

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Environmental Cost ) DOCKET NO. 960007-EI  
Recovery Clause. ) ORDER NO. PSC-96-0239-PHO-EI  
\_\_\_\_\_ ) ISSUED: February 19, 1996

Pursuant to Notice, a Prehearing Conference was held on Monday, February 12, 1996, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

MATTHEW M. CHILDS, P.A., Steel, Hector, & Davis  
215 South Monroe Street, Suite 601, Tallahassee, Florida  
32301  
On behalf of Florida Power & Light Company.

JEFFREY A. STONE, Esquire, and RUSSELL A. BADDERS,  
Esquire, of Beggs & Lane, 700 Blount Building, 3 West  
Garden Street, P.O. Box 12950, Pensacola, Florida 32576-  
2950  
On behalf of Gulf Power Company.

JOSEPH A. MCGLOTHLIN, Esquire, VICKI GORDON KAUFMAN,  
Esquire, McWhirter, Reeves, McGlothlin, Davidson, Rief  
and Bakas, 117 South Gadsen Street, Tallahassee, Florida  
32301.  
On behalf of the Florida Industrial Power Users Group.

JOHN ROGER HOWE, Esquire, 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.

VICKI D. JOHNSON, Esquire, Florida Public Service  
Commission, 2540 Shumard Oak Boulevard, Tallahassee,  
Florida 32399-0850  
On behalf of the Commission Staff.

**PREHEARING ORDER**

**I. CASE BACKGROUND**

As part of the Commission's continuing fuel and energy conservation cost, purchased gas cost, and environmental cost recovery proceedings, a hearing is set for February 21 - 22, 1996, in this docket and in Docket Nos. 960001-EI, 960002-EG and

DOCUMENT NUMBER - DATE

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FPSC-RECORDS/REPORTING

960003-GU. The hearing will address the issues set out in the body of this prehearing order.

## 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(2), 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; WITNESSES

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

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

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

### IV. ORDER OF WITNESSES

Witnesses whose names are preceded by an asterisk (\*) have been excused. The parties have stipulated that the testimony of those witnesses will be inserted into the record as though read, and cross-examination will be waived. The parties have also stipulated that all exhibits submitted with the witnesses' testimony shall be identified as shown in Section VII of this Prehearing Order and admitted into the record.

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
Direct		
* B. T. Birkett	FPL	1-9, 11A-11C
* W. M. Reichel	FPL	1-9, 11A-11C
* J. O. Vick	Gulf	1, 2, 4, 10
* S. D. Cranmer	Gulf	1, 2, 3, 4, 5, 6, 7, 8, 9

V. BASIC POSITIONS

FPL: None necessary.

GULF: It is the basic position of Gulf Power Company that the proposed environmental cost recovery factors present the best estimate of Gulf's cost for its environmental compliance activities for the period April 1996 through September 1996, including the true-up calculations and other adjustments allowed by the Commission.

FIPUG: None at this time.

OPC: None necessary.

STAFF: Staff takes no basic statement of position pending the evidence developed at hearing.

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.

VI. ISSUES AND POSITIONS

Generic Environmental Cost Recovery Issues

STIPULATED

ISSUE 1: What are the appropriate final environmental cost recovery true-up amounts for the period ending September 30, 1995?

POSITION:

FPL: \$583,626 overrecovery for the period including interest.

GULF: \$700,728 overrecovery.

STIPULATED

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period October 1995 through March 1996?

**POSITION:**

**FPL:** \$2,021,658 underrecovery for the period including interest.

**GULF:** \$669,968 underrecovery.

**STIPULATED**

**ISSUE 3:** What are the total environmental cost recovery true-up amounts to be collected during the period April 1996 through September 1996?

**POSITION:**

**FPL:** \$1,438,032 net underrecovery.

**GULF:** Refund of \$30,760 (excluding revenue taxes).

**STIPULATED**

**ISSUE 4:** What are the appropriate projected environmental cost recovery amounts for the period April 1996 through September 1996?

**POSITION:**

**FPL:** The appropriate projected environmental cost recovery amount to be collected during the period is \$5,695,286. This amount consists of \$4,167,068 of projected environmental compliance cost for the period net of the prior period underrecovery and adjusted for taxes.

**GULF:** \$5,928,949.

**STIPULATED**

**ISSUE 5:** What should be the effective date of the new environmental cost recovery factors for billing purposes?

**POSITION:** The factor should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period April 1996 through September 1996. Billing cycles may start before April 1, 1996, and the last cycle may be read after September 30, 1996, so that each customer is billed for six months regardless of when the adjustment factor became effective.

**STIPULATED**

**ISSUE 6:** What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery true-up amounts to be collected during the period April 1996 through September 1996?

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

**STIPULATED**

**ISSUE 7:** How should the newly proposed environmental costs be allocated to the rate classes?

**POSITION:** FPL: The costs of the St. Lucie Plant Sea Turtle Barrier should be allocated on 12CP and 1/13 basis.

**STIPULATED**

**ISSUE 8:** What are the appropriate Environmental Cost Recovery Factors for the period April 1996 through September 1996 for each rate group?

**POSITION:**

<b><u>FPL:</u></b>	<b><u>Rate Class</u></b>	<b><u>Environmental Recovery Factor (\$/KWH)</u></b>
	RS1	0.00015
	GS1	0.00015
	GSD1	0.00013
	OS2	0.00012
	GSLD1/CS1	0.00013
	GSLD2/CS2	0.00013
	GSLD3/CS3	0.00012
	ISST1D	0.00013
	SST1T	0.00014
	SST1D	0.00011
	CILC D/CILC G	0.00013
	CILC T	0.00012
	MET	0.00014
	OL1/SL1	0.00010
	SL2	0.00012

GULF: See table below:

<b>RATE CLASS</b>	<b>ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH</b>
RS, RST	0.136
GS, GST	0.135
GSD, GSDT, SBS	0.120
LP, LPT, SBS	0.111
PX, PXT, RTP, SBS	0.101
OSI, OSII	0.074
OSIII	0.109
OSIV	0.074

**STIPULATED**

**ISSUE 9:** Should the Environmental Cost Recovery Clause true-up amounts be divided into energy and demand components based on actual project expenditures?

**POSITION:** Yes. The schedules currently filed by the companies provide sufficient information to adopt this method. Staff believes that this is a more accurate method than the current practice, under which the true-up is allocated based on the proportion of demand and energy amounts for the current projection period. This treatment will be adopted beginning with the next final true-up filing.

**Company - Specific Environmental Cost Recovery Issues**

Gulf Power Company

**STIPULATED**

**ISSUE 10:** Should the Commission approve recovery of Gulf Power Company's costs of Clean Air Act Compliance Studies through the Environmental Cost Recovery Clause?



**POSITION:** This issue was deferred from the August 9, 1995 hearing and was worded as follows:

"Should the Commission approve recovery of Gulf Power Company's costs of Generation Steam Studies through the Environmental Cost Recovery Clause?"

The revised wording more appropriately describes the costs for which Gulf Power is requesting recovery.

System planning costs to determine the most cost-effective alternative in meeting environmental requirements are appropriate if the costs for that type of system planning study were not included in the company's last rate case nor in base rates and are not being recovered through any other mechanism.

Gulf's response to Staff's Third Set of Interrogatories, Item 20, indicates that charges for preliminary studies were accumulated in deferred debit account 183-741. By October 1992, the cumulative total deferred debit amount for Generation System Studies (Clean Air Act Compliance Studies) was charged to PE 1236 and 1228 (Low NOx Burners on Crist 6 & 7). Staff believes these charges are appropriate for recovery through this Clause.

Florida Power & Light Company

**STIPULATED**  
**ISSUE 11A:**

Should the Commission approve Florida Power & Light's request to recover the cost of the St. Lucie Plant Sea Turtle Barrier through the Environmental Cost Recovery Clause?

**POSITION:**

This issue should be deferred until the August 1996 hearing. Florida Power & Light (FPL) has provided documentation which shows that installation of the five inch mesh barrier net at St. Lucie likely will be required in the near future; however, the documents do not show that this project currently is required by an environmental law or regulation as defined in Section 366.8255, Florida Statutes. In response to a request for production of documents, FPL provided staff with a "draft" copy of the Nuclear Regulatory Commission's Biological Opinion which calls for the new five inch mesh barrier net. This document resulted from an

Endangered Species Act Section 7 Consultation which was conducted by the National Marine Fisheries Service. Due to the recent federal government shutdowns, issue of the Biological Opinion has been delayed. FPL anticipates that this report will be issued before the August hearing; therefore, staff believes it is reasonable to defer this issue.

**STIPULATED**  
**ISSUE 11B:**

Should the Commission allow Florida Power & Light Company to recover the costs of the current spill abatement project at the Riviera Plant which has been included in the activity titled Maintenance of Stationary Above Ground Fuel Storage Tanks - Spill Abatement?

**POSITION:**

Yes. This activity is a requirement of Rule 62-762.820, F.A.C. All expenses were incurred after April 13, 1993, are not being recovered in any other cost recovery mechanism, and were not considered at the time of Florida Power & Light's last rate case. Final disposition of the costs incurred in this activity will be subject to audit.

Based on Florida Power & Light's response to a staff interrogatory, staff believes that Florida Power & Light detected the spill at the Riviera Plant in sufficient time to project these O&M expenditures for the October 1995 to March 1996 period. In the future, the company should ensure that all expected costs related to known activities are included in its projections.

**STIPULATED**  
**ISSUE 11C:**

Should the Commission allow Florida Power & Light Company to recover the costs of the current spill abatement project at the Sanford Plant which has been included in the activity titled Maintenance of Stationary Above Ground Fuel Storage Tanks - Spill Abatement?

**POSITION:**

Yes. This activity is a requirement of Rule 62-762.820, F.A.C. All expenses were incurred after April 13, 1993, are not being recovered in any other cost recovery mechanism, and were not considered at the time of Florida Power & Light's

last rate case. Final disposition of the costs incurred in this activity will be subject to audit.

Based on Florida Power & Light's response to a staff interrogatory, staff believes that Florida Power & Light detected the spill at the Sanford Plant in sufficient time to project these O&M expenditures for the October 1995 to March 1996 period. In the future, the company should ensure that all expected costs related to known activities are included in its projections.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
*B. T. Birkett	FPL	_____ (BTB-1)	Environmental Cost Recovery True-Up Period April 1995 - September 1995 Commission Forms 42-1A through 42-8A
*B. T. Birkett *W. M. Reichel	FPL	_____ (BTB-2)	Appendix I/ Environmental Cost Recovery Projections April 1996 - September 1996 Commission Forms 42-1P through 42-7P
*B.T. Birkett *W.M. Reichel	FPL	_____ (BTB-3)	Appendix II Environmental Cost Recovery Estimated/Actual Period October 1995 - March 1996 Commission Forms 42-1E through 42-8E
*Cranmer	GULF	_____ (SDC-1)	Schedules 1A-8A
<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
*Cranmer	GULF	(SDC-2)	Schedules 42-1P through 42-7P, 42- 1E through 42-8E

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

VIII. PROPOSED STIPULATIONS

The parties have stipulated to all issues in the Prehearing Order.


IX. PENDING MOTIONS

None at this time.

It is therefore,

ORDERED by Commissioner 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 Commissioner J. Terry Deason, as Prehearing Officer, this 19th day of February, 1996.

  
\_\_\_\_\_  
J. TERRY DEASON, Commissioner  
and Prehearing Officer

( S E A L )

VDJ

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 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.