

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Generic Investigation) DOCKET NO. 930759-EG
into the appropriate method for) ORDER NO. PSC-93-1470-PHO-EG
Allocation and Recovery of Costs) ISSUED: 10/08/93
associated with Conservation)
Programs.)

Pursuant to Notice, a Prehearing Conference was held on September 27, 1993, in Tallahassee, Florida, before Chairman J. Terry Deason, as Prehearing Officer.

APPEARANCES:

CHARLES GUYTON, Esquire, Steel, Hector & Davis, First Florida Bank Building, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301-1804
On behalf of Florida Power and Light Company.

JIM MCGEE, Esquire, 3201 34th Street, South, Post Office Box 14042, St. Petersburg, Florida 33733
On behalf of Florida Power Corporation.

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On behalf of Gulf Power Company.

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On behalf of Tampa Electric Company.

JOSEPH A. MCGLOTHLIN, Esquire, McWhirter, Grandoff & Reeves, 315 South Calhoun Street, Suite 716, Tallahassee, Florida 32301 and JOHN W. MCWHIRTER, Esquire, McWhirter, Grandoff & Reeves, Post Office Box 3350, Tampa, Florida 32301-3350
On behalf of Florida Industrial Power Users Group.

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On behalf of Legal Environmental Assistance Foundation, Inc.

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On behalf of the Commission Staff.

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On behalf of the Commissioners.

PREHEARING ORDER

I. CASE BACKGROUND

This docket was established to investigate means for investor-owned utilities to allocate and recover costs associated with their conservation programs. A formal hearing will be held in the case on October 11, 1993.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) 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 Commission Clerk's confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

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 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony that has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>DIRECT</u>		
Barry T. Birkett	FPL	1,2,7,8,9,10,13
William C. Slusser, Jr.	FPC	ALL
J. T. Kilgore, Jr.	Gulf	1,5,14
Gerard J. Kordecki	TECO	
Stephen J. Baron	FIPUG	1-9, 13
Robert S. Wright	LEAF	1-7
<u>REBUTTAL</u>		
Barry T. Birkett	FPL	2,7,10
Gerald J. Kordecki	TECO	

V. BASIC POSITIONS

FLORIDA POWER AND LIGHT COMPANY (FPL): FPL's proposal to use the 12CP and 1/13th Average Demand methodology to allocate ECCR costs should be approved. ECCR costs should be allocated in the same manner as the costs they displace, generating unit costs or purchased power costs. FPL's purchased power costs and non-nuclear generating unit costs are allocated under this methodology. In addition, this heavily demand weighted methodology reflects that the primary benefit of FPL's conservation programs is capacity deferral or avoidance. FPL's proposal to recover ECCR costs through a demand charge for demand billed classes should also be approved. It provides customers with a better price signal than an energy charge. Interruptible and load management customers on FPL's system already receive credits that compensate them for their value to the system. If they were to receive the additional benefit of not having to pay costs allocated to them, they would be overcompensated for the benefits they provide FPL's system. There is not currently a uniform methodology for allocating utilities' conservation costs. Uniformity is not needed for regulatory

purposes; flexibility in allocation and cost recovery well serves the Commission, utilities and customers.

FLORIDA POWER CORPORATION (FPC): The appropriate cost allocation and recovery methodology for FPC is that approved by the Commission in the Company's last general rate case, Docket No. 910890-EI, with two additional refinements, as described in the direct testimony of the Company's witness, Mr. William C. Slusser, Jr.

GULF POWER COMPANY (GULF): It is the basic position of Gulf Power Company that the Commission should continue to allow the investor-owned electric utilities the opportunity to develop their own allocation and recovery methodologies, subject to Commission review and approval. This opportunity for differentiation among utilities encourages innovation and experimentation and allows the Commission to evaluate appropriateness of different methods based on first hand experience under conditions applicable in Florida. With regard to Gulf's ECCR costs, each rate class's allocation should include only costs for programs which are designed for customers in that rate class, eliminating inter-class subsidies. To the greatest extent practical, costs should be borne only by participating customers to further eliminate intra-class subsidies.

TAMPA ELECTRIC COMPANY (TECO): There is no one correct way for allocating and collecting conservation costs. Tampa Electric believes that conservation costs should be collected on a per-kilowatt hour basis, except where the utility or a class of customers can establish a clear-cut benefit-to-cost relationship. Because of the rate history and customer acceptance of the current rate design, the current methodology for recovery of conservation costs should be retained by Tampa Electric.

FLORIDA INDUSTRIAL POWER USERS GROUP (FIPUG): The costs associated with conservation programs should be allocated to customer classes in a manner that reflects the principle of cost causation. Those programs expenses associated with efforts to reduce peak demand should be classified as demand-related and allocated to classes on the basis of the demand allocator approved in the utility's last rate case. Since Interruptible customers do not cause peak-related demand costs to be incurred, Interruptible customers should not be allocated any of the demand-related costs of conservation programs.

LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION, INC. (LEAF): Allocation of Demand Side Management program costs should reflect those load and usage characteristics that would cause the utility to incur

additional capacity or energy costs in the absence of the programs, which characteristics may also be said to cause the utility to implement the programs.

STAFF: No position at this time.

VI. ISSUES AND POSITIONS

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.

ISSUE 1: Should the Commission approve a uniform methodology for allocating and/or recovering conservation costs for all investor-owned utilities?

FPL: Uniform allocation methodologies are not needed. The Commission has used different allocation methodologies for utilities in rate cases, reflecting a need for flexibility to respond to individual factors. That same flexibility may be appropriate in allocating conservation costs. Uniform cost recovery is unnecessary and could result in less meaningful price signals. (Birkett)

FPC: The Commission should allow sufficient flexibility to accommodate relevant differences in the characteristics and operations between the utilities.

GULF: No. The Commission should continue to give each company the opportunity to develop their own allocation and recovery methodologies, subject to Commission review and approval. This opportunity for differentiation among utilities encourages innovation and experimentation and allows the Commission to evaluate appropriateness of different methods based on first hand experience under conditions applicable in Florida. (Kilgore)

TECO: Not necessarily. The facts of that particular case may affect the way allocation and recovery of

conservation costs should be accomplished.
[Kordecki]

FIPUG: The costs associated with the programs designed to reduce peak demand should be allocated in a manner that reflects cost causation. Interruptible customers do not cause peak-related demand costs to be incurred and should be excluded from the allocation of demand-related costs. Beyond these basic parameters, FIPUG believes there is some reasonable amount of latitude within which companies may differ in respect to their methodologies.

LEAF: Yes, unless a utility makes an adequate showing of why a different methodology is more consistent with statutory criteria. (Wright)

STAFF: No.

ISSUE 2: How should Florida Power and Light Company allocate and recover the costs of conservation programs?

FPL: FPL should allocate conservation costs as it would allocate the costs conservation displaces. At present, the 12CP and 1/13th methodology should be used. To provide better price signals, FPL should recover conservation costs from demand billed customer classes through demand charges and from the customer classes through an energy charge. (Birkett)

FPC: No position.

GULF: No position.

TECO: No position.

FIPUG: The costs of the programs should be allocated to classes on the basis of the 12 CP and 1/13th average demand allocators. For those customers who pay demand charges, the costs should be recovered through an increase in the demand charge. See

Issue 7 for FIPUG's position as to Interruptible customers.

LEAF: The PSC should allocate the ECCR costs as it would allocate the supply-side costs avoided by those programs. Rates for ECCR cost recovery should continue to be designed on a cents/KWH basis within each class. (Wright)

STAFF: No position at this time.

ISSUE 3: How should Florida Power Corporation allocate and recover the costs of conservation programs?

FPL: No position.

FPC: The appropriate cost allocation and recovery methodology for FPC is that provided for in the Cost of Service and Rate Design Stipulation entered into by the parties and approved by the Commission in the Company's last general rate case, Docket No. 910890-EI, as further described in the direct testimony of Mr. William C. Slusser, Jr. (page 2, line 4 through page 3, line 8), submitted on behalf of the Company in this proceeding. FPC suggests that two refinements be incorporated into this methodology: (1) recognition of class line losses in allocating energy-related conservation costs; and (2) differentiation of charges by metering voltage for General Service rates. These refinements are consistent with the methodology used in developing all of the Company's other rates and charges (i.e. base rates, fuel cost recovery charges, and capacity cost recovery charges).

GULF: No position.

TECO: No position.

FIPUG: The costs of the demand-related programs should be allocated to classes on the basis of the 12CP and 1/13th average demand allocators. For those customers who pay demand charges, these costs should be recovered through an increase in the

demand charge. See Issue 7 for FIPUG's position on Interruptible customers.

LEAF: The PSC should allocate the ECCR costs as it would allocate the supply-side costs avoided by those programs. Rates for ECCR cost recovery should continue to be designed on a cents/KWH basis within each class. (Wright)

STAFF: No position at this time.

ISSUE 4: How should Tampa Electric Company allocate and recover the costs of conservation programs?

FPL: No position.

FPC: No position.

GULF: No position.

TECO: The allocation and recovery of the costs of conservation programs should continue under the methodology currently used by Tampa Electric.

FIPUG: The costs of the programs should be allocated to classes on the basis of the 12CP and 1/13th average demand allocators. For those customers who pay demand charges, the costs should be recovered through an increase in the demand charge. See Issue 7 for FIPUG's position on Interruptible customers.

LEAF: The PSC should allocate the ECCR costs as it would allocate the supply-side costs avoided by those programs. Rates for ECCR cost recovery should continue to be designed on a cents/KWH basis within each class. (Wright)

STAFF: No position at this time.

ISSUE 5: How should Gulf Power Company allocate and recover the costs of conservation programs?

FPL: No position.

FPC: No position.

GULF: Each rate class's allocation should include only costs for programs which are designed for customers in that rate class, eliminating inter-class subsidies. To the greatest extent practical, costs should be borne only by participating customers. For those costs that are allocated to rate class, the costs should continue to be recovered from Gulf's customers through a kWh recovery factor. For those costs that are assigned to specific program participants, the costs should be recovered through a line item charge on the bills of the participating customers. (Kilgore)

TECO: No position.

FIPUG: The principles expressed by FIPUG with respect to the other companies would be applicable to Gulf Power (see issues 1-4, 7).

LEAF: The PSC should allocate the ECCR costs as it would allocate the supply-side costs avoided by those programs. Rates for ECCR cost recovery should continue to be designed on a cents/KWH basis within each class. (Wright)

STAFF: No position at this time.

ISSUE 6: How should Florida Public Utilities Company allocate and recover the costs of conservation programs?

FPL: No position.

FPC: No position.

GULF: No position.

TECO: No position.

FIPUG: No position.

LEAF: No position.

STAFF: No position at this time.

ISSUE 7: How should conservation costs be allocated to interruptible and other non-firm customer classes?

FPL: Conservation costs should be allocated to interruptible, curtailable and load management customer classes using the 12CP and 1/13th methodology used to allocate the costs they displace. These customers are already compensated for their value to FPL's system, and further credit by lowering their cost responsibility is inappropriate. (Birkett)

FPC: Conservation costs should be allocated to both firm and non-firm customer classes in the same manner that production costs are allocated setting base rates and fuel and capacity cost recovery charges.

GULF: No position at this time.

TECO: Conservation costs should continue to be allocated under Tampa Electric's present allocation methodology. However, if any change in allocation is made, it should be timed to coincide with (and be consistent with) the cost allocation methodologies used in the Company's next rate proceeding. [Witness: Kordecki]

FIPUG: Since Interruptible customers do not cause peak demand costs to be incurred, Interruptible customers should be excluded from the allocation of demand-related costs of conservation programs.

LEAF: The PSC should allocate the ECCR costs as it would allocate the supply-side costs avoided by those programs. (Wright)

STAFF: No position at this time.

ISSUE 8: Is it appropriate to adjust for line losses by class in allocating energy-related conservation costs?

FPL: Yes. FPL's proposed methodology allocates energy-related costs using contribution to kWh sales at the generator, which takes line and transformation losses into account. If the Commission decides that an energy allocation is still appropriate for ECCR costs, however, FPL is not aware of a rationale which would justify an adjustment for line losses. (Birkett)

FPC: Yes, adjustment for line losses is consistent with the allocation of energy-related costs in base rates and fuel cost recovery charges.

GULF: No position at this time.

TECO: No, unless the present methodology is changed to some type of cost of service allocation. [Witness: Kordecki]

FIPUG: Yes.

LEAF: Yes.

STAFF: Yes.

ISSUE 9: Is it appropriate to adjust for metering voltage in allocating conservation costs?

FPL: Yes. FPL's proposed methodology allocates energy-related costs using contribution to kWh sales at the generator, which takes line and transformation losses into account. A differentiation of ECCR charges by metering voltage is appropriate for customer classes with base rates that have non-fuel energy charges that vary due to differences in metering voltage. (Birkett)

FPC: Yes, adjustment for metering voltage is consistent with the development of base rates and fuel and capacity cost recovery charges.

GULF: No position at this time.

TECO: No, unless the present methodology is changed to some type of cost of service allocation. [Kordecki]

FIPUG: Yes.

LEAF: Yes.

STAFF: Yes.

ISSUE 10: What are the actual and potential benefits, if any, of demand side conservation programs that would necessitate any changes in allocation and recovery of conservation costs?

FPL: FPL's conservation costs should be allocated and recovered like the costs they displace. Those costs were allocated in FPL's rate case using the 12CP and 1/13th methodology. That methodology is heavily weighted toward demand allocation, which reflects that the primary benefit of FPL's conservation programs is capacity deferral.

FPC: None. Conservation benefits are appropriately reflected in FPC's current allocation and recovery methodology.

GULF: It is not the nature of the benefits of conservation programs that causes the need for the change. Rather, it is the need to properly recognize the competitive nature of the energy efficiency market that causes the need for the change.

TECO: Tampa Electric is precluded from responding to this issue because the issue does not identify the starting point (relative to actual and potential benefits) from which to determine whether any changes in allocation or recovery of conservation costs are necessitated. Neither does the issue explain how "actual and potential benefits" necessitate changes in conservation cost allocation

or recovery. The issue doesn't explain from what type of conservation cost allocation or recovery any perceived changes would be made. (Kordecki)

FIPUG: The primary benefit of conservation programs is to avoid the need to incur peak demand related costs. To the extent that certain utilities are allocating the program costs among customer classes on the basis of the classes' respective kWh consumption levels, the allocation methodology fails to follow the principle of reflecting cost causation. The costs should instead be allocated on the basis of contributions to peak demand.

LEAF: Avoided unit capacity costs; avoided purchase power costs; avoided unit operation and maintenance costs; avoided unit fuel costs - replacement fuel costs; avoided transmission and distribution losses; tax credits (TRC); avoided sulfur dioxide emission allowance costs; increased revenues (RIM); reduced adverse environmental impacts; reduced risk of cost of compliance with future environmental regulations; and enhanced reliability.

STAFF: No position at this time.

LEGAL ISSUE:

ISSUE 11: In deciding on the proper allocation and recovery of demand side program costs under the Conservation Cost Recovery Clause, is the Commission required to consider the criteria in Sections 366.041 (1) and 366.06 (1), Florida Statutes?

FPL: The Commission is authorized to consider, among other things, the criteria in Section 366,041(1), Florida Statutes. The Commission is required to the extent practicable to consider the criteria in Section 366.06(1).

FPC: The Commission is authorized, not required, to consider the criteria in Section 366.041(1), F.S. The Commission is required to consider the criteria

in Section 366.06(1), F.S., only to the extent practicable.

GULF: The Commission is authorized, not required, to consider the criteria in Section 366.041(1), F.S. The Commission is required to consider the criteria in Section 366.06(1), F.S., only to the extent practicable.

TECO: If deciding on the proper allocation and recovery of demand side program costs under the Conservation Cost Recovery Clause constitutes and exercise by the Commission of its authority under Sections 366.041(1) and 366.06(1), Florida Statutes, then the Commission's decision making is governed, at least in part by the provisions of the referenced statutes.

FIPUG: As in other ratemaking contexts the cost to serve should be the primary consideration.

LEAF: The Commission is authorized, not required, to consider the criteria in Section 366.041(1), Fla. Stat. and is required to consider the criteria in Section 366.06(1), Fla. Stat. to the extent practicable.

STAFF: No position at this time.

ISSUE 12: What should the effective date be of any decisions made in this docket?

FPL: FPL's proposed changes to ECCR allocation and rate design should be effective April 1, 1994, the beginning of the next ECCR cost recovery period.

FPC: Any decisions made in this docket should be implemented in conjunction with the next change in the ECCR factors.

GULF: Any changes should be made effective on a prospective basis concurrent with the next implementation date of new ECCR factors. (Kilgore)

TECO: Not before the commencement of the next conservation cost recovery period. [Witness: Kordecki]

FIPUG: No position.

LEAF: No position.

STAFF: Any Commission decision made in this docket should be reflected in the April 1994 through March 1995 conservation cost recovery period.

ISSUE 13: Should this docket closed?
STIPULATED

POSITION: Yes.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Birkett (Direct)	FPL	<u>(BTB-1)</u>	FPL Calculation Of Energy Demand Allocation % By Rate Class October 1993 Through March 1994; FPL Calculation of Energy Conservation Factor October 1993 Through March 1994.
Slusser	FPC	<u>(WCS-1)</u>	Rate Schedule BA-1.
Slusser	FPC	<u>(WCS-2)</u>	MFR Schedule E-21a.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Kilgore	Gulf	<u>(JTK-1)</u>	Comparison of methods for allocating and assigning conservation costs to customers with regard to insulation against Interclass and Intraclass subsidies.
Baron	FIPUG	<u>(SJB-1)</u>	Past appearances as witness.
Wright	LEAF	<u>(RSW-1)</u>	Executive Summary of NARUC Conservation Cost Report. Interr. Responses. Rebuttal Exhibits. Impeachment Exhibits.
Birkett (Rebuttal)	FPL	<u>(BTB-2)</u>	Correlations Between Contributions To The 12 Monthly Peaks And Billing kW, kWh, Maximum Off-Peak Demand, And On-Peak kWh For All Demand Classes.

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

VIII. PROPOSED STIPULATIONS

There are proposed stipulations for Issues 11, 12 and 13.

IX. PENDING MOTIONS

No motions are pending at this time.

X. RULINGS

By letter dated September 10, 1993, FPUC requested that it be excused from further participation in the case, because they would agree to recover conservation costs by any methodology the Commission approved. No party objected to FPUC's request. The request is granted.

It is therefore,

ORDERED by Chairman J. Terry Deason, 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 J. Terry Deason, as Prehearing Officer, this 8TH day of OCTOBER, 1993.



J. TERRY DEASON, Chairman and
Prehearing Officer

(S E A L)
MCB/RVE:bmi

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida

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Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.