

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Conservation Cost Recovery)	DOCKET NO. 920002-EG
Clause.)	ORDER NO. 25595
<hr/>		ISSUED: 1/13/92

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 31, 1992. 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;
- (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.

DOCUMENT NUMBER-DATE

00396 JAN 13 1992

FPSC-RECORDS/REPORTING

ORDER NO. 25595
DOCKET NO. 920002-EG
PAGE 2

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 31, 1992. 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.

In addition to the filing with the Division of Records and Reporting, each party shall furnish, if available, a copy of its Prehearing Statement to the Division of Legal Services, Room 226, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0863, on computer diskette formatted to the specifications of WordPerfect, version 5.1. The Legal Division's WordPerfect 5.1 program is set up with the following parameters:

- (1) Courier 10 pitch type-face
- (2) Tabs are absolute, set at 1.5", 2.5", 4.25" and 5.5"
- (3) 3 and 1/2" high density diskette

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 15, 1992. Copies of the preliminary list of issues and positions shall be served on all parties, and shall substantially conform to the Florida Rules of Civil Procedure requirements as to form, signatures, and certificates.

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 such exhibits and testimony. Copies of all prefiled testimony shall also be served by the sponsoring party on all other parties.

ORDER NO. 25595
DOCKET NO. 920002-EG
PAGE 3

The prefiled testimony of the parties, Staff, and Intervenors, 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.

The hearing in this docket is presently to begin on February 19, 1992. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by February 12, 1992. In addition, to facilitate their identification, all interrogatories, requests for admissions, and requests for production of documents shall be numbered consecutively. Each set of discovery requests shall be numbered sequentially from any previous set(s). Unless authorized by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 100, and requests for production of documents, including all subparts, shall be limited to 100.

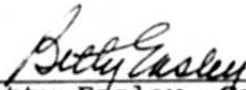
A final prehearing conference will be held beginning at 9:30 a.m., February 5, 1992, in Room 106, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, will be met in this case and the following shall apply:

- 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.

ORDER NO. 25595
DOCKET NO. 920002-EG
PAGE 4

- 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 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 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 Betty Easley, as Prehearing Officer,
this 13th day of JANUARY, 1991.


Betty Easley, Commissioner
and Prehearing Officer

(S E A L)

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ORDER NO. 25595
 DOCKET NO. 920002-EG
 PAGE 5

ATTACHMENT "A"
TO ORDER ON PREHEARING PROCEDURE

SAMPLE PREHEARING STATEMENT
Docket No. 910002-EG

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Conservation Cost Recovery) DOCKET NO. 920002-EG
 Clause.) ORDER NO.
 _____) ISSUED:

PREHEARING STATEMENT OF

A. APPEARANCES:

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

JAMES A. MCGEE, Esquire, Office of the General Counsel,
 Florida Power Corporation, P. O. Box 14042, St. Petersburg,
 Florida 33733
On behalf of Florida Power Corporation.

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)	Fuel Adjustment, true-up and projections	1,2,3
2. C.D. Jones (FPC)	GPIF, reward/penalty and targets/ranges	4,5,6

ORDER NO. 25595
 DOCKET NO. 920002-EG
 PAGE 6

(Rebuttal)

3. E.F. Johnson Rebuttal to Staff GPIF 6,7
 (FPC) testimony

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 Number</u>	<u>Witness</u>	<u>Description</u>
<u>(ABS-1)</u>	Smith	True-up Variance Analysis Schedules A1 through A13
<u>(DEJ-1)</u>	Jones	Projections Forecast Assumptions (Parts A-C)
<u>(ABJ-1)</u>	Johnson	Reward/Penalty Standard Form GPIF Schedules

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:

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. PLEASE DO NOT REFER TO ATTACHMENTS UNLESS

ORDER NO. 25595
DOCKET NO. 920002-EG
PAGE 7

ABSOLUTELY NECESSARY. YOUR ENTIRE POSITION SHOULD BE TYPED IN THE SPACE BELOW.

Generic Conservation Cost Recovery Issues

1. ISSUE: What is the appropriate adjusted net true-up amount for the period April, 1990 through September, 1990?

Positions:

2. ISSUE: What is the appropriate projected end-of-period total net true-up amount for the period October, 1990 through March, 1991?

Positions:

3. ISSUE: What is the appropriate conservation cost recovery factor for the period April, 1991 through September, 1991?

Positions:

Company Specific-Conservation Cost Recovery Issues

LIST ANY COMPANY SPECIFIC CONSERVATION COST RECOVERY ISSUES HERE.

F. STIPULATED ISSUES

IDENTIFY ANY STIPULATIONS. BE SURE TO IDENTIFY YOUR PARTY.

G. MOTIONS

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

H. OTHER MATTERS

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

ORDER NO. 25595
DOCKET NO. 920002-EG
PAGE 8

Dated this _____ day of _____, 19__.

Respectfully submitted,

ORDER NO. 25595
DOCKET NO. 920002-EG
PAGE 9

ADDITIONAL INFORMATION - PREHEARING STATEMENTS
Docket No. 920002-GU

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 not 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. 910000-EG
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.

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

ORDER NO. 25595
DOCKET NO. 920002-EG
PAGE 10

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 of the corrected or revised portion must also be supplied to all other parties. If such changes are numerous or complex an errata listing must also be supplied. The witness is still required to testify at hearing to changes or revisions.

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.

ORDER NO. 25595
DOCKET NO. 920002-EG
PAGE 11

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 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

ORDER NO. 25595
DOCKET NO. 920002-EG
PAGE 12

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.