12 Coincident Peak (CP) and 1/13 energy basis be approved?**

Proposed Stipulation

Yes. The 12-MCP and 1/13<sup>th</sup> energy basis is an appropriate cost allocation for the investment-related (fixed) costs incurred to comply with CAAA and other air quality environmental regulations.

FPL Does not object but does not join.  
DEF Does not object but does not join.  
Gulf Yes.  
TECO Does not object but does not join.  
OPC Does not object but does not join.  
FIPUG Does not object but does not join.  
PCS Does not object but does not join.  
DeSoto Does not object but does not join.  
Staff Yes.

**ISSUES TO BE HEARD AT DECEMBER 19-20, 2013 HEARING<sup>4</sup>**

**ISSUE 10: Should the Commission approve FPL's Petition for approval of the proposed NO<sub>2</sub> compliance project involving the retirement and installation of peaking generating units for cost recovery through the ECRC?**

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<sup>4</sup> Pursuant to Order No PSC-13-0490-PCO-EI, issued on October 16, 2013, FPL shall have until November 29, 2013, to revise its positions on Issues 10, 10A-10C, and 11 as may be needed to address surrebuttal testimony.

**POSITION:**

**FPL**

Yes. The United States Environmental Protection Agency (“EPA”) created a new 1-hour human National Ambient Air Quality Standard (“NAAQS”) for NO<sub>2</sub> that became effective on April 12, 2010. The EPA has delegated authority to the Florida Department of Environmental Protection (“DEP”) to implement the NAAQS in Florida. On January 22, 2013, DEP confirmed to EPA its authority to implement the new 1-hour NO<sub>2</sub> Standard.

The new 1-hour NO<sub>2</sub> Standard has a particular impact on the operation of electric utilities’ peaking generating units, which operate only at certain times to serve peak demands and do not operate continuously throughout the entire year. FPL has a total of 48 peaking gas turbines (“GTs”) at the Lauderdale, Fort Myers and Port Everglades plant sites. In early 2013, FPL determined through stack testing, dispersion modeling, and other data analysis that emissions from the GTs that are allowed under applicable permits nonetheless will cause or contribute to ambient concentrations in excess of the 1-hour NO<sub>2</sub> Standard at the property boundaries. Due to their quick-start capability, these GTs are extremely important reliability resources for serving load in the South Florida area. FPL has agreed to a plan with DEP that allows FPL to continue operating the GTs until the end of 2016, in exchange for FPL’s commitment to meet the 1-hour NO<sub>2</sub> Standard at the plant property boundaries by that time.

FPL identified and investigated three compliance alternatives to meet the new 1-hour NO<sub>2</sub> Standard at the least cost to FPL’s customers: retrofitting the GTs with emission control equipment; retiring all of the GTs and accelerating the next planned generating unit; and retiring all of the GTs and changing out the combustion technology at the Lauderdale and Fort Myers sites in favor of highly efficient combustion turbines (“CTs”) that have much lower NO<sub>2</sub> emissions. FPL determined that the third alternative is the most cost-effective, with a cost to customers that is \$56 million lower on a cumulative present value of revenue requirements (“CPVRR”) basis than the next-best FPL alternative. FPL also evaluated the potential to purchase the DeSoto facility or purchase power from that facility as proposed by LS Power, but FPL’s preferred alternative is at least \$48 million more favorable for customers on a CPVRR basis than any alternative that relies upon the DeSoto facility.

The cost for retiring the GTs and installing highly efficient and clean CTs at the Lauderdale and Fort Myers sites qualifies for ECRC recovery because the project meets the three established Commission criteria for cost recovery. In order to ensure that project costs are prudently incurred, FPL will use competitive bidding to select the vendors for the CTs, generator step-up transformers and engineering, procurement and construction contracts that comprise the majority of those costs. FPL also will draw on its years of experience in building and operating



combustion turbines in both simple-cycle and combined cycle configurations. (DeBock, Domenech, Enjamio, Keith, LaBauve, Yeager)

**OPC**

No. The proposal from FPL does not meet the test established in Order No. PSC-94-0044-FOF-EI, inasmuch as the proposed CTs are not legally required to comply with a governmentally imposed environmental regulation. FPL has not identified a discrete regulation with which it is or will be out of compliance. Furthermore, FPL has not met its burden of demonstrating that the proposed CT installation project is required to meet a governmentally imposed environmental regulation that, *arguendo*, applies to the existing locations and existing GT facilities. FPL has further not demonstrated that even assuming the efficacy and applicability of the regulation(s) to which it has cited and the requirement that it take the actions it has proposed, that it has adopted a least-cost, prudent and reasonable approach to implementing its proposed compliance measure.

**FIPUG**

No. FPL is not required by a “new” environmental regulation to spend \$825 million dollars for new peaking power plants. These costs, if approved, should be recovered in FPL’s next base rate case. Additionally, FPL is contractually precluded from recovering these costs through the environmental clause by the terms of its settlement agreement with FIPUG. Specifically, the parties agreed in pertinent part that, “It is the intent of the Parties in this Paragraph 6 that FPL not be allowed to recover through cost recovery clauses increases in the magnitude of costs of types or categories (including but not limited to, for example, investment in and maintenance of transmission assets) that have been and traditionally, historically, and ordinarily would be recovered through base rates.” Hundreds of millions of dollars in costs for new power plants have not traditionally, historically and ordinarily been recovered through the environmental clause, and thus, as a matter of contract, should not be recovered in this proceeding.

**PCS**

PCS Phosphate agrees with and adopts the position of OPC.

**DeSoto**

No. FPL has not demonstrated that it adequately considered all available alternatives, and combinations of alternatives, for meeting its asserted need for new CT capacity, nor has it demonstrated that its proposed new CTs represent the most cost-effective alternative for customers, and accordingly, the Commission should deny FPL’s Petition.

**Staff**

No position at this time.

**ISSUE 10A:**

**Is FPL required by current environmental regulations to reduce NO<sub>2</sub> emissions at the Lauderdale, Port Everglades and Ft. Myers sites and if so, when must the emissions be reduced?**



**POSITION:**

**FPL** Yes. DEP agreed with FPL's conclusion that measures need to be taken to avoid off-site exceedances of the 1-hour NO<sub>2</sub> standard at the Lauderdale, Fort Myers and Port Everglades sites. DEP accepted FPL's proposal to modify the existing peaking unit technology with the installation of high-efficiency, low-emitting CTs as an appropriate means of reducing the NO<sub>2</sub> emissions, and agreed to allow FPL until December 31, 2016 to complete its implementation of that proposal. (LaBauve)

**OPC** FPL has not carried its burden of demonstrating that currently effective environmental regulations apply to the named locations and that the company's facilities will be out-of-compliance with such regulations, nor has FPL met its burden of demonstrating that there is a deadline for any environmental regulation compliance that may nonetheless be required.

**FIPUG** No.

**DeSoto** No position.

**Staff** No position at this time.

**ISSUE 10B:** **Is FPL's proposed installation of combustion turbines at the Lauderdale and Ft. Myers plants required by current environmental regulations?**

**POSITION:**

**FPL** As is typically the case with environmental regulations, DEP requires that the 1-hour NO<sub>2</sub> Standard be met but does not attempt to specify a particular technical approach to meeting it. FPL evaluated available alternatives and concluded that retiring the GTs and replacing the combustion technology at the Lauderdale and Fort Myers sites with high-efficiency, low-emitting CTs is the most cost-effective alternative to comply with the 1-hour NO<sub>2</sub> Standard. (LaBauve)

**OPC** No. FPL has not met its burden of demonstrating that it will be out-of-compliance with any environmental regulation at the sites where the GT/peakers are utilized or that the proposed installation of all or any of the proposed CTs is nonetheless required to comply with an environmental regulation.

**FIPUG** No. Environmental regulations do not require FPL to install its proposed peaking generation units.

**DeSoto** No position.

**Staff** No position at this time.

**ISSUE 10C:** **Do more cost effective alternatives exist as compared to FPL's proposed installation of combustion turbines at the Lauderdale and Ft. Myers plants?**

**POSITION:**

**FPL** No, FPL has thoroughly searched for feasible alternatives that would allow FPL to comply with the 1-hour NO<sub>2</sub> Standard. It has conducted economic evaluations of all such alternatives, including the potential to purchase the DeSoto facility or purchase power from that facility as proposed by LS Power. This process has not identified any alternative that is more cost-effective for customers than FPL's proposal to retire all of the GTs and change out the combustion technology at the Lauderdale and Fort Myers sites in favor of highly-efficient, low-emitting CTs. The results of the economic evaluation show that FPL's Combustion Technology Change Option is the lowest cost option for FPL and its customers by wide margins, when compared to all the other alternatives. (Enjamio, Yeager)

**OPC** Assuming, *arguendo*, that there is a requirement to discontinue using the existing GT/peakers at the identified FPL plant sites, FPL has not demonstrated that it has fully considered all effective lower cost options such as the purchase of existing facilities like the 310 MW DeSoto generating facility.

**FIPUG** Yes.

**DeSoto** Yes. At a minimum, FPL has the opportunity to purchase the DeSoto Generating Facility at a cost that is substantially less than the cost of an equivalent amount of CT capacity proposed by FPL. Additionally, FPL can add the DeSoto Facility into its fleet in combination with other generating resources in ways that will result in lower overall costs to FPL's customers than they would bear under FPL's proposed plan. Beyond that, FPL has not demonstrated that it has fully considered all lower cost options such as the potential purchase of other existing facilities like the 310 MW DeSoto Generating Facility.

**Staff** No position at this time.

**ISSUE 10D** **Is FPL contractually precluded from recovering the costs associated with its new peaking power plants by the following language contained in paragraph 6 of the December 13, 2012 Stipulation and Settlement executed between a number of parties, including FIPUG, and approved by the Commission: "It is the intent of the Parties in this Paragraph 6 that FPL not be allowed to recover through cost recovery clauses increases in the magnitude of costs of types or categories (including but not limited to, for example, investment in**



**and maintenance of transmission assets) that have been and traditionally, historically, and ordinarily would be recovered through base rates”?**

**FPL**

This is a legal issue of contract interpretation. FPL is not contractually precluded by the December 13, 2012 Stipulation and Settlement (the “Settlement Agreement”) from recovering costs for the NO<sub>2</sub> Compliance Project through the ECRC. FIPUG’s formulation of this issue quotes selectively and misleadingly from Paragraph 6 of the Settlement Agreement. The first sentence of Paragraph 6 provides that “[n]othing shall preclude the Company from requesting the Commission to approve the recovery of costs (a) that are of a type which traditionally and historically would be, have been, or are presently recovered through cost recovery clauses or surcharges,....” FPL seeks to recover the costs of the NO<sub>2</sub> Compliance Project because it meets the requirements for ECRC recovery set forth in Section 366.8255, Florida Statutes, and Order No. PSC-94-0044-FOF-EI. The Project is the most cost-effective alternative available to comply with an environmental law or regulation, specifically the 1-hour NO<sub>2</sub> standard that has been adopted by the U.S. EPA and is implemented by the Florida DEP. This is the basis upon which the Commission has approved ECRC cost recovery for a wide variety of utility environmental projects over the past 20 years. The statute does not discriminate on the basis of the type or nature of the compliance measure. The best compliance option, which in this case also is the lowest cost option, is eligible under state law for clause recovery, regardless of FIPUG’s attempt in the formulation of the issue to characterize the project as “new peaking power plants.” Further, as a matter of public policy, the best and lowest cost compliance project should not be penalized based on how FIPUG chooses to characterize the project. But, in fact, even assuming such a distinction were dispositive, FPL is not seeking to recover costs for new power plants to meet capacity needs; rather, the Project entails changing out the combustion technology at existing power plants to achieve environmental compliance. FPL’s request for ECRC recovery is squarely within the parameters of the Commission’s existing authority and is permitted under Paragraph 6 of the Settlement Agreement.

**OPC**

The OPC asserts that the stipulation and settlement approved by Order No. 130023-S-EI is unlawful and thus a nullity. The OPC’s appeal of the order approving the settlement, in which OPC is contesting the legality of this Order and of the settlement that it approved, is pending before the Florida Supreme Court in Case No. SC13-144. The validity of the proposed issue is therefore dependent on the outcome of OPC’s appeal. If the Supreme Court rules in OPC’s favor, this issue will become moot.

In the event that the stipulation and settlement is found to be lawful by the Florida Supreme Court, under the provisions of the stipulation and settlement, recovery of the costs associated with the new peaking power plants that are the subject of this issue are of the type which historically and ordinarily have been recovered

through base rates and are thus barred by the terms of the base rate freeze provided for in the stipulation and settlement approved by Order No. 130023-S-EI. Recovery of these costs would violate the terms of the stipulation and settlement approved by the Commission.

Regardless of the outcome of the Supreme Court appeal and the terms of the stipulation and settlement, the OPC asserts that generation assets such as the FPL peaker units (combustion turbines) are not contemplated by the ECRC statute, Section 366.8255, Florida Statutes, and are thus prohibited from recovery through the ECRC.

**FIPUG**

One of the benefits FIPUG received when it executed the December 12, 2013 Stipulation and Settlement in Docket 120015-EI was that FPL agreed not to increase base rates through the last billing cycle of 2016, while also agreeing not to seek clause recovery for items that traditionally, historically and ordinarily would be recovered through base rates. Cost recovery of power plant assets has traditionally, historically and ordinarily been recovered through base rates, not clauses. Accordingly, FPL is contractually precluded from seeking to recover the costs of new peaking power plants, totaling \$825 million dollars, through the environmental cost recovery clause.

**DeSoto**

No position

**Staff**

No position at this time.

**ISSUE 11: How should the costs associated with the NO<sub>2</sub> Compliance Project be allocated to the rate classes?**

**POSITION:**

**FPL**

Capital and O&M Costs for FPL's proposed NO<sub>2</sub> Compliance Project should be allocated to the rate classes on an average 12 CP demand basis and 1/13th energy basis. Allocation on this basis is especially appropriate for the NO<sub>2</sub> Compliance Project. The primary purpose of the peaking facilities that are the subject of this project is to serve peak demand, not energy requirements. The 1-hour NO<sub>2</sub> Standard, which is the environmental regulatory requirement of the project, is directed at short-term emissions that can contribute to acute exposures such as those that occur during peak operations. Cumulative emissions that occur over a lengthy averaging period have been the target of prior environmental regulations to address long-term chronic exposures to air pollutants. The new standard, by contrast, may be triggered irrespective of the amount of energy that the peaking facilities serve. (Keith)

**OPC** No position

**FIPUG** The costs should be allocated as an equal percentage base rate increase applied to all base changes and base credits contemporaneously.

**DeSoto** No position.

**Staff** No position at this time

**IX. EXHIBIT LIST**

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
	<u>Direct</u>		
<u>Name</u>	<u>Utility/Staff</u>	<u>ABC-1</u>	
R.R. LaBauve	FPL	(RRL-1)	FPL Supplemental CAIR/MATS/CAVR Filing
R.R. LaBauve	FPL	(RRL-2)	U.S. Environmental Protection Agency (“EPA”) Fact Sheet for the new 1-hour National Ambient Air Quality Standard (“NAAQS”) for Nitrogen Dioxide (“NO <sub>2</sub> ”)
R.R. LaBauve	FPL	(RRL-3)	Florida Department of Environmental Protection (“DEP”) Correspondence with EPA regarding Air Program State Implementation Plan Infrastructure Submittal for 2010 Revised NAAQS for NO <sub>2</sub>
R.R. LaBauve	FPL	(RRL-4)	FPL Correspondence with DEP regarding air quality impacts from operation of existing peaking GTs
R.R. LaBauve	FPL	(RRL-5)	SFWMD’s Notice to FPL



<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
R.R. LaBauve	FPL	(RRL-6)	Permit Application for the Lauderdale Plant Site
R.R. LaBauve	FPL	(RRL-7)	Permit Application for the Fort Myers Plant Site
T.J. Keith	FPL	(TJK-1)	Appendix I Environmental Cost Recovery Final True-up January 2012- December 2012 - Commission Forms 42-1A through 42-9A
T.J. Keith	FPL	(TJK-2)	Appendix I Environmental Cost Recovery Actual/ Estimated True-up January 2013- December 2013 - Commission Forms 42-1E through 42-9E
T.J. Keith	FPL	(TJK-3)	Appendix I Environmental Cost Recovery Projections January 2014- December 2014 - Commission Forms 42-1P through 42-8P
T.J. Keith	FPL	(TJK-4)	Appendix II Revised Environmental Cost Recovery Actual/ Estimated True-up January 2013- December 2013 - Commission Forms 42-1E through 42-9E
J.E. Enjamio	FPL	(JEE-1)	List of Transmission Improvements Required for Retire plan
J.E. Enjamio	FPL	(JEE-2)	Resource Plans
J.E. Enjamio	FPL	(JEE-3)	Reserve Margins
J.E. Enjamio	FPL	(JEE-4)	Results of Economic Analysis

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
J.E. Enjamio	FPL	(JEE-5)	Average System Bill Impacts
M. Debock	FPL	(MD-1)	Typical CT Unit Process Diagram
M. Debock	FPL	(MD-2)	CT Operating Characteristics
M. Debock	FPL	(MD-3)	FPL Operational Combustion Turbine Units
M. Debock	FPL	(MD-4)	Aerial View of PFL Facility
M. Debock	FPL	(MD-5)	Construction Cost Components for PFL
M. Debock	FPL	(MD-6)	Aerial View of PFM Facility
M. Debock	FPL	(MD-7)	Construction Cost Components for PFM
Thomas G. Foster	DEF	(TGF-1)	PSC Forms 42-1A through 42-9A January 2012 – December 2012
Thomas G. Foster	DEF	(TGF-2)	Capital Program Detail January 2012 – December 2012
Thomas G. Foster	DEF	(TGF-3R)	PSC Forms 42-1E through 42-9E January 2013 – December 2013
Thomas G. Foster	DEF	(TGF-4R)	Capital Program Detail January 2013 – December 2013
Thomas G. Foster	DEF	(TGF-5R)	PSC Forms 42-1P through 42-8P January 2014– December 2014

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Thomas G. Foster	DEF	(TGF-6R)	Capital Program Detail January 2014 – December 2014
Corey Zeigler	DEF	(TGF-5R)	Form 42-5P, pages 1, 2, and 10 of 21
Mark Hellstern	DEF	(TGF-5R)	Form 42-5P, page 20 of 21
Patricia Q. West	DEF	(PQW-1)	Review of Integrated Clean Air Compliance Plan
Patricia Q. West	DEF	(PQW-2)	USEPA's Proposed Effluent Limitation Guidelines & Standards
Patricia Q. West	DEF	(TGF-5R)	Form 42-5P, pages 3,4, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, and 19 of 21
Benjamin Borsch	DEF	(PQW-1)	Review of Integrated Clean Air Compliance Plan (parts B, 1 and 2, C, and D)
Jeffrey Swartz	DEF	(JS-1R)	Organization chart for DEF's Crystal River Clean Air Projects
Jeffrey Swartz	DEF	(TGF-5R)	Form 42-5P, pages 7 and 21 of 21
Howard T. Bryant	TECO	(HTB-1)	Final Environmental Cost Recovery Commission Forms 42-1A through 42-9A for the period January 2012 through December 2012
Howard T. Bryant	TECO	(HTB-2)	Environmental Cost Recovery Commission Forms 42-1E through 42-9E for the Period January 2013 through December 2013

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Howard T. Bryant	TECO	(HTB-3)	Forms 42-1P through 42-8P Forms for the January 2014 through December 2014 Revised 9/16/2013
R. W. Dodd	GULF	(RWD-1)	Calculation of Final True-up 1/12 – 12/12
R. W. Dodd	GULF	(RWD-2)	Calculation of Estimated True-up 1/13 – 12/13
R. W. Dodd	GULF	(RWD-3)	Calculation of Projection 1/14 - 12/14
R. W. Dodd	GULF	(RWD-4)	Comparison of Typical Bills between Allocation Methodologies
Jeffry Pollock	FIPUG	APPENDIX A	Qualifications of Jeffry Pollock
Jeffry Pollock	FIPUG	APPENDIX B	Testimony Filed in Regulatory Proceedings by Jeffry Pollock
Kathy A. French, P.E.	DeSoto	KAF-1	Resume of Kathy A. French, P.E.

Rebuttal

R.R. LaBauve	FPL	(RRL-8)	Additional Clarification Regarding Applicability of Appendix W Modeling Guidance for the 1-hour NO <sub>2</sub>
T.J. Keith	FPL	(TJK-5)	Revised Commission Forms from FPL's 2013 Actual/Estimated True-up and 2014 Projections Filings
J.E. Enjamio	FPL	(JEE-6)	Updated Results of the Economic Evaluation
W.L. Yeager	FPL	(WLY-1)	Initial Draft Terms and Conditions from LS Power (Confidential)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
W.L. Yeager	FPL	(WLY-2)	Revised Draft Terms and Conditions from LS Power (Confidential)

Surrebuttal

Kathy A. French, P.E.	DeSoto/OPC	KAF-2	Table PFM, Predicted Maximum NO2 Concentrations
Kathy A. French, P.E.	DeSoto/OPC	KAF-3	Simple Cycle SCR Update and Nox Emissions Table
Kathy A. French, P.E.	DeSoto/OPC	KAF-4	FPL Ft. Myers Permit Applications-Predicted Emission Concentrations
Carolyn Wass & Casey Carroll	DeSoto/OPC	CW/CC-1	Resume Casey Carroll
Carolyn Wass & Casey Carroll	DeSoto/OPC	CW/CC-2	Late Filed Exhibits 3 & 4 to Deposition of W.L. Yeager (Confidential)
Carolyn Wass & Casey Carroll	DeSoto/OPC	CW/CC-3	GE Technical Information Letters
Carolyn Wass & Casey Carroll	DeSoto/OPC	CW/CC-4	Results of Economic Evaluation of DeSoto Alternatives

**X. PROPOSED STIPULATIONS**

Proposed stipulations of Issues 1-9 and 12-17 are set forth above at Section VIII., ISSUES AND POSITIONS.

**XI. PENDING MOTIONS**

There are no pending motions.



**XII. PENDING CONFIDENTIALITY MATTERS**

There are currently no pending confidentiality requests.

**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 at the November 4-6, 2013 hearing shall be limited to five minutes.

Opening statements at the December 19-20, 2013 hearing shall be limited to ten minutes.

FIPUG's proposed Issue 10D shall be included as an issue for the December 19-20 hearing.

It is therefore,

ORDERED by Commissioner Eduardo E. Balbis 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 Eduardo E. Balbis, as Prehearing Officer, this 28th day of October, 2013.



EDUARDO E. BALBIS  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CWM

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 25-22.0376, 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

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appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.