

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 100007-EI
ORDER NO. PSC-10-0640-PHO-EI
ISSUED: October 26, 2010

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 25, 2010, in Tallahassee, Florida, before Commissioner Nathan A. Skop, as Prehearing Officer.

APPEARANCES:

R. ALEXANDER GLENN and JOHN T. BURNETT, ESQUIRES, Progress Energy Service Company, LLC, Post Office Box 14042, St. Petersburg, Florida 33733-4042; GARY V. PERKO, ESQUIRE, Hopping, Green & Sams, P.A., Post Office Box 6526, Tallahassee, Florida 32314-6526
On behalf of Progress Energy Florida, Inc. (PEF)

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

JEFFREY A. STONE, RUSSELL A. BADDERS, and STEVEN R. GRIFFIN, ESQUIRES, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32591-2950
On behalf of Gulf Power Company (GULF)

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On behalf of the Florida Industrial Power Users Group (FIPUG)

PATRICIA A. CHRISTENSEN, CHARLIE BECK and J.R. KELLY, ESQUIRES, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC)

KAREN WHITE and CAPTAIN SHAYLA L. MCNEILL, USAF, ESQUIRES, c/o AFLSA/JACL-ULFSC, 139 Barnes Drive, Suite 1, Tyndall Air Force Base, Florida 32403-5319
On behalf of the Federal Executive Agencies (FEA)

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

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32399-0850

On behalf of the Florida Public Service Commission (Staff)

MARY ANNE HELTON, Assistant General Counsel, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Commission's continuing environmental cost recovery clause proceedings, the Commission has set a hearing in this docket for November 1-3, 2010. This Order sets forth the order of witnesses, issues and positions, list of exhibits, and other procedural matters to be addressed at the hearing.

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 Section 366.8255, Florida Statutes (F.S.). This hearing will be governed by that statute, Chapter 120, F.S., and Rules 25-22.075 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, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

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

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by an asterisk (*) will be excused from the hearing if no Commissioners have questions for them.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*WILL GARRETT	PEF	1
*COREY ZIEGLER	PEF	1-3
*PATRICIA Q. WEST	PEF	1-3, 10A, 10C
*KEVIN MURRAY	PEF	1-2
*DAVID SORRICK	PEF	2-3, 10C
*THOMAS G. FOSTER	PEF	2-8, 10B
*HOWARD T. BRYANT	TECO	1-8
*PAUL L. CARPINONE	TECO	3
*J. O. VICK	GULF	1-4, 11A-11D
*R.W. DODD	GULF	1-8, 11A-11D

VII. BASIC POSITIONS

PEF: None necessary.

TECO: The Commission should approve for environmental cost recovery the compliance programs described in the testimony and exhibits of Tampa Electric Witnesses

Bryant and Carpinone. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period January 2009 through December 2009, the actual/estimated environmental cost recovery true-up for the current period January 2010 through December 2010, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2011 through December 2011.

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 for the period January 2011 through December 2011 including the true-up calculations and other adjustments allowed by the Commission.

FIPUG: The Commission should strictly review all items submitted for recovery through the environmental cost recovery clause to ensure that the criteria for recovery are met.

OPC: None.

FEA: The FEA respectfully recommends that Commission review all items submitted for recovery through the environmental cost recovery clause to ensure that the criteria for recovery are met.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

VIII. ISSUES AND POSITIONS

ISSUE 1: **What are the final environmental cost recovery true-up amounts for the period ending December 31, 2009?**

PROPOSED STIPULATION POSITION:

PEF: \$4,562,177 over-recovery.

TECO: \$831,312 over-recovery.

GULF: \$9,744,785 over-recovery.

ISSUE 2: **What are the estimated environmental cost recovery true-up amounts for the period January 2010 through December 2010?**

PROPOSED STIPULATION POSITION:

PEF: \$34,319,509 over-recovery.

TECO: \$3,155,800 over-recovery.

GULF: \$234,779 under recovery.

ISSUE 3: **What are the projected environmental cost recovery amounts for the period January 2011 through December 2011?**

PROPOSED STIPULATION POSITION:

PEF: \$213,059,829.

TECO: \$80,007,468.

GULF: \$157,338,278.

ISSUE 4: **What are the environmental cost recovery amounts, including true-up amounts, for the period January 2011 through December 2011?**

PROPOSED STIPULATION POSITION:

PEF: \$174,303,552.

TECO: \$76,075,090.

GULF: \$147,934,709.

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 2011 through December 2011?

PROPOSED STIPULATION

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.

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2011 through December 2011?

PROPOSED STIPULATION

POSITION:

PEF: The jurisdictional energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total system kWh sales.
Transmission Average 12 CP demand jurisdictional factor – 68.113%
Distribution Primary demand jurisdictional factor – 99.624%
Jurisdictional Separation Study factors were used for production demand jurisdictional factor as:
Production Base – 91.089%
Production Intermediate – 58.962%
And, Production Peaking – 91.248%
Production A&G – 87.691%

TECO: The demand jurisdictional separation factor is 96.74819 %. The energy jurisdictional separation factors are calculated for each month based on projected retail kWh sales as a percentage of projected total system kWh sales. These are shown on the schedules sponsored by witness Bryant.

GULF: The demand jurisdictional separation factor is 96.44582%. 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 2011 through December 2011 for each rate group?

PROPOSED STIPULATION

POSITION:

PEF:

Rate Class	ECRC Factors 12CP & 1/13 AD
Residential	0.491 cents/kWh
General Service Non-Demand	
@ Secondary Voltage	0.482 cents/kWh
@ Primary Voltage	0.477 cents/kWh
@ Transmission Voltage	0.472 cents/kWh
General Service 100% Load Factor	0.463 cents/kWh
General Service Demand	
@ Secondary Voltage	0.471 cents/kWh
@ Primary Voltage	0.466 cents/kWh
@ Transmission Voltage	0.462 cents/kWh
Curtaillable	
@ Secondary Voltage	0.464 cents/kWh
@ Primary Voltage	0.459 cents/kWh
@ Transmission Voltage	0.455 cents/kWh
Interruptible	
@ Secondary Voltage	0.451 cents/kWh
@ Primary Voltage	0.446 cents/kWh
@ Transmission Voltage	0.442 cents/kWh
Lighting	0.470 cents/kWh

TECO: The appropriate environmental cost recovery factors are as follows:

<u>Rate Class</u>	<u>Factor at Secondary Voltage (¢/kWh)</u>
RS	0.404
GS, TS	0.403
GSD, SBF	

	Secondary	0.402
	Primary	0.398
	Transmission	0.394
IS		
	Secondary	0.396
	Primary	0.392
	Transmission	0.388
LS1		0.402
Average Factor		0.403

GULF:

<u>RATE CLASS</u>	<u>ENVIRONMENTAL COST RECOVERY FACTORS</u> <u>¢/KWH</u>
RS, RSVP	1.343
GS	1.335
GSD, GSDT, GSTOU	1.324
LP, LPT	1.295
PX, PXT, RTP, SBS	1.278
OS-I/II	1.286
OSIII	1.306

The factors are a mathematical calculation based on the resolution of company-specific issues. Staff asks for administrative authority to review the calculations reflecting the Commission's vote and include the resulting factors in the Order.

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

PROPOSED STIPULATION POSITION:

The factors should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2011 through December 2011. Billing cycles may start before January 1, 2011 and the last cycle may be read after December 31, 2011, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

COMPANY-SPECIFIC ISSUES

Progress Energy Florida (PEF)

ISSUE 10A: Should the Commission grant PEF's Petition for approval of cost recovery for the Effluent Limitation Guidelines-related Information Collection Request (ELG-ICR) Project?

**PROPOSED STIPULATION
POSITION:**

Yes. Section 304 of the Clean Water Act directs the Environmental Protection Agency (EPA) to develop and periodically review regulations, called effluent guidelines, to limit the amount of pollutants that are discharged to surface waters from various point source categories. In October 2009, EPA published in the Federal Register a proposed information collection request (ICR) to collect information to support the development of revised effluent guidelines for the steam electric power generating category. (74 Fed. Reg. 55,837) On June 18, 2010, PEF received notification that the Crystal River Energy Complex, Suwannee River Plant and the Hines Energy Complex are required to complete the ICR and submit responses to EPA within 90 days. Collection and submittal of the requested information is mandatory under Section 308 of the Clean Water Act. The Commission has previously held that the costs of complying with a similar ICR related to the EPA's development of air emissions standards are recoverable under the ECRC.¹

PEF estimates the total project costs to be approximately \$60,000 for 2010. Such estimates are based on the cost estimates published by EPA and PEF's estimate of contractor support costs. PEF currently anticipates that all costs for complying with the new ICR will be incurred in 2010, and the Company expects that all of these costs will be subject to audit by the Commission.

ISSUE 10B: How should the costs associated with PEF's proposed ELG-ICR Project be allocated to the rate classes?

**PROPOSED STIPULATION
POSITION:**

The costs associated with the ELG-ICR project are O&M costs, which should be allocated to rate classes on an energy basis.

¹ Order No. PSC-09-0759-FOF-EI, issued November 18, 2009, in Docket No. 090007-EI, In Re: Environmental Cost Recovery Clause.

ISSUE 10C: Should the Commission approve PEF's Updated Review of Integrated Clean Air Compliance Plan that was submitted on April 1, 2010?

PROPOSED STIPULATION
POSITION:

Yes. PEF remains confident that its Integrated Clean Air Compliance Plan will have the desired effect of achieving timely compliance with the applicable regulations in a cost-effective manner. PEF has achieved significant project milestones, including execution of all major contracts and commencement of construction activities, including installation of steel support for the Crystal River Units 4 and 5 control projects. No new or revised environmental regulations have been adopted that have a direct bearing on PEF's compliance plan. PEF shall file, as part of its true-up testimony in the ECRC, a yearly review of the efficacy of its plan and the cost-effectiveness of PEF's retrofit options for each generating unit in relation to expected changes in environmental regulations.

Gulf Power Company (Gulf)

ISSUE 11A: Should the Commission approve Gulf's Environmental Compliance Program Update for the Clean Air Interstate Rule (CAIR) and Clean Air Visibility Rule (CAVR) that was submitted on April 1, 2010?

PROPOSED STIPULATION
POSITION:

Yes. Gulf's Compliance Program Update identifies the timing and current estimates of costs for specific projects planned by the Company in order to comply with CAIR and CAVR requirements along with information regarding the relative value of the planned projects compared to other viable compliance alternatives, if any. It includes the description and results of the evaluation process that lead Gulf to conclude that the chosen means of compliance is the most reasonable, cost-effective alternative and that the affected generating units remain economically viable as a source of energy to Gulf's retail customers with the addition of the emission controls. Gulf's Compliance Program represents the most cost-effective alternative for the Company to ensure environmental compliance at this time. Gulf shall file, as part of its annual ECRC true-up testimony, an update of the efficacy of its Environmental Compliance Program and the cost-effectiveness of its compliance options for each generating unit in relation to changes in environmental regulations.

ISSUE 11B: Should the Commission grant Gulf's Petition for approval of the inclusion of the Plant Daniel Units 1 and 2 Selective Catalytic Reduction Systems (SCRs) in the Company's Compliance Program and for recovery of the associated costs through the ECRC?

**PROPOSED STIPULATION
POSITION:**

Yes. Gulf's petition is related to a 2007 stipulation negotiated between Gulf, the Office of Public Counsel, and the Florida Industrial Power Users Group, which was approved by the Commission in Order No. PSC-07-0721-S-EI.² In that order, the Commission approved Phase I of Gulf's Compliance Program. With respect to Phase II components, which included the Plant Daniel Units 1 and 2 SCRs, of the Compliance Program, the Commission stated "... once Gulf makes a decision to proceed with implementation, Gulf agrees to make a supplementary filing in the ECRC docket ... that will identify the timing of the planned implementation and updated estimates prior to incorporating them in the normal projection or true-up filings under the ECRC." On April 1, 2010, Gulf filed a Second Supplemental Petition regarding its CAIR/CAVR Environmental Compliance Program to request approval of the inclusion of the Plant Daniel Units 1 and 2 SCRs in the Compliance Program, and recovery of the associated costs through the ECRC. On May 19, 2010, the Commission issued a procedural Order,³ setting June 30, 2010 as the deadline for the Commission Staff or other interested parties to raise objections, if any, to Gulf's Second Supplemental Petition. No such objections were raised by the Staff or interested parties.

Plant Daniel consists of two coal-fired EGUs each having a nameplate rating of 548.2 MW. In order to satisfy CAIR and CAVR requirements, these units need to achieve significant SO₂ and NO_x reductions. Gulf has conducted a systematic assessment to compare various options to achieve these goals. The options reviewed include: 1) relying on emission allowance purchases; 2) switching to lower emission fuel; 3) retrofitting of environmental emission controls on existing generating units; 4) retiring existing generating units and replacing with new or purchased generation; and 5) a combination of these options. The results indicate that fuel switching alone will not reduce emissions to the required level. Purchasing emission allowances is too uncertain and risky as a sole compliance option for Gulf and its customers because of the high price volatility and unpredictable availability. Additionally, should allowances not be available, Gulf might be forced to operate higher cost units while curtailing operation of lower cost units in order to maintain compliance. Retiring the Plant Daniel units and replacing them with two combined cycle units would not be economically

² Order No. PSC-07-0721-S-EI, issued on September 5, 2007, in Docket No. 070007-EI, In Re: Environmental Cost Recovery Clause.

³ Order No. PSC-10-0316-PCO-EI, issued on May 19, 2010, in Docket No. 100007-EI, In Re: Environmental Cost Recovery Clause.

feasible. The Company has thus concluded that the retrofit of Daniel Units 1 and 2 is the best option. The SCRs will help to achieve the NOx emission reduction goals set in the CAIR and CAVR requirements. Additionally, SCRs appear to contribute to satisfying the requirements of the anticipated new 8-hour ozone designation standard. Further, these SCRs, along with the Units 1 and 2 scrubbers, will also provide a co-benefit of significantly reducing mercury emissions. This would help Gulf in complying with the MACT Rule for power plant mercury emissions control anticipated to be adopted by the EPA by November 2011. Therefore, the addition of the Plant Daniel Units 1 and 2 SCRs would be the most reasonable, cost-effective alternative available to Gulf for meeting the environmental compliance requirements of CAIR and CAVR. Gulf expects to include the scope, budget, and schedule for the Daniel Units 1 and 2 SCRs Project in its CAIR/CAVR Compliance Program Update in April 2011.

ISSUE 11C: Should the Commission approve Gulf's newly proposed Effluent Information Collection Request (Effluent-ICR) Project in its General Water Quality Program for cost recovery?

PROPOSED STIPULATION
POSITION:

Yes. Section 304 of the Clean Water Act directs the EPA to develop and periodically review regulations, called effluent guidelines, to limit the amount of pollutants that are discharged to surface waters from various point source categories. In October 2009, EPA published in the Federal Register a proposed information collection request (ICR) to collect information to support the development of revised effluent guidelines for the steam electric power generating category. (74 Fed. Reg. 55,837) On June 18, 2010, Gulf was notified by the EPA that its Plant Crist, Plant Smith, Plant Daniel and Plant Scholz would be required to respond to the ICR. The ICR requires Gulf to collect an extensive amount of data and to respond to hundreds of questions on a broad range of topics related to these plants. Gulf's ICR response must be submitted to the EPA on or before October 15, 2010. The collection and submission of the requested information is mandatory under Section 308 of the Clean Water Act. The Commission has previously held that the costs of complying with a similar ICR related to the EPA's development of air emissions standards are recoverable under the ECRC.⁴ Gulf proposed to include this Effluent-ICR project in its existing General Water Quality Program for cost recovery. The estimated costs associated with the Effluent-ICR Project would be a total of \$159,000 during 2010.

⁴ Order No. PSC-09-0759-FOF-EI, issued November 18, 2009, in Docket No. 090007-EI, In Re: Environmental Cost Recovery Clause.

ISSUE 11D: How should the costs associated with Gulf's proposed Effluent-ICR Project be allocated to the rate classes?

PROPOSED STIPULATION POSITION:

O&M expenses associated with this project should be allocated to the rate classes on a demand basis.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
<u>Direct</u>		
WILL GARRETT	PEF	(WG-1) PSC Forms 42-1A through 42-8A January 2009 – December 2009
WILL GARRETT	PEF	(WG-2) Capital Program Detail January 2009 – December 2009
WILL GARRETT	PEF	(WG-3) Capital Structure and Cost Rates
PATRICIA Q. WEST (Confidential)	PEF	(PQW-1) Confidential Review of PEF's Integrated Clean Air Compliance Plan - 4/1/10
KEVIN MURRAY	PEF	(KM-1) Crystal River Project Organizational Structure
DAVID SORRICK	PEF	(DS-1) Crystal River Project Organizational Chart
THOMAS G. FOSTER	PEF	Revised (TGF-1) PSC Forms 42-1E through 42-9E January 2010 – December 2010
THOMAS G. FOSTER	PEF	(TGF-2) Capital Program Detail January 2010 – December 2010

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
THOMAS G. FOSTER	PEF	Revised (TGF-3)	PSC Forms 42-1P through 42-8P January 2011– December 2011
THOMAS G. FOSTER	PEF	(TGF-4)	Capital Program Detail January 2011 – December 2011
HOWARD T. BRYANT	TECO	(HTB-1)	Final Environmental Cost Recovery Commission Forms 42-1A through 42-8A for the period of January 2009 through December 2009
HOWARD T. BRYANT	TECO	(HTB-1) Supplement	Calculation of Revenue Req. Rate of Return
HOWARD T. BRYANT	TECO	(HTB-2)	Environment Cost Recovery Commission Forms 42-1E through 42-9E for the period January 2010 through December 2010
HOWARD T. BRYANT	TECO	(HTB-3)	Forms 42-1P through 42-8P Forms for the January 2011 through December 2011
R.W. DODD	GULF	(RWD-1)	Calculation of Final True-up 1/09 – 12/09
R.W. DODD	GULF	(RWD-2)	Supplemental Testimony, filed April 12, 2010
R.W. DODD	GULF	(RWD-3)	Calculation of Estimated True-up 1/10 – 12/10
R.W. DODD	GULF	(RWD-4)	Calculation of Projection 1/11 - 12/11

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

X. PROPOSED STIPULATIONS

There are proposed stipulations on all issues in the docket, including issues 1-8, 10A-10C, and 11A-11D, with OPC, FIPUG, and FEA taking no position.

XI. PENDING MOTIONS

There are no pending motions.

XII. PENDING CONFIDENTIALITY MATTERS

PEF has one pending request for confidential classification filed on September 29, 2010 [DN08152-10], which will be addressed by separate order.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

XIV. RULINGS

PEF's Motion for leave to file revised direct testimony and exhibits, dated October 7, 2010, is granted.

Opening statements, if any, shall not exceed five minutes per party.

It is therefore,

ORDERED by Commissioner Nathan A. Skop, 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 Nathan A. Skop, as Prehearing Officer, this 26th day of October, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

MCB

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.