

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Conservation Cost Recovery) DOCKET NO. 900002-EG
 Clause.) ORDER NO. 22423
 _____) ISSUED: 1-16-90

ORDER ON PREHEARING PROCEDURE

Pursuant to the provisions of Rule 25-22.038(3), Florida Administrative Code, all parties are hereby required, either collectively or individually, to file with the Director of Records and Reporting a prehearing statement on or before January 22, 1990. Each prehearing statement shall be in substantially the form attached hereto as Attachment "A", and shall set forth the following information in the format required therein:

- (a) all known witnesses that may be called and the subject matter of their testimony;
- (b) all known exhibits, their contents, and whether they may be identified on a composite basis and the witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue;
- (f) a statement of each policy question the party considers at issue and which of the party's witnesses will address the issue;

DOCUMENT NUMBER-DATE

00394 JAN 16 1990

FPSC-RECORDS/REPORTING

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 2

- (g) a statement of the party's position on each issue identified pursuant to paragraphs (d), (e) and (f) and the appropriate witness as well as a statement of the party's position on each issue identified by other parties on the preliminary list of issues and positions hereinafter referred to;
- (h) a statement of issues that have been stipulated to by the parties;
- (i) a statement of all pending motions or other matters the party seeks action upon; and
- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefor.

The original and fifteen copies of each prehearing statement must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on January 22, 1989. Failure of a party to timely file a prehearing statement shall be a waiver of any issues not raised by other parties or by the Commission Staff. In addition, such failure shall preclude the party from presenting testimony in favor of his or her position on such omitted issues. Copies of prehearing statements shall also be served on all parties. Prehearing statements shall substantially conform to the Florida Rules of Civil Procedure requirements as to form, signatures, and certificates.

All parties are additionally required to file with the Director of Records and Reporting a preliminary list of issues and positions in substantially the form as that identified in Section E of Attachment "A" hereto, on or before the close of business on January 16, 1990. Copies of the issue identification list shall also be served on all parties, and shall substantially conform to the Florida Rules of Civil Procedure requirements as to form, signatures, and certificates.

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 3

Each party is required to prefile all exhibits and all direct testimony it intends to sponsor in written form. Prefiled testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double spaced, with 25 numbered lines, in question and answer format, with a sufficient left margin to allow for binding. An original and fifteen copies of each witness' prefiled testimony and each exhibit must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the due date. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of exhibits and testimony. Copies of all prefiled testimony shall also be served by the sponsoring party on all other parties. Attachment "B" hereto contains additional orders with respect to identification and use of exhibits and testimony.

The prefiled testimony of the parties, Staff, and Intervenor, including direct and rebuttal testimony, must be filed with the Director of Records and Reporting according to the schedule contained in the Case Assignment and Scheduling Record prepared by Commission Staff. The parties are hereby placed on notice that such schedule may be changed from time to time.

Intervenor from the previous hearing in this docket are hereby conditionally granted Intervenor status for the February, 1990 hearing. Others wishing to intervene must do so by petition. Intervenor must maintain active participation in this docket, which, for purposes of this order, shall mean at least the filing of a preliminary list of issues and positions and a prehearing statement, and attendance at the final prehearing conference herein. Persons who only wish to monitor this docket will not be granted intervenor status, and should instead contact the Director of Records and Reporting for inclusion on the mailing list.

A final prehearing conference will be held beginning at 9:30 a.m., February 12, 1990, in Room 106, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, will be met in this case and the following shall apply:

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 4

- 1) Any party who fails to attend the final prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in his or her prehearing statement.
- 2) Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: he or she was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issues; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.
- 3) Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, he or she shall bring that fact to the attention of the prehearing officer. If the prehearing officer finds that the party has acted ~~diligently~~ diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify his or her position in a post-hearing statement of

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 5

issues. In the absence of such a finding by the prehearing officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in his or her post-hearing statement.

By ORDER of Commissioner John T. Herndon, Prehearing Officer, this 16th day of JANUARY, 1990.

John T. Herndon
JOHN T. HERNDON, Commissioner
and Prehearing Officer

(S E A L)

5555L/MER:bmi

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 6

Attachment "A"
To Order On Prehearing Procedure
Docket No. 900002-EG

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Conservation Cost Recovery) DOCKET NO. 900002-EG
Clause.) ORDER NO.
_____) ISSUED:

PREHEARING STATEMENT OF _____

A. APPEARANCES:

IDENTIFY EACH ATTORNEY FOR YOUR PARTY IN THE FORMAT SHOWN BELOW:

JAMES P. FAMA, Esquire, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733
On behalf of Florida Power Corporation.

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 7

B. WITNESSES:

LIST EACH DIRECT AND REBUTTAL WITNESS IN THE FORMAT SHOWN BELOW, ALONG WITH THE SUBJECT MATTER AND ISSUE NUMBERS WHICH WILL BE COVERED BY HIS OR HER TESTIMONY.

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
<u>EXAMPLE:</u>		
<u>(Direct)</u>		
1. A.B. Smith (FPC)	Components of FPC's Conservation Plan and associated costs	1, 2, 3
<u>(Rebuttal)</u>		
2. C.D. Jones (FPC)	Rebuttal to Staff GPIF testimony	1,2,3

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 8

C. EXHIBITS:

LIST AND NUMBER EXHIBITS IN THE FORMAT SHOWN BELOW ACCORDING TO THE FOLLOWING FORMAT. PLEASE SEE ATTACHMENT "B" FOR FURTHER INSTRUCTIONS. IF YOU HAVE NO EXHIBITS, STATE SO IN THE SPACE PROVIDED.

EXAMPLE:

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
(ABS-1)	Smith	Levelized fuel cost adjustment factor calculation

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 9

D. STATEMENT OF BASIC POSITION

IF DESIRED, A STATEMENT OF BASIC POSITION MAY BE PROVIDED. IT IS NOT NECESSARY TO PROVIDE A STATEMENT OF BASIC POSITION ON GENERIC, RECURRING ISSUES. FOR OTHER ISSUES, THE STATEMENT OF BASIC POSITION MUST BE LIMITED TO ONE OR TWO SHORT PARAGRAPHS.

_____'s Statement of Basic Position:

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 10

E. STATEMENT OF ISSUES AND POSITIONS

STATE YOUR POSITION ON EACH OF THE FOLLOWING GENERIC ISSUES. IF YOU HAVE NO POSITION, YOU MUST SO STATE. BE SURE TO IDENTIFY YOUR UTILITY AND WITNESS.

Generic Energy Conservation Cost Recovery Issues

1. ISSUE: What is the appropriate adjusted net true-up amount for the period April, 1989 through September, 1989?

EXAMPLE:

FPC: Underrecovery of \$5,000,000. (Smith)

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 11

2. ISSUE: What is the appropriate projected end-of-period total net true-up amount for the period October, 1989 through March, 1990?

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 12

3. ISSUE: What is the appropriate conservation cost recovery factor for the period April, 1990 through September, 1990?

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 13

Company-Specific Conservation Cost Recovery Issues

RAISE ANY COMPANY-SPECIFIC ISSUES IN THE SPACE PROVIDED. IDENTIFY YOUR PARTY AFTER EACH ISSUE, AND YOUR WITNESS AFTER EACH POSITION. ISSUES SHOULD BE NUMBERED 3a, 3b, AND SO FORTH. WHEN FILING PREHEARING STATEMENTS, RESPOND TO COMPANY-SPECIFIC ISSUES RAISED BY OTHER PARTIES. REFER TO OTHER PARTIES' ISSUES BY IDENTIFYING THE PARTY RAISING THE ISSUE AND THE ISSUE NUMBER USED BY THAT UTILITY. FOR EXAMPLE, THE ISSUE BELOW WOULD BE REFERRED TO AS OPC ISSUE 3a.

EXAMPLE:

Florida Power Corporation

3a. ISSUE: Should FPC's Conservation Awareness Program be eliminated? (OPC)

OPC: Yes. The program offers no quantifiable benefit. (Smith)

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 14

F. STIPULATED ISSUES

IDENTIFY ANY STIPULATIONS. BE SURE TO IDENTIFY YOUR PARTY.

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 15

G. MOTIONS

IDENTIFY ANY OUTSTANDING MOTIONS BY YOUR PARTY. BE SURE TO
IDENTIFY YOUR PARTY.

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 16

H. OTHER MATTERS

IDENTIFY OTHER MATTERS REQUIRING THE ATTENTION OF THE
PREHEARING OFFICER. BE SURE TO IDENTIFY YOUR PARTY.

Dated this _____ day of _____, 1990.

Respectfully submitted,

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 17

Attachment "B"
To Order On Prehearing Procedure
Docket No. 900002-EG

Supplemental Prehearing Order on Exhibits and Testimony

1. Exhibit Numbers:

Exhibit numbers will be assigned at the hearing. Exhibits will be numbered sequentially, beginning with Exhibit No. 1. Separate numerical sequences for individual parties will no longer be used.

2. Identification of Exhibits Prior to Hearing:

a. The first page of each proposed exhibit shall bear a short, descriptive title.

b. Proposed exhibits shall also contain an identification block on each page, preferably in the upper right corner or the lower right corner. The identification block shall contain a blank space for the exhibit number to be assigned, and shall identify the docket number, utility, and a prehearing identification number consisting of the initials of the witness and a number. The identification block shall also designate the number of pages in the exhibit. An example of an identification block is shown below.

Exhibit No. _____
Docket No. 890000-EI
Florida Power & Light Co.
(SSW-2)
Page 1 of 2

3. Identification of Exhibits in Prefiled Testimony, Prehearing Statements and Orders:

a. In prefiled testimony and prehearing statements, proposed exhibits shall be identified by prehearing identification number and short title. Do not leave blank spaces in the text of prefiled testimony for an assigned exhibit number to be added by court reporters.

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 18

b. Exhibits should be sponsored by only one witness whenever possible. Co-sponsorship is only appropriate if more than one witness is required to lay a predicate for the exhibit's admission into evidence. The fact that more than one witness will testify regarding the exhibit is not sufficient reason for co-sponsorship. The prehearing identification number of co-sponsored exhibits should bear the initials of all sponsoring witnesses, for example, (ABC/DEF-1).

c. If a witness, in his prefiled testimony, sponsors an exhibit consisting of an appendix or other attachment to a petition or motion, it must be attached to prefiled testimony and identified as described above. It will not be sufficient to identify the exhibit and state where it can be located.

d. Multi-part or composite exhibits must have a short, descriptive title for the entire exhibit as well as for each sub-part of the exhibit. The exhibit must contain a cover or title page which identifies each sub-part. If it is absolutely necessary to have separate witnesses lay a predicate for separate portions of the exhibit, the title page must also identify the witness who will sponsor each portion of the exhibit. Multi-part or composite exhibits must be identified on prehearing statements and prehearing orders by the title and prehearing identification number for the exhibit, and must further list each sub-part of the document.

4. Testimony and Exhibits at Hearing:

a. At the hearing each party must supply the court reporter with a "record copy" of each item of testimony and each exhibit which will be entered into the record. The court reporter will no longer be responsible for locating, collating, or correcting testimony or exhibits. It is not necessary to provide other parties with copies at hearing if the record copy merely consolidates testimony or exhibits. However, if the record copy corrects or revises previously filed testimony or exhibits, a copy must also be supplied to all other parties. The witness is still required to testify at hearing to changes or revisions.

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 19

b. The record copy of testimony will consist of the final, consolidated version of the witness' testimony, complete with all corrections. The title page of the testimony must clearly identify the witness, sponsoring party and docket, and must further identify each item of prefiled testimony which it replaces, consolidates, or corrects. Revised or corrected pages in the record copy must be identified as revised or corrected.

c. If a witness has filed more than one item of testimony (such as two items of direct testimony, or an initial item of direct testimony with later, supplemental testimony) the record copy must consolidate the items. Only one consolidated, final version of direct testimony and one consolidated, final version of rebuttal testimony may be filed for any witness. Surrebuttal, if used, may be filed separately under the same conditions. In the past, some witnesses have prefiled separate items of direct testimony in a docket, with each item of testimony covering a different issue or subject matter in that docket. Unless specifically required by the Commission, this practice is not acceptable.

d. The record copy of testimony must be stapled or otherwise securely fastened in the upper left corner. It may not be bound.

e. The record copy of exhibits which accompany the record copy of testimony should not be stapled to the testimony. The record copy of each exhibit should be separately stapled. Exhibits accompanying the record copy of testimony should be clipped to the testimony with a binder clip, or bundled with a rubber band.

f. The proffering attorney must identify each exhibit by title and prehearing identification number when requesting assignment of an exhibit number at hearing. When requesting an exhibit number for late-filed exhibits, the attorney must supply a short, descriptive title for the exhibit.

g. Parties are encouraged to supply the court reporter, at hearing, with a supplemental exhibit list of all proposed exhibits which were not included in the prehearing order. The list should be similar in format

ORDER NO. 22423
DOCKET NO. 900002-EG
PAGE 20

to the exhibit list contained in the prehearing order in that docket.

5. Stipulations as to Testimony and Exhibits

a. On occasion, parties stipulate that prefiled testimony be inserted into the hearing record as though read, and that cross-examination of the witness be waived. Similarly, parties may stipulate that prefiled exhibits be admitted into evidence. Such stipulations are encouraged, but do not relieve the party of the requirements outlined herein. Further, it remains the responsibility of the party on whose behalf the testimony or exhibits are offered to secure exhibit numbers at hearing for all stipulated exhibits, and to move for insertion of these items into the hearing record, unless excused from doing so by the Prehearing Officer.

b. Stipulated testimony and exhibits may be moved into evidence at the beginning of a hearing, before witnesses are heard.