

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 20170007-EI
ORDER NO. PSC-2017-0400-PHO-EI
ISSUED: October 20, 2017

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 11, 2017, in Tallahassee, Florida, before Commissioner Ronald A. Brisé, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD, ESQUIRE, Vice President and General Counsel, JOHN T. BUTLER, ESQUIRE, Assistant General Counsel – Regulatory, and JESSICA A. CANO, ESQUIRE, Senior Attorney, 700 Universe Boulevard, Juno Beach, Florida 33408-0420

On behalf of Florida Power & Light Company (FPL)

DIANNE M. TRIPLET, ESQUIRE, Deputy General Counsel, 299 First Avenue North, St. Petersburg, Florida 33701, and MATTHEW R. BERNIER, ESQUIRE, Associate General Counsel, 106 East College Avenue, Suite 800, Tallahassee, Florida 32301

On behalf of Duke Energy Florida, LLC. (DEF)

JAMES D. BEASLEY, ESQUIRE, AND J. JEFFRY WAHLEN, ESQUIRE, Ausley McMullen, P. O. Box 391, Tallahassee, Florida 32302

On behalf of Tampa Electric Company (TECO)

JEFFREY A. STONE, ESQUIRE, Gulf Power Company, One Energy Place, Pensacola, FL 32520-0100, RUSSELL A. BADDERS, ESQUIRE and STEVEN R. GRIFFIN ESQUIRE, Beggs & Lane, P.O. Box 12950, Pensacola, FL 32591-2950

On behalf of Gulf Power Company (Gulf)

STEPHANIE A. MORSE, ESQUIRE, Associate Public Counsel, PATRICIA A. CHRISTENSEN, ESQUIRE, Associate Public Counsel, and CHARLES REHWINKEL, ESQUIRE, Deputy 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 C. MOYLE, JR., ESQUIRE, and KAREN PUTNAL, ESQUIRE, Moyle Law Firm, P.A., 118 North Gadsden Street, Tallahassee, FL 32312
On behalf of Florida Industrial Power Users Group (FIPUG)

JAMES W. BREW, ESQUIRE, and LAURA A. WYNN, ESQUIRE, Stone Mattheis Xenopoulos & Brew, P.C., 1025 Thomas Jefferson Street, 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)

GEORGE CAVROS, ESQUIRE, 120 E. Oakland Park Boulevard, Suite 105, Fort Lauderdale, Florida, 33334
On behalf of the Southern Alliance for Clean Energy (SACE)

CHARLES W. MURPHY, ESQUIRE, STEPHANIE A. CUELLO, ESQUIRE, AND MARGO A. DUVAL, 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, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission

KEITH HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Florida Public Service Commission General Counsel

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Florida Public Service Commission's (Commission) continuing Environmental Cost Recovery Clause proceedings, undertaken pursuant to Section 366.8255, Florida Statutes (F.S.), a hearing has been set in this docket for October 25-27, 2017.

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 and 120, 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

All witnesses, except those of OPC and FPL, are excused from the hearing. Each excused witness is identified below in Section VI by an asterisk. 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.

Testimony of all witnesses to be sponsored by OPC and FPL 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

Each witness whose name is followed by an asterisk (*) is excused from the hearing.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Michael W. Sole	FPL	10A, 10B, 10C, 10F
Keith Ferguson	FPL	10D

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Rena B. Deaton	FPL	1-9, 10B, 10E, 10F, 10G
Christopher Menendez*	DEF	1-9, 12B, 12C
Timothy Hill*	DEF	1-3
Jeffrey Swartz*	DEF	1-3
Patricia Q. West*	DEF	1-3, 12A
Penelope A. Rusk*	TECO	1, 2, 3, 4, 5, 6, 7, 8, 9, 11
Paul L. Carpinone*	TECO	3
R. M. Markey*	GULF	1, 2, 3
C. S. Boyett*	GULF	1, 2, 3, 4, 5, 6, 7, 8, 9
Dr. Sorab Panday	OPC	10A, 10B, 10D, 10E

Rebuttal

Name	Utility/Staff	
Michael W. Sole	FPL	10A, 10B, 10C
Keith Ferguson	FPL	10D
Peter Andersen	FPL	10A, 10B

VII. BASIC POSITIONS

FPL: FPL's 2018 Environmental Cost Recovery factors, including the prior period true-ups, are reasonable and should be approved. These factors include costs related to FPL's Turkey Point Cooling Canal Monitoring Plan ("TPCCMP") project, which also should be approved for recovery as proposed. In addition, the Commission should approve a modification to FPL's Manatee Temporary Heating System ("MTHS") Project to include a temporary heating system at FPL's Fort Lauderdale Plant site ("PFL") during the planned modernization project.

DEF: DEF's positions to specific issues are listed below.

TECO: The Commission should approve the compliance programs described in the testimony and exhibits of Tampa Electric Witnesses Rusk 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 2016 through December 2016, the actual/estimated environmental cost recovery true-up for the current period January 2017 through December 2017, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2018 through December 2018.

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 2018 through December 2018, including the true-up calculations and other adjustments allowed by the Commission.

OPC: The utilities have the burden of proof to justify and support the recovery of costs, their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed), and any other affirmative relief sought, regardless of whether the Interveners provide evidence to the contrary. Moreover, 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), are reasonable in amount, and prudently incurred. Issues that were deferred from 2016 to the current docket carry no presumption of correctness as to the reasonableness, prudence or retail ratepayer responsibility for the type or category of cost for which recovery is being sought.

The Commission has previously stated that the ECRC does not automatically require recovery of prudently incurred environmental costs through the clause. Instead, recovery of even prudently incurred costs is a matter of agency discretion and policy. Further, Section 366.01, Florida Statutes, states on its face that the provisions of Chapter 366 are to be liberally construed to protect the public welfare.

It is well-established that recovery should be denied where imprudent management resulted in additional costs. This standard applies to costs related to the correction of contamination and violations of law. *In the case of FPL, the record shows that several decades of management decisions led directly to the development and growth of a hypersaline plume which threatens a public source of drinking water upon which millions of citizens depend. FPL was issued regulatory notices of violation because of the hypersaline plume. FPL now seeks to burden ratepayers with the costs of retracting the hypersaline plume, or in other words, to make customers pay for the direct results of FPL's imprudent*

management decisions. This is contrary to law and policy. Additionally, FPL seeks to characterize a portion of its remediation responsibilities as ordinary capital improvement expenses related to containing the hypersaline plume, i.e., preventing further contamination of the Biscayne Aquifer. The purported "allocation" of costs proposed for recovery between O&M and Capital is not supported by scientific data. OPC objects to the recovery by FPL of any costs related to imprudent management.

FIPUG: Only costs legally authorized should be recovered through the environmental cost recovery clause. FIPUG maintains that the respective utilities must satisfy their burden of proof for any and all monies or other relief sought in this proceeding.

PCS: PCS Phosphate generally accepts and adopts the positions taken by the Florida Office of Public Counsel ("OPC") unless a differing position is stated with respect to an issue.

SACE: The respective 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 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 showing that costs submitted for final recovery meet the statutory test for recovery and are reasonable and prudently incurred.

In reference to the Florida Power and Light (FPL)-specific issues: FPL's failure to act to mounting evidence, dating back to 1978, that its use of the cooling canal system at its Turkey Point plant was leading to a growing underground contamination plume was imprudent. As such, remediation costs now flowing from FPL's imprudence in not properly acting upon data and reports going back to 1978, are not recoverable from customers. Florida's families and businesses served by FPL should not have to bear the costs of FPL's mistakes. Additionally, the costs FPL seeks to recover are not related to earlier monitoring plans, but to alleged remediation and prevention of the growing underground contamination plume at Turkey Point, as such, these costs are not recoverable as part of the Turkey Point Cooling Canal Monitoring Plan (TPCCMP).

STAFF: Staff takes no position at this time on contested issues and supports all proposed stipulations as set forth in Section X of this Order. Staff's final positions on contested issues will be based upon all the evidence in the record.

VIII. ISSUES AND POSITIONS

The following contested FPL company-specific issues 10A-10E are related to Turkey Point. Please see Section X of this Order for the proposed stipulation of issues 1-9, 13, 10F-10G, 11, and 12A-C.

ISSUE 10A: Should FPL be allowed to recover, through the ECRC, prudently incurred costs, if any, associated with the June 20, 2016 Consent Order between FPL and the Florida Department of Environmental Protection and the October 2015 Consent Agreement between FPL and the Miami-Dade County Department of Environmental Resources Management (as amended by the August 15, 2016 Consent Agreement Addendum)?

FPL: Yes. The 2015 Consent Agreement (as amended) and 2016 Consent Order are Environmental Laws or Regulations under Section 366.8255, Fla. Stat. Costs that FPL has prudently incurred as a result of the 2015 Consent Agreement (as amended) and 2016 Consent Order are Environmental Compliance Costs that are recoverable pursuant to Section 366.8255. As addressed in Issue 10C below, those costs were incurred as part of FPL's approved Turkey Point Cooling Canal Monitoring Plan project ("TPCCMP Project"). (Deaton, Sole, Andersen)

DEF: No position.

TECO: No position.

GULF: No position

OPC: No.

FIPUG: Adopt position of Office of Public Counsel.

PCS: No position.

SACE: No.

STAFF: Staff has no position at this time.

ISSUE 10B: Which costs, if any, associated with the June 20, 2016 Consent Order between FPL and the Florida Department of Environmental Protection and the October 2015 Consent Agreement between FPL and the Miami-Dade County Department of Environmental Resources Management (as amended by the August 15, 2016 Consent Agreement Addendum) were prudently incurred?

FPL: FPL prudently has incurred or expects to incur \$70,501,961 in O&M expenses and the revenue requirements (depreciation and return) associated with \$68,001,946 in capital investment for the years 2016-2018 for activities required by the 2015 Consent Agreement (as amended) and 2016 Consent Order. (Deaton, Sole, Anderson, Ferguson)

DEF: No position.

TECO: No position.

GULF: No position

OPC: The costs of the Retraction Well System are remedial in nature and should not be imposed on FPL's customers. FPL's management knew or should have known that its actions in operating the CCS were creating material harm to the Biscayne Aquifer. FPL's actions and inaction over time placed the Company in violation of law, and therefore constitute imprudence, such that the costs of addressing the consequences of that imprudence are not properly costs that should be borne by customers.

FIPUG: Adopt position of Office of Public Counsel.

PCS: No position.

SACE: None. Costs associated with the June 20, 2016 Consent Order between FPL and the Florida Department of Environmental Protection and the October 2015 Consent Agreement between FPL and the Miami-Dade County Department of Environmental Resources Management (as amended by the August 15, 2016 Consent Agreement Addendum) have and are being incurred due to FPL's imprudence in not properly monitoring or acting upon data and reports going back to 1978, that showed a growing pollution impact from its cooling canal system.

STAFF: Staff has no position at this time.

ISSUE 10C: Should the costs FPL seeks to recover in this docket be considered part of its Turkey Point Cooling Canal Monitoring Plan project?

FPL: Yes. Environmental activities required for the TPCCMP Project have progressed from monitoring, to expanded monitoring, to identification of the need for corrective actions, and now to implementing those corrective actions in compliance with the 2015 Consent Agreement (as amended) and the 2016 Consent Order. At the time the TPCCMP Project was approved for recovery through the ECRC in 2009, FPL made clear that such a progression was a potential outcome. Indeed, FPL has reflected incremental costs for the expansion of FPL's environmental compliance activities each year, and the Commission has approved the recovery of those costs. (Sole)

DEF: No position.

TECO: No position.

GULF: No position

OPC: No.

FIPUG: Adopt position of Office of Public Counsel.

PCS: No position.

SACE: No. The Turkey Point Cooling Canal Monitoring Plan is not intended to for the type of remediation activities that FPL seeks cost recovery for in this docket.

STAFF: Staff has no position at this time.

ISSUE 10D: Is FPL's proposed allocation of costs associated with the June 20, 2016 Consent Order between FPL and the Florida Department of Environmental Protection and the October 2015 Consent Agreement between FPL and the Miami-Dade County Department of Environmental Resources Management (as amended by the August 15, 2016 Consent Agreement Addendum) between O&M and capital appropriate? If not, what is the correct allocation of costs between O&M and capital?

FPL: Yes, the FPSC should approve FPL's proposed allocation between O&M and capital. (Ferguson)

DEF: No position.

TECO: No position.

GULF: No position.

OPC: No. The costs of the Retraction Well System are remedial in nature and should not be imposed on FPL's customers. FPL's management knew or should have known that its actions in operating the CCS were creating material harm to the Biscayne Aquifer. FPL's actions and inaction over time placed the Company in violation of law, and therefore constitute imprudence, such that the costs of addressing the consequences of that imprudence are not properly costs that should be borne by customers.

FIPUG: Adopt position of Office of Public Counsel.

PCS: No position.

SACE: No monies should be recovered from customers for O&M or capital expenditures flowing from the June 20, 2016 Consent Order between FPL and the Florida Department of Environmental Protection and the October 2015 Consent Agreement between FPL and the Miami-Dade County Department of Environmental Resources Management (as amended by the August 15, 2016 Consent Agreement Addendum).

STAFF: Staff has no position at this time.

ISSUE 10E: **How should the costs associated with the June 20, 2016 Consent Order between FPL and the Florida Department of Environmental Protection and the October 2015 Consent Agreement between FPL and the Miami-Dade County Department of Environmental Resources Management (as amended by the August 15, 2016 Consent Agreement Addendum) be allocated to the rate classes?**

FPL: Costs associated with the 2015 Consent Agreement (as amended) and 2016 Consent Order should be allocated in the same manner as all other environmental cost recovery amounts approved for recovery under the TPCCMP Project. (Deaton)

DEF: No position.

TECO: No position.

GULF: No position.

OPC: No position at this time.

FIPUG: Adopt position of Office of Public Counsel.

PCS: No position.

SACE: No costs should be recovered from customers.

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered</u> <u>By</u>		<u>Description</u>
<u>Direct</u>			
M.W. SOLE	FPL	MWS-1	FPL Supplemental CAIR/MATS/CAVR Filing
M.W. SOLE	FPL	MWS-2	1971 U.S. Department of Justice (“USDOJ”) Settlement Agreement
M.W. SOLE	FPL	MWS-3	NPDES/Industrial Wastewater (“IWW”) Permit Number FL0001562
M.W. SOLE	FPL	MWS-4	Fifth Supplemental Agreement between the South Florida Water Management District (“SFWMD”) and FPL
M.W. SOLE	FPL	MWS-5	Turkey Point Extended Power Uprate Site Certification Conditions of Certification IX and X
M.W. SOLE	FPL	MWS-6	2013 SFWMD Letter Requesting Consultation
M.W. SOLE	FPL	MWS-7	December 2014 FDEP Administrative Order
M.W. SOLE	FPL	MWS-8	October 2015 Miami-Dade County Department of Environmental Resources Management Notice of Violation
M.W. SOLE	FPL	MWS-9	October 2015 Miami-Dade County Department of Environmental Resources Management Consent Agreement and Related Correspondence
M.W. SOLE	FPL	MWS-10	April 2016 FDEP Warning Letter and Notice of Violation

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
M.W. SOLE	FPL	MWS-11	April 2016 FDEP Warning Letter and Notice of Violation
M.W. SOLE	FPL	MWS-12	June 2016 FDEP Consent Order
M.W. SOLE	FPL	MWS-13	Addendum to October 2015 Consent Agreement and Related Correspondence
M.W. SOLE	FPL	MWS-14	TPCCMP Project O&M Expenses and Capital Costs
M.W. SOLE	FPL	MWS-15	FDEP Industrial Wastewater Facility (“IWWF”) Permit Number FL0001503 for PFL
M.W. SOLE	FPL	MWS-16	PFL Manatee Protection Plan (“MPP”)
M.W. SOLE	FPL	MWS-17	U.S. Fish and Wildlife Service (“FWS”) letter to FPL regarding manatee protection at PFL
M.W. SOLE	FPL	MWS-18	PFL Manatee Temporary Heating System Conceptual Location of heated refuge, heater and pump systems
M.W. SOLE	FPL	MWS-19	Excerpt from PSL NPDES Permit
K. FERGUSON	FPL	KF-1	Tetra Tech Analysis – Determination of Allocation of Costs for CCS Recovery and Improvement for the Recovery Well System
R.B. DEATON	FPL	RBD-1	Environmental Cost Recovery Final True-up January 2016 - December 2016 Commission Forms 42-1A through 42-9A
R.B. DEATON	FPL	RBD-2	Appendix I - Environmental Cost Recovery Actual/Estimated True-up January 2017 – December 2017 - Commission Forms 42-1E through 42-9E
R.B. DEATON	FPL	RBD-3	Appendix I - Environmental Cost Recovery Projections - January 2018 – December 2018 Commission Forms 42-1P through 42-8P Appendix II - Calculation of Stratified Separation Factors

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
CHRISTOPHER MENENDEZ	DEF	CAM-1	Forms 42-1A - 42-9A January 2016 – December 2016
CHRISTOPHER MENENDEZ	DEF	CAM-2	Capital Program Detail January 2016 – December 2016
CHRISTOPHER MENENDEZ	DEF	CAM-3	Forms 42-1E – 42-9E January 2017 – December 2017
CHRISTOPHER MENENDEZ	DEF	CAM-4	Capital Program Detail January 2017 – December 2017
CHRISTOPHER MENENDEZ	DEF	CAM-5 (Revised)	Forms 42-1P – 42-8P January 2018– December 2018
CHRISTOPHER MENENDEZ	DEF	CAM-6	Capital Program Detail January 2018 – December 2018
TIMOTHY HILL	DEF	CAM-5 (Revised)	Form 42-5P, page 23 of 23
JEFFREY SWARTZ	DEF	JS-1	Crystal River Clean Air Projects Organizational Chart
JEFFREY SWARTZ	DEF	CAM-5 (Revised)	Form 42-5P, pages 7, 21 and 22 of 23
PATRICIA Q. WEST	DEF	CAM-5 (Revised)	Form 42-5P, pages 1-4, and 6-20 of 23
PENELOPE A. RUSK	TECO	PAR-1	Final Environmental Cost Recovery Commission Forms 42-1A through 42-9A for the period January 2016 through December 2016
PENELOPE A. RUSK	TECO	PAR-2	Environmental Cost Recovery Commission Forms 42-1E through 42-9E for the Period January 2017 through December 2017

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
PENELOPE A. RUSK	TECO	PAR-3	Forms 42-1P through 42-8P Forms for the January 2018 through December 2018
MARKEY	Gulf	RMM-1	Schedule 5P - Description and Progress Report of Environmental Compliance Activities and Projects
BOYETT	Gulf	CSB-1	Calculation of Final True-up 1/16 – 12/16
BOYETT	Gulf	CSB-2	Calculation of Estimated True-up 1/17 – 12/17
BOYETT	Gulf	CSB-3	Calculation of the Estimated Scherer/Flint Credit 1/17-12/17
BOYETT	Gulf	CSB-4	Calculation of Projection 1/18 – 12/18
BOYETT	Gulf	CSB-5	Calculation of the Projected Scherer/Flint Credit 1/18-12/18
DR. SORAB PANDAY	OPC	SP-1	Resume of Sorab Panday
DR. SORAB PANDAY	OPC	SP-2 (Revised)	Table of Referenced Documents
DR. SORAB PANDAY	OPC	SP-3	Demonstratives 1-28

Rebuttal

M.W. SOLE	FPL	MWS-20	FPL and SFWMD Fourth Supplemental Agreement
P.F. ANDERSEN	FPL	PFA-1	Resume of Peter F. Andersen
P.F. ANDERSEN	FPL	PFA-2	Simulated Relative Salt Concentrations in Model Layer 8 after 10 years for Alternatives 1, 2, and 3D

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
P.F. ANDERSEN	FPL	PFA-3	Revision of OPC Witness Panday's Demonstrative 23
P.F. ANDERSEN	FPL	PFA-4	Comparison of 2015 Modeled Freshwater-Saltwater Interface with CSEM Data
P.F. ANDERSEN	FPL	PFA-5	Location of CCS Monitoring Stations Relative to Plant Cooling Water Intake and Biscayne Bay
P.F. ANDERSEN	FPL	PFA-6	Saltwater Intrusion as Mapped by the USGS, 1984 and 1995

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

X. PROPOSED STIPULATIONS

There are proposed stipulations for all issues *except* issues 10A-10E. Staff, DEF, FPL, Gulf, and TECO support the proposed stipulation Issues 1-9, 13, 10F-G, 11, and 12A-C, which are set forth below. SACE, PCS, and FIPUG take no position on the stipulations. OPC takes no position on all of the stipulations except for issue 10G which it does not oppose and affirmatively states that “[t]he OPC does not object to the process proposed by FPL.”

ISSUE 1: **What are the final environmental cost recovery true-up amounts for the period January 2016 through December 2016?**

Proposed Stipulation

The appropriate final environmental cost recovery true-up amounts for the period January 2016 through December 2016 are as follows:

FPL: \$23,872,381 over-recovery

DEF: \$1,266,492 over-recovery

TECO: \$658,080 under-recovery

GULF: \$3,262,290 under-recovery

ISSUE 2: What are the estimated/actual environmental cost recovery true-up amounts for the period January 2017 through December 2017?

Proposed Stipulation

The appropriate estimated/actual environmental cost recovery true-up amounts for the period January 2017 through December 2017 are as follows:

FPL*: \$28,797,701 over-recovery

DEF: \$1,751,015 over-recovery

TECO: \$6,759,424 over-recovery

GULF: \$11,475,260 over-recovery

* Subject to modification from company-specific issues.

ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2018 through December 2018?

Proposed Stipulation

The appropriate projected environmental cost recovery amounts for the period January 2018 through December 2018 are as follows:

FPL*: \$212,389,989

DEF: \$62,786,148

TECO: \$72,821,226

GULF: \$211,656,376

* Subject to modification from company-specific issues.

ISSUE 4: What are the environmental cost recovery amounts, including true-up amounts, for the period January 2018 through December 2018?

Proposed Stipulation

The appropriate environmental cost recovery amount, including true-up amounts, for the period January 2018 through December 2018, are as follows:

FPL*: \$159,834,905

DEF: \$59,811,674

TECO: \$66,767,920

GULF: \$203,589,886

* Subject to modification from company-specific issues.

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 2018 through December 2018?

Proposed Stipulation

For the period January 2018 through December 2018, 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.

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2018 through December 2018?

Proposed Stipulation

The appropriate jurisdictional separation factors for the projected period January 2018 through December 2018 are as follows:

FPL

Retail Energy Jurisdictional Factor - Base	95.7811%
Retail Energy Jurisdictional Factor - Intermediate	94.2579%
Retail Energy Jurisdictional Factor - Peaking	94.8545%
Retail Demand Jurisdictional Factor - Transmission	88.7974%
Retail Demand Jurisdictional Factor - Base/Solar	95.6652%
Retail Demand Jurisdictional Factor - Intermediate	94.1431%
Retail Demand Jurisdictional Factor - Peaking	94.7386%
Retail Demand Jurisdictional Factor - Distribution	100.0000%

DEF

The Energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total kWh sales. The remaining separation factors are below and are consistent with the Revised Stipulation and Settlement Agreement approved in Order No. PSC-

13-0598-FOF-EI as well as DEF’s 2017 Second Revised and Restated Stipulation and Settlement Agreement (“2017 Agreement”), filed on August 29, 2017 in Docket No. 20170183-EI.

Transmission Average 12 CP Demand – 70.203%
 Distribution Primary Demand – 99.561%

Production Demand:
 Production Base – 92.885%
 Production Intermediate – 72.703%
 Production Peaking – 95.924%
 Production A&G – 93.221%

TECO

Energy: 100.00%
 Demand: 100.00%

GULF

The demand jurisdictional separation factor is 97.18277%. Energy jurisdictional separation factors are calculated each month based on retail kWh sales as a percentage of projected total territorial kWh sales.

ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2018 through December 2018 for each rate group?

Proposed Stipulation

The appropriate environmental cost recovery factors for the period January 2018 through December 2018 for each rate group are as follows:

FPL

Rate Class	Environmental Cost Recovery Factor* (cents/kWh)
RS1/RTR1	0.159
GS1/GST1	0.150
GSD1/GSDT1/HLFT1	0.136
OS2	0.083
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.131
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.115
GSLD3/GSLDT3/CS3/CST3	0.116
SST1T	0.102
SST1D1/SST1D2/SST1D3	0.126

Rate Class	Environmental Cost Recovery Factor* (cents/kWh)
CILC D/CILC G	0.116
CILC T	0.109
MET	0.128
OL1/SL1/SL1M/PL1	0.030
SL2/SL2M/GSCU1	0.109
Total	0.146

* Subject to modification from company-specific issues.

DEF

Rate Class	ECRC Factors
Residential	0.157 cents/kWh
General Service Non-Demand @ Secondary Voltage	0.154 cents/kWh
@ Primary Voltage	0.152 cents/kWh
@ Transmission Voltage	0.151 cents/kWh
General Service 100% Load Factor	0.150 cents/kWh
General Service Demand @ Secondary Voltage	0.152 cents/kWh
@ Primary Voltage	0.150 cents/kWh
@ Transmission Voltage	0.149 cents/kWh
Curtable @ Secondary Voltage	0.151 cents/kWh
@ Primary Voltage	0.149 cents/kWh
@ Transmission Voltage	0.148 cents/kWh
Interruptible @ Secondary Voltage	0.147 cents/kWh
@ Primary Voltage	0.146 cents/kWh
@ Transmission Voltage	0.144 cents/kWh
Lighting	0.146 cents/kWh

TECO

<u>Rate Class</u>	<u>ECRC Factor (¢/kWh)</u>
RS	0.343
GS, CS	0.343
GSD, SBF	
Secondary	0.342
Primary	0.338
Transmission	0.335
IS	
Secondary	0.337
Primary	0.333
Transmission	0.330
LS1	0.339
Average Factor	0.342

GULF

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/kWh
RS, RSVP, RSTOU	2.124
GS	1.956
GSD, GSDT, GSTOU	1.733
LP, LPT	1.547
PX, PXT, RTP, SBS	1.482
OS-I/II	0.570
OS-III	1.361

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

Proposed Stipulation

The new environmental cost recovery factors shall be effective beginning with the first billing cycle for January 2018 and thereafter through the last billing cycle for December 2018. The first

billing cycle may be read before January 1, 2018, and the last cycle may be read after December 31, 2018, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. These charges shall continue in effect until modified by this Commission.

ISSUE 9: **Should the Commission approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding?**

Proposed Stipulation

The Commission hereby approves revised tariffs reflecting the environmental cost recovery amounts and factors determined to be appropriate in this proceeding. The Commission staff is directed to verify that the revised tariffs are consistent with the Commission's decision.

ISSUE 13: **Should this docket be closed?**

Proposed Stipulation

No. While a separate docket number is assigned each year for administrative convenience, this is a continuing docket and shall remain open.

FLORIDA POWER & LIGHT SPECIFIC ISSUES

ISSUE 10F: **Should FPL be allowed to recover, through the ECRC, prudently incurred costs associated with its modification to include a temporary manatee heating system for the Fort Lauderdale Plant ("PFL") site as part of its existing Manatee Temporary Heating System ("MTHS") project?**

Proposed Stipulation

Yes. The modification to include a manatee temporary heating system for the PFL is hereby approved. Costs for the PFL manatee temporary heating system will be allocated to rate classes in the same manner as all existing costs for the MTHS project.

ISSUE 10G: **How should the effects on the 2018 environmental cost recovery factors of the St. Johns River Power Park Transaction (SJRPP), approved by the Commission on September 25, 2017, be addressed?**

Proposed Stipulation

The net impact of the SJRPP Transaction will be a reduction in the environmental cost recovery factors for 2018. At this point, FPL cannot prepare and file an updated filing reflecting the SJRPP Transaction in time for parties to have a reasonable opportunity to review it before the

hearing scheduled in this docket on October 25-27, 2017. Therefore, FPL will file a mid-course correction limited to the impacts of the SJRPP Transaction by no later than November 17, 2017, to allow ample time for Commission staff and parties to review and conduct discovery, if any, before the mid-course correction is brought to the Commission for decision at the February 6, 2018 agenda conference, with the intent that the revised environmental cost recovery factors go into effect on March 1, 2018.

TAMPA ELECTRIC COMPANY SPECIFIC ISSUE

ISSUE 11: How should revenues included in Tampa Electric's projected ECRC cost recovery amount for 2018 associated with Phase II of the company's coal combustion residuals compliance program ("CCR Program"), the approval of which is currently pending in Docket No. 20170168-EI, be treated for cost recovery purposes pending the final disposition of the company's petition in that docket?

Proposed Stipulation

Approval of the projected revenues for the costs associated with the Phase II of the CCR program is conditioned on this Commission's approval of the CCR program in Docket No. 20170168-EI. To the extent the scope of the CCR program costs differ from costs of the approved program in Docket No. 20170168-EI, the revenues collected for the CCR program in Docket No. 20170007-EI shall be subject to true-up.

DUKE ENERGY FLORIDA SPECIFIC ISSUES

ISSUE 12A: Should the Commission find DEF's 316(b) Compliance Plan is reasonable and approve recovery of the related costs through the ECRC?

Proposed Stipulation

DEF's 316(b) Compliance Plan is reasonable as it meets the criteria for recovery through the Environmental Cost Recovery Clause. Recovery of related costs through the ECRC is approved.

ISSUE 12B: How should the costs associated with DEF's 316(b) Compliance Plan be allocated to the rate classes?

Proposed Stipulation

Costs associated with DEF's 316(b) Compliance Plan shall be allocated to the rate classes on a demand basis.

ISSUE 12C: Should the Regulatory Asset Treatment of the Alderman Road Fence be approved?

Proposed Stipulation

The Commission approves DEF's proposed treatment for the Alderman Road Fence - Project 3.1(a).

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

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 100 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 100 words, it must be reduced to no more than 100 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 for FPL shall be ten minutes. FIPUG, OPC and SACE shall share a total of 15 minutes for opening statements.

James A. Brew, Esquire and Laura A. Wynn, Esquire on behalf of PCS are excused from the hearing.

OPC and FPL provided notice that each may use a demonstrative exhibit at the hearing.

It is therefore,

ORDERED by Commissioner Ronald A. Brisé, 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 Ronald A. Brisé, as Prehearing Officer, this 20th day of October, 2017.



RONALD A. BRISÉ
Commissioner 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.

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