

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 150002-EG
ORDER NO. PSC-15-0506-PHO-EG
ISSUED: October 27, 2015

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 19, 2015, in Tallahassee, Florida, before Commissioner Art Graham, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD, JOHN T. BUTLER and MARIA J. MONCADA,
ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408-0420
On behalf of Florida Power & Light Company (FPL)

BETH KEATING, ESQUIRE, Gunster Law Firm, 215 South Monroe Street,
Suite 601, Tallahassee, Florida 32301
On behalf of Florida Public Utilities Company (FPUC)

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)

MATTHEW R. BERNIER, and DIANNE M. TRIPLETT, ESQUIRES, 106 East
College, Avenue, Suite 800, Tallahassee, Florida 32301-7740
On behalf of Duke Energy Florida, LLC (DEF)

JAMES D. BEASLEY, J. JEFFRY WAHLEN, and ASHLEY M. DANIELS,
ESQUIRES, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida
32302
On behalf of Tampa Electric Company (TECO)

PATRICIA A. CHRISTENSEN, Associate Public Counsel, and CHARLES
REHWINKEL, Deputy Public Counsel, ESQUIRES, 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)

JON MOYLE, JR. and KAREN PUTNAL, ESQUIRES, The Moyle Law Firm,
P.A., 118 North Gadsden Street, Tallahassee, Florida 32312
On behalf of the Florida Industrial Power Users Group (FIPUG)

JAMES W. BREW, OWEN J. KOPON and LAURA A. WYNN, ESQUIRES,
Stone Mattheis Xenopoulos & Brew, P.C., 1025 Thomas Jefferson St., N.W.,
Eighth Floor, West Tower, Washington, D.C. 20007

On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate –
White Springs (PCS PHOSPHATE or PCS)

Lee Eng Tan, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak
Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission (Staff).

Mary Anne Helton, Deputy General Counsel, Florida Public Service Commission,
2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Commission's continuing energy conservation cost recovery proceedings, an administrative hearing is set for November 2-5, 2015. The parties have reached agreement concerning all issues identified for resolution at this hearing, with OPC, FIPUG, and PCS Phosphate taking no position. 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 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 Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05 and 366.06, F.S. This hearing will be governed by said Chapter and Chapters 25-6, 25-22, 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 that has not been filed as prefiled testimony or prefiled exhibits, 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 (and Staff) has been prefiled and 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 timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. 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.

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. After all parties and Staff have had the opportunity to cross-examine the witness, 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.

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

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Anita Sharma	FPL	2
Terry J. Keith	FPL	1, 3 – 4, 7
Curtis Young	FPUC	1-4
John N. Floyd	GULF	1 – 4, 7
Lori J. Cross	DEF	1 – 4, 7
Mark R. Roche	TECO	1 - 7

VII. BASIC POSITIONS

FPL: FPL's proposed Conservation Cost Recovery Factors for the January 2016 through December 2016 recovery period and true-up amounts for the prior periods should be approved.

FPUC: The Commission should approve Florida Public Utilities Company's final net true-up for the period January through December 2014, the estimated true-up for

the period January through December 2015, and the projected conservation program expenses for the period January through December, 2016.

GULF: It is the basic position of Gulf Power Company that the proposed ECCR factors present the best estimate of Gulf's Conservation expense at this time for the period January 2016 through December 2016, including the true-up calculations and other adjustments allowed by the Commission.

DEF: The Commission should determine that DEF has properly calculated its conservation cost recovery true-up and projection costs, and should approve the conservation cost recovery factors for the period January 2016 through December 2016 set forth in the testimony and exhibits of witness Lori J. Cross.

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 Mark R. Roche during the period January 2016 through December 2016.

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 2016 through December 2016, also set forth in witness Roche's testimony and exhibits.

OPC: The utilities have the burden of proof to justify and support the recovery of costs and their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought, regardless of whether the Interveners provide evidence to the contrary. Regardless of whether the Commission has previously approved a program as meeting the Commission's requirements, the utilities must still meet their burden of demonstrating that the costs submitted for final recovery meet the statutory test(s) and are reasonable in amount and prudently incurred.

FIPUG: FIPUG takes no position on the respective utilities' requests at issue in this docket.

PCS: PCS Phosphate generally adopts the positions taken by the Florida Office of Public Counsel ("OPC").

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

**PROPOSED
STIPULATION**

ISSUE 1: **What are the final conservation cost recovery true-up amounts for the period January 2014 through December 2014?**

The appropriate final conservation cost recovery true-up amounts for the period January 2014 through December 2014 are as follows:

Florida Power & Light (FPL)	\$8,356,646	Underrecovery
Florida Public Utilities (FPUC)	\$80,307	Underrecovery
Gulf Power Company (GULF)	\$ 560,637	Overrecovery
Duke Energy Florida (DEF)	\$ 609,857	Overrecovery
Tampa Electric Company (TECO)	\$ 7,549,999	Overrecovery

OPC: The utilities have the burden of proof to justify and support the recovery of costs and their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought, regardless of whether the Intervenors provide evidence to the contrary. Regardless of whether the Commission has previously approved a program or costs as meeting the Commission's requirements, the utilities must still meet their burden of demonstrating that the costs submitted for final recovery meet the statutory test(s) and are reasonable in amount and prudently incurred. The OPC takes no position on whether the utilities have met their burden of proof on this issue.

FIPUG: FIPUG takes no position on this issue.

PCS: PCS agrees with the Office of Public Counsel.

**PROPOSED
STIPULATION**

ISSUE 2: **What are the total conservation cost recovery amounts to be collected during the period January 2016 through December 2016?**

The appropriate total conservation cost recovery amount to be collected during the period January 2016 through December 2016 are as follows:

Florida Power & Light (FPL)	\$191,276,638
Florida Public Utilities (FPUC)	\$890,637
Gulf Power Company (GULF)	\$7,021,249
Duke Energy Florida (DEF)	\$108,145,590
Tampa Electric Company (TECO)	\$31,944,922

OPC: The utilities have the burden of proof to justify and support the recovery of costs and their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought, regardless of whether the Intervenor provide evidence to the contrary. Regardless of whether the Commission has previously approved a program or costs as meeting the Commission's requirements, the utilities must still meet their burden of demonstrating that the costs submitted for final recovery meet the statutory test(s) and are reasonable in amount and prudently incurred. The OPC takes no position on whether the utilities have met their burden of proof on this issue.

FIPUG: FIPUG takes no position on this issue.

PCS: No position.

**PROPOSED
STIPULATED**

ISSUE 3: What are the conservation cost recovery factors for the period January 2016 through December 2016?

The appropriate conservation cost recovery factor during the period January 2016 through December 2016 for the following utilities:

FPL:

RATE CLASS	Conservation Recovery Factor (\$/kw) ^(j)	Conservation Recovery Factor (\$/kwh) ^(k)	RDC (\$/KW) ^(l)	SDD (\$/KW) ^(m)
RS1/RTR1	-	0.00186	-	-
GS1/GST1/WIES1	-	0.00177	-	-
GSD1/GSDT1/HLFT1	0.61	-	-	-
OS2	-	0.00142	-	-
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.68	-	-	-
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.70	-	-	-
GSLD3/GSLDT3/CS3/CST3	0.72	-	-	-
SST1T	-	-	\$0.08	\$0.04
SST1D1/SST1D2/SST1D3	-	-	\$0.08	\$0.04
CILC D/CILC G	0.79	-	-	-
CILC T	0.77	-	-	-
MET	0.77	-	-	-
OL1/SL1/PL1	-	0.00073	-	-
SL2, GSCU1	-	0.00137	-	-

FPUC: \$.001352 per KWH (consolidated levelized)

GULF:

RATE CLASS	CONSERVATION COST RECOVERY FACTORS ¢/kWh
RS	.068
RSVP, Tier 1	(3.000)
RSVP, Tier 2	(1.672)
RSVP, Tier 3	5.672
RSVP, Tier 4	56.374
RSTOU On-peak	17.000
RSTOU Off-peak	(3.096)
GS	.065
GSD, GSDT, GSTOU	.062
LP, LPT	.059
PX, PXT, RTP, SBS	.057
OSI, OSII	.046
OSIII	.058

DEF:

<u>Customer Class</u>	<u>ECCR Factor</u>
Residential	0.325 cents/kWh
General Service Non-Demand	0.268 cents/kWh
@ Primary Voltage	0.265 cents/kWh
@ Transmission Voltage	0.263 cents/kWh
General Service 100% Load Factor	0.210 cents/kWh
General Service Demand	0.98 \$/kW
@ Primary Voltage	0.97 \$/kW
@ Transmission Voltage	0.96 \$/kW
Curtaillable	0.67 \$/kW
@ Primary Voltage	0.66 \$/kW
@ Transmission Voltage	0.66 \$/kW

Interruptible	0.84 \$/kW
@ Primary Voltage	0.83 \$/kW
@ Transmission Voltage	0.82 \$/kW
Standby Monthly	0.096 \$/kW
@ Primary Voltage	0.095 \$/kW
@ Transmission Voltage	0.094 \$/kW
Standby Daily	0.046 \$/kW
@ Primary Voltage	0.046 \$/kW
@ Transmission Voltage	0.045 \$/kW
Lighting	0.108 cents/kWh

TECO:

<u>Rate Schedule</u>	<u>Cost Recovery Factors (cents per kWh)</u>
RS	0.191
GS and TS	0.182
GSD Optional – Secondary	0.150
GSD Optional – Primary	0.149
GSD Optional – Subtransmission	0.147
LS1	0.073
<u>Rate Schedule</u>	<u>Cost Recovery Factors (dollars per kW)</u>
GSD – Secondary	0.65
GSD – Primary	0.64
GSD – Subtransmission	0.63
SBF – Secondary	0.65
SBF – Primary	0.64
SBF – Subtransmission	0.63
IS - Secondary	0.53
IS - Primary	0.53
IS - Subtransmission	0.52

OPC:

The utilities have the burden of proof to justify and support the recovery of costs and their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought, regardless of whether the Intervenor provide evidence to the contrary. Regardless of whether the Commission has previously approved a program or costs as meeting the Commission's requirements, the utilities must still meet their burden of demonstrating that the costs submitted for final recovery meet the statutory test(s) and are reasonable in amount and prudently incurred. The OPC takes no position on whether the utilities have met their burden of proof on this issue

FIPUG: FIPUG takes no position on this issue.

PCS: No position.

**PROPOSED
STIPULATED**

ISSUE 4: What should be the effective date of the new conservation cost recovery factors for billing purposes?

The factors should be effective beginning with the specified conservation cost recovery cycle and thereafter for the period January 2016 through December 2016. Billing cycles may start before January 1, 2016 and the last cycle may be read after December 31, 2016, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. These charges should continue in effect until modified by subsequent order of this Commission.

OPC: No position.

FIPUG: FIPUG takes no position on this issue.

PCS: No position.

**PROPOSED
STIPULATED**

ISSUE 5: What is the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric Company for the period January 2016 through December 2016?

TECO: 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 2016 through December 2016, the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders will be \$8.81 per kW.

OPC: No position.

FIPUG: FIPUG takes no position on this issue.

PCS: No position.

PROPOSED
STIPULATED

ISSUE 6: What are the residential Price Responsive Load Management (RSVP -1) rate tiers for Tampa Electric Company for the period January 2016 through December 2016?

POSITIONS

TECO: For the period January 2016 through December 2016 the Residential Price Responsive Load Management (RSVP-1) rates are as follows:

<u>Rate Tier</u>	<u>Cents per kWh</u>
P4	30.774
P3	7.176
P2	(0.645)
P1	(2.165)

OPC: No position.

FIPUG: FIPUG takes no position on this issue.

PCS: No position.

PROPOSED
STIPULATED

ISSUE 7: Should the Commission approve revised tariffs reflecting the energy conservation cost recovery amounts and establishing energy conservation cost recovery factors determined to be appropriate in this proceeding?

Yes. The Commission should approve revised tariffs reflecting the energy conservation cost recovery amounts and establishing energy conservation cost recovery factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision.

OPC: The utilities have the burden of proof to justify and support the recovery of costs and their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought, regardless of whether the Intervenors provide evidence to the contrary. Regardless of whether the Commission has previously approved a program or costs as meeting the Commission's requirements, the utilities must still meet their burden of demonstrating that the costs submitted for final recovery meet the statutory test(s)

and are reasonable in amount and prudently incurred. The OPC takes no position on whether the utilities have met their burden of proof on this issue

FIPUG: FIPUG takes no position on this issue.

PCS: No position.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
A. Sharma	FPL	AS-1	Schedules CT-2, CT-3, CT-5 and CT-6 (Confidential), Appendix A
A. Sharma	FPL	AS-2	Schedules C-2, C-3, and C-5
Terry J. Keith	FPL	AS-1	Schedules CT-1, CT-2, CT-3, and CT-4
Terry J. Keith	FPL	AS-2	Schedules C-1 C-2, C-3, and C-4
Curtis D. Young	FPUC	CDY-1 (composite)	Schedules CT-1, CT-2, CT-3, CT-4, CT-5 and CT-6
Curtis D. Young	FPUC	CDY-2 (composite)	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
Lori J. Cross	DEF	LJC-1T	ECCR Adjusted Net True-Up for January - December 2014, Schedules CT1 – CT5.
Lori J. Cross	DEF	LJC-1P	Estimated/Actual True-Up, January – December 2015 and ECCR Factors for Billings in January – December 2016, Schedules C1 – C5.
Mark R. Roche	TECO	MRR-1, filed May 5, 2015	Schedules supporting cost recovery factor, actual January 2014 - December 2014.

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Mark R. Roche	TECO	MRR-3, filed August 21, 2015	Schedules supporting conservation costs projected for the period January 2016 - December 2016.

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

X. PROPOSED STIPULATIONS

The parties have stipulated to issues 1-7, with OPC, FIPUG and PCS Phosphate taking no position.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters.

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 20 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 Art Graham, 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 Chairman Art Graham, as Prehearing Officer, this 27th day of October, 2015.


ART GRAHAM
Chairman and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

TLT

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

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