

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Environmental cost) DOCKET NO. 970007-EI
recovery clause.) ORDER NO. PSC-97-0183-PHO-EI
_____) ISSUED: February 18, 1997

Pursuant to Notice, a Prehearing Conference was held on Wednesday, February 5, 1997, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

LEE L. WILLIS, Esquire and JAMES D. BEASLEY, Esquire,
Ausley & McMullen, Post Office Box 391, Tallahassee,
Florida 32302
On behalf of Tampa Electric Company.

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

JOHN ROGER HOWE, 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.

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 19 - 21, 1997, in this docket and in Docket Nos. 970001-EI, 970002-EG and 970003-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

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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 Division of Records and Reporting'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 those 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>Issue #</u>
<u>Direct</u>		
* Jeffrey S. Chronister	TECO	1
Karen Branick	TECO	2 - 9B

V. BASIC POSITIONS

TECO: The Commission should approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period June 1996 through September 1996, its actual/estimated true-up amount for the period October 1996 through March 1997, and its projected ECRC revenue requirement and ECRC cost recovery factors for the period April 1997 through September 1997.

FIPUG: None at this time.

OPC: None necessary.

STAFF: Staff takes no basic 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, 1996?

POSITION: TECO: \$1,193,181 underrecovery.

STIPULATED

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period October 1996 through March 1997?

POSITION: TECO: \$953,887 overrecovery.

STIPULATED

ISSUE 3: What are the total environmental cost recovery true-up amounts to be collected during the period April 1997 through September 1997?

POSITION: TECO: \$239,294 underrecovery.

ISSUE 4: What are the appropriate projected environmental cost recovery amounts for the period April 1997 through September 1997?

POSITIONS:

TECO: \$2,720,712. (Branick)

FIPUG: No position.

OPC: TECO: No position.

STAFF: TECO: No position at this time pending resolution of company-specific issues.

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 1997 through September 1997. Billing cycles may start before April 1, 1997, and the last cycle may be read after September 30, 1997, 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 1997 through September 1997?

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: TECO: The costs of the SO₂ Allowances should be allocated on an energy basis.

The costs of the Gannon Station Ignition Oil Tank Upgrade should be allocated on a demand (12 CP and 1/13 AD) basis.

STIPULATED

ISSUE 8: What are the appropriate Environmental Cost Recovery Factors for the period April 1997 through September 1997 for each rate group?

<u>POSITION:</u> Rate Class	<u>cents/kwh</u>
RS, RST	0.033
GS, GST, TS	0.033
GSD, GSDT, EVX	0.033
GSLD, GSLDT, SBF, SBFT	0.033
IS1, IST1, SBI1, SBIT1,	
IS3, IST3, SBI3, SBIT3	0.032
SL, OL	0.033

Company - Specific Environmental Cost Recovery Issues

Tampa Electric Company

STIPULATED

ISSUE 9A: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Gannon Station Coalfield Diesel Tank Upgrade through the Environmental Cost Recovery Clause?

POSITION: No. In response to a staff interrogatory, Tampa Electric removed the Gannon Station Coalfield Diesel Tank Upgrade Project from this projection filing. A project entitled Gannon Underground Piping, which included DEP Rule 17-762 piping upgraded for the Gannon coalfield diesel tank, was included in Tampa Electric Company's 1993 and 1994 projections in their last rate case. The current DEP Rule 62-762 is substantially the same as DEP Rule 17-762; therefore, Tampa Electric Company found it appropriate to remove this project from the filing to avoid double recovery of these costs.

ISSUE 9B: Should the Commission approve Tampa Electric Company's request to recover the cost of the Gannon Station Ignition Oil Tank Upgrade through the Environmental Cost Recovery Clause?

POSITIONS:

TECO: Yes. (Branick)

FIPUG: No position.

OPC: Agree with staff.

STAFF: No. Tampa Electric cites DEP Rule 62-762, which became effective on March 12, 1991, as the justification for recovery of the costs of the Gannon Station Ignition Oil Tank Upgrade project through the Environmental Cost Recovery Clause. Since this rule became effective prior to the company's last test year upon which rates are based, this project does not meet the criteria for cost recovery through this clause as outlined in Order No. PSC-96-0044-FOF-EI. In addition, DEP Rule 62-762 has not had any material scope changes; therefore, recovery of additional costs associated with this rule through the Environmental Cost Recovery Clause would constitute double recovery. This project is very similar in nature

to the Gannon Station Coalfield Diesel Tank Upgrade Project which Tampa Electric Company has decided to remove from this projection filing due to costs that were included in the test years of their last rate case.

VII. EXHIBIT LIST

- * 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 those witnesses' testimony shall be identified as shown in Section VII of this Prehearing Order and admitted into the record.

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
* Chronister	TECO	_____ (JSC - 1)	Final true-up June 1996 - September 1996
Branick	TECO	_____ (KAB - 1)	Environmental cost r e c o v e r y actual/estimated true-up amount for the period October 1996 through March 1997, and projected ECRC revenue requirement and billing factor for the period April 1997 through September 1997.

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

VIII. PROPOSED STIPULATIONS

The parties have proposed stipulations to all issues except Issue Nos. 4 and 9B.

IX. PENDING MOTIONS

There are no pending motions 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 18th day of February, 1997.



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 120.569(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.

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, 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

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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.