

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to establish an) DOCKET NO. 930613-EI
Environmental Cost Recovery) ORDER NO. PSC-93-1754-PHO-EI
Clause pursuant to Section) ISSUED: 12/6/93
366.8255, Florida Statutes, by)
Gulf Power Company.)

Pursuant to Notice, a Prehearing Conference was held on November 22, 1993, in Tallahassee, Florida, before Commissioner Luis J. Laredo, as Prehearing Officer.

APPEARANCES:

G. EDISON HOLLAND, JR., Esquire, JEFFREY A. STONE, Esquire, and TERESA E. LILES, Esquire, Beggs & Lane, 700 Blount Building, 3 West Garden Street, Post Office Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company.

JOHN W. MCWHIRTER, JR., Esquire, McWhirter, Reeves, McGlothlin, Davidson and Bakas, Post Office Box 3350, Tampa, Florida 33601-3350, JOSEPH A. MCGLOTHLIN, Esquire and VICKI GORDON KAUFMAN, Esquire, McWhirter, Reeves, McGlothlin, Davidson and Bakas, 315 South Calhoun Street, Suite 716, Tallahassee, Florida 32301
On behalf of Florida Industrial Power Users Group.

MARK K. LOGAN, Esquire, Bryant, Miller & Olive, 201 South Monroe Street, Suite 500, Tallahassee, Florida 32301
On behalf of Orgulf Transport Company.

SUZANNE BROWNLESS, Esquire, Suzanne Brownless, P.A., 2546 Blairstone Pines Drive, Tallahassee, Florida 32301 and EUGENE M. TRISKO, Esquire, Post Office Box 596, Berkley Springs, West Virginia 25411
On behalf of United Mine Workers of America.

JOHN ROGER HOWE, Esquire, Deputy Public Counsel, 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.

DONNA L. CANZANO, Esquire and MICHAEL A. PALECKI, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

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FFSC-RECORDS REPORTING

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PRENTICE P. PRUITT, Esquire, Florida Public Service
Commission, 101 East Gaines Street, Tallahassee, Florida
32399-0862
On behalf of the Commissioners.

PREHEARING ORDER

I. CASE BACKGROUND

On June 22, 1993, Gulf Power Company (Gulf) filed a petition to establish an environmental cost recovery clause (ECR) pursuant to Section 366.8255, Florida Statutes. Gulf requested that its petition be considered during the fuel adjustment hearings scheduled for August 18-19, 1993. Gulf also requested that it be allowed to implement initial ECR factors concurrent with new fuel cost recovery factors that would become effective October 1, 1993. We denied Gulf's request to collect revenues through implementation of proposed ECR factors effective October 1, 1993 prior to a showing that the costs are necessary or prudent. (Order No. PSC-93-1283-FOF-EI, issued September 2, 1993) We have scheduled an administrative hearing to consider Gulf's petition for December 8-9, 1993.

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, 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

Pursuant to the Order Establishing Procedure, the parties should be prepared to present oral briefs at the conclusion of the hearing in order to expedite the Commission's decision in this proceeding and to resolve the issues prior to January 1, 1994. (Order No. PSC-93-1290-PCO-EI). There may be a bench decision by the Commissioners on the last day of the hearing, or the Commissioners may vote on the issues at the agenda conference scheduled for December 21, 1993.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties and Staff 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.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
A.E. Scarbrough	GULF	2, 3, 4, 5, 6, 8, 12, 13, 23, 25, 26, 28
J.O. Vick	GULF	4, 7, 8, 14
C.R. Lee	GULF	4, 7, 8, 14
S.D. Cranmer	GULF	2, 5, 6, 7, 8, 9, 11, 13, 14, 15, 17, 19-24, 26, 28
J. Pollock	FIPUG	1, 2, 5, 21, 22, 23, 25, 26
P.E. Hubbard	ORGULF	4
R.S. Bass	STAFF	1, 2, 3, 26
<u>Rebuttal</u>		
J.O. Vick	GULF	4
S.D. Cranmer	GULF	2, 5, 7, 11, 14, 17, 21, 22, 23
A.E. Scarbrough	GULF	1, 2, 3, 5, 6, 23

V. BASIC POSITIONS

GULF POWER COMPANY (GULF): It is the basic position of Gulf Power Company that the proposed environmental cost recovery (ECR) factors represent the best estimate of Gulf's environmental compliance costs for the period July 1993 through September 1994 and that these costs represent reasonable and prudent utility expenditures incurred by the Company in order to achieve, maintain and ensure compliance with environmental laws and regulations. The factors proposed by the Company take into account a proper adjustment for the level of costs currently being recovered through base rates or other rate-adjustment clauses and have been allocated to customer classes using the criteria set forth in s. 366.06(1) F.S., taking into account the manner in which similar types of investment or

expense were allocated in the Company's last rate case. Gulf's factors should be approved for implementation effective beginning with the cycle 1 meter readings for January 1994 and continuing for the period January, 1994, through September, 1994, and thereafter until new factors are approved by the Commission.

FLORIDA INDUSTRIAL POWER USERS GROUP (FIPUG): As to revenue requirements, in implementing the environmental cost recovery clause in this case, the Commission should follow three principles. First, the Commission should require exclusion of all corresponding environmental compliance costs being incurred for the test year when the utility's base rates were last adjusted. Second, in order to recognize that higher sales can support increased expenses, all costs associated with compliance activities which were included in the test year used to set base rates should be excluded. Finally, the Commission should adopt a policy that restricts the amount of labor costs and corporate overhead recovered through the clause so that only increased staff or increased overhead necessary to support specific environmental compliance activities is recovered through the clause.

As to allocation and recovery of appropriate costs, the Commission should be guided by § 366.8255(4), Florida Statutes (1993). This section requires the Commission to allocate costs to customer classes "taking into account the manner in which similar types of investment or expense were allocated in the company's last rate case." Thus, Gulf Power's expenses should be allocated using the 12 CP and 1/13th method approved by the Commission in Gulf Power's last rate case. This comports with cost of service principles and is consistent with costing practices approved by the Commission for similar investment and expenses in Gulf Power's last rate case. These costs should be recovered on a per KW basis from within each demand-metered class which reflects cost of service principles.

ORGULF TRANSPORT COMPANY (ORGULF): The Florida Public Service Commission should disapprove all environmental compliance costs for which Gulf Power seeks recovery in this docket which Gulf contends are necessary as a result of its switch to low sulphur coal. These costs were not prudently incurred as Gulf chose to breach a major transportation contract in order to implement the "fuel switching" strategy. This decision potentially subjects Gulf's ratepayers and/or investors to millions of dollars in legal claims. Gulf could have "prudently" implemented the transportation related portion of its Clean Air Act compliance activities under its

existing transportation contract with Orgulf instead of breaching its contract.

UNITED MINE WORKERS OF AMERICA (UMWA): Gulf Power Company is pursuing a fuel-switching strategy for Phase I involving substantial capital expenditures that may prove unnecessary to its ultimate Phase II compliance strategy, on which the FPSC expressly reserved judgement in Docket No. 921155-EI, Order No. PSC-93-1376-FOF-EI, at 2. Additional fuel expenses also may be incurred as part of Gulf's Phase I strategy. Gulf proposes to create a "bank" of emission allowances during Phase I for use during Phase II, without assigning any cost to the allowances which are banked rather than sold.

The UMWA takes the position that Gulf should not be permitted to recover through an ECR its capital costs associated with Phase I fuel switching; that the prudence of incurring such costs be determined only after its final Phase II compliance strategy is known; that the ratepayers should be compensated for the foregone opportunity costs associated with emission allowance banking; and that the recovery of fuel costs for Phase I compliance be determined in Docket No. 93-0001-EI.

OFFICE OF PUBLIC COUNSEL (OPC): Public Counsel would ask that the Commission implement Section 366.8255 as it is written, not as the Commission believes it understands the legislative intent to be. Legislative intent is not at issue because the statute is not ambiguous. The statute requires an adjustment to environmental compliance costs to recognize costs "currently being recovered through base rates." Section 366.8255(2). It does not direct an adjustment only for costs or programs "considered in the last rate case." If the legislature intended that result, it would have used those words. If a utility is earning at or above the bottom of the allowed return on equity range, all costs are, by definition, being recovered currently. If increased environmental expenses are offset by increased revenues or decreases in other expenses, they are being recovered currently. A separate environmental cost recovery factor is justified only when increased environmental costs would either cause the utility to earn less than the bottom of the range for the allowed return on equity or cause further erosion in an equity return already below the range.

STAFF: Section 366.8255, Florida Statutes, allows the utility to recover prudently incurred environmental compliance costs through an environmental compliance factor that is separate and apart from

base rates. Any costs recovered in base rates may not also be recovered in the environmental compliance cost-recovery clause. (Section 366.8255(5), Florida Statutes).

Staff acknowledges that there is disagreement as to what is meant by "any costs recovered in base rates." Staff intends to fully explore this issue at the hearing.

Although discovery is incomplete at this time, staff's basic position is that only those environmental compliance costs that result from activities necessary to comply with environmental laws or regulations enacted since Gulf's last rate case are eligible to be recovered through the environmental cost recovery factor. That is, any activity which was considered in the utility's last rate case is not eligible for recovery through the environmental cost recovery factor. In staff's opinion, the environmental compliance cost recovery factor was not intended by the Florida Legislature to be a base rate "true-up" recovery mechanism.

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 recommendations will be based upon all the evidence in the record and may differ from the preliminary positions.

VI. ISSUES AND POSITIONS

(Policy/Legal)

STIPULATED

ISSUE 1: Should the Commission allow recovery of costs for environmental compliance activities which are currently being recovered through base rates or are currently being recovered through another cost recovery mechanism?

POSITION: No, but the parties disagree as to how to determine which costs are "currently being recovered," which will be addressed in subsequent issues.

ISSUE 2: Has Gulf Power Company requested recovery of costs for environmental compliance activities which are currently being recovered through base rates or are currently being recovered through another cost recovery mechanism?

GULF: No. Gulf has made an appropriate adjustment for the level of costs currently being recovered through the Company's base rates or any other recovery mechanism (see Issue 5, below). As a result of this adjustment, Gulf's proposed ECR factors do not duplicate the recovery of any environmental costs already being recovered through base rates or any other cost recovery mechanism. (Scarborough, Cranmer)

FIPUG: Yes. Compliance activities included in Gulf Power's test year in its last rate case used to calculate base rates are already being recovered through base rates and are not appropriate for recovery through the clause. (Pollock)

ORGULF: Yes.

UMWA: No position.

OPC: Yes. Since Gulf Power's earned return on equity is above 11%, at least through the month of September, 1993, and Gulf is requesting recovery of costs included in calculating that return, Gulf must be asking for recovery of costs currently being recovered through base rates.

STAFF: Yes. Any compliance activities for which costs were included in Gulf Power's last rate case test year are already being recovered through base rates. No costs associated with these activities are appropriate for recovery through this clause unless there has been an amendment to environmental compliance requirements since the last rate case test year.

Gulf has requested \$8.8 Million for recovery through the clause. Of Gulf's requested \$2,191,020 of O&M expenses, only \$1,898,701 can be identified as being incurred for compliance with environmental requirements effective since the last rate case.

Staff is unable to take a position at this time on the recovery of costs associated with capital expenditures because discovery is still pending.

FIPUG: No. Unless specifically noted in the statute, statutes are applied on a prospective basis. Thus, no costs incurred prior to the enactment of the statute are appropriate for recovery pursuant to the clause.

ORGULF: No.

UMWA: No.

OPC: No.

STAFF: No. Carrying costs incurred after April 13, 1993 associated with capital investment made to comply with new or amended environmental requirements effective since Gulf's last rate case test year are appropriate for recovery through the ECRC. In addition, O&M expenses incurred after April 13, 1993 to comply with new or amended environmental requirements effective since Gulf's last rate case test year are also appropriate for recovery through the ECRC.

ISSUE 4: What activities or programs, if any, identified in Gulf Power Company's filing should be disallowed because the costs associated with the activities or programs were not prudently incurred?

GULF: None of the activities or programs identified in Gulf's filing should be disallowed pursuant to this issue. All of the costs associated with the activities or programs identified in Gulf's filing are reasonable and prudent utility-related expenditures and, under the criteria set forth in s. 366.8255 F.S., are recoverable through a factor separate and apart from the Company's base rates. (Scarborough, Vick, Lee)

FIPUG: FIPUG has not analyzed in detail the numerous programs and activities for which Gulf Power seeks recovery under the clause. It is FIPUG's position that in determining what activities are appropriate for cost recovery, the Commission should follow those principles discussed in FIPUG's position in Issue 5. (Pollock)

ORGULF: Crist 7 Precipitator Upgrade
Crist 7 Flue gas Conditioning
Crist 7 Low NO_x Burners
Crist 6 Precipitator Replacement

Orgulf reserves the right to present testimony or assert that there are other costs that should be disallowed upon the completion of discovery.

UMWA: Capital expenditures associated with Gulf's Phase I fuel switching strategy should be disallowed if a different strategy for final Phase II compliance indicates that such expenditures were not prudent.

OPC: Public Counsel is not disputing specific activities or programs as imprudent. But cost recovery should not be allowed for the aggregate dollars claimed for all activities and programs to the extent that Gulf Power is earning at or above the bottom of the range for its allowed return on equity.

STAFF: No position at this time.

(Policy)

ISSUE 5: How should the amount of environmental costs currently being recovered in base rates be determined?

GULF: The method proposed by Gulf should be approved as a reasonable approach to the identification and quantification of the adjustment required pursuant to s. 366.8255(2) F. S.

With regard to net environmental investment, any capital project included in the calculation of the approved level of net utility plant for the test year in the utility's last rate case should be considered to be included within current base rates. Thus, the adjustment called for under the statute is satisfied by limiting the capital projects identified for purposes of determining the ECR revenue requirements associated with net environmental investment to those capital projects which were not part of the approved level of net utility plant for the test year in the last rate case.

With regard to environmental expenses, three categories of environmental activities have been identified for purposes of calculating the revenue requirements to be recovered through this clause. The first category consists of those environmental compliance activities for which O & M expenses were not included in the 1990 test year on which existing base rates were set. This is the same approach used in identifying the incremental capital projects. The second category consists of those environmental compliance activities for which O & M expenses were included in the 1990 test year on which existing base rates were set, but the present projection of O & M expenses is either an increase or a decrease from the level approved in the 1990 test year, because of activities undertaken to achieve, maintain and ensure compliance with environmental requirements since 1990. The third and final category represents environmental compliance activities for which O & M expenses were included in the 1990 test year on which existing base rates were set, but for which there is not a similar activity budgeted in the projection period. By recognizing increases and decreases in these categories, the Company has complied with the requirement in the statute that there be an adjustment for the level of costs being recovered through current base rates.

Although an electric utility should not be allowed to duplicate the recovery of any environmental expenditures through both the ECR and another recovery mechanism, concern about duplication of recovery should not prevent the Commission from allowing utilities to recover all costs associated with their environmental compliance activities. The automatic exclusion of all costs associated with environmental activities simply because they were considered at the time base rates were last set would be inconsistent with the language and intent of the statute and would prevent utilities from achieving full recovery of all prudently incurred environmental compliance costs. Section 366.8255(2) requires that "(a)n adjustment for the level of costs currently being recovered through base rates or other rate-adjustment clauses must be included in the filing." An adjustment such as that made by Gulf in its filing ensures that the utility is in compliance with the statutory requirement that "any costs recovered in base

rates may not also be recovered in the environmental cost-recovery clause."
(Scarborough, Cranmer)

FIPUG: First, the Commission should require exclusion of all corresponding environmental compliance costs being incurred for the test year when the utility's base rates were last adjusted. Second, in order to recognize that higher sales can support increased expenses, all costs associated with compliance activities which were included in the test year used to set base rates should be excluded. Finally, the Commission should adopt a policy that restricts the amount of labor costs and corporate overhead recovered through the clause so that only additional staff or increased overhead necessary to support specific environmental compliance activities is recovered through the clause.

For example, Gulf Power states in its rebuttal testimony that it has 10 employees in its Environmental Affairs section, with six of these positions created since Gulf Power's last rate case. While these employees may all serve appropriate functions, only the costs for those employees who support specific environmental compliance activities (not included in the test year) should be permitted for recovery through the clause. (Pollock)

ORGULF: Not at issue for this party.

UMWA: Agree with the Office of Public Counsel.

OPC: All costs associated with activities and programs considered in Gulf Power's last rate case are currently being recovered. All other costs are currently being recovered either to the extent that increased revenues or decreases in other expenses prevent an erosion in Gulf Power's earned return on equity, if it is currently earning below the authorized range, or to the extent that Gulf Power's return on equity is not reduced below the bottom of the equity range, if it is currently earning above that level.

STAFF: No position at this time.

(Policy)

ISSUE 6: Should environmental costs be recovered from ratepayers through the ECRC if the utility is currently earning a fair rate of return?

GULF: Whether a utility is currently earning a fair rate of return is not relevant to the recovery of environmental costs pursuant to s. 366.8255 F.S. The surveillance report is the mechanism by which the Commission monitors a utility's earnings in order to determine whether the utility's base rates are reasonable. Commission policy with regard to cost-specific recovery clauses (such as fuel, conservation, etc.) is to exclude both the costs and the revenues associated with the clause from the determination of revenue requirements when setting base rates. The rationale behind this process is to isolate the effects of clause recovery from the revenue requirements appropriately addressed through base rates. (Scarborough, Cranmer)

FIPUG: No position.

ORGULF: Not at issue for this party.

UMWA: No.

OPC: No. The environmental cost recovery statute should not be used to raise a utility's earnings in absolute terms, if it is earning below the authorized equity range, or to protect it from falling to the bottom of the range if it is currently above that level.

STAFF: Upon petition, a utility should be able to recover prudently incurred environmental compliance costs if such costs were incurred after the effective date of environmental compliance cost recovery legislation and if such costs are not being recovered through any other cost recovery mechanism or through base rates. There is no relationship between whether the utility is over-or under-earning and the recovery of prudently incurred environmental compliance costs.

Environmental Investment

(Policy)

ISSUE 7: What amount of capital expenditures should be allowed to be recovered through an environmental cost recovery factor?

GULF: See table below:¹ (Vick, Lee, Cranmer)

PLANT-IN-SERVICE (\$000)							
6/93	7/93	8/93	9/93	10/93	11/93	12/93	1/94
17,229	17,229	25,546	26,191	26,191	26,539	30,598	30,598
2/94	3/94	4/94	5/94	6/94	7/94	8/94	9/94
30,598	30,598	30,598	30,598	30,598	30,598	30,598	65,031

FIPUG: This is a fall-out issue based on the resolution of prior issues.

ORGULF: Not at issue for this party.

UMWA: This is a mathematical calculation which is based upon the decisions made regarding other stated issues.

OPC: Agree with Staff.

STAFF: The following table includes capital expenditures made prior to April 13, 1993, the allowance or disallowance of which depends on the resolution of Issue 3.

¹The data in the table represents the projections for environmental plant-in-service for the beginning and ending of each of the months in the projected recovery period, July 1993 through September 1994. This data is used as the initial input in the calculation of net environmental investment (see Issue 11). The data from Issues 8, 9, and 10 are the other inputs used in the calculation of net environmental investment on which recoverable carrying costs are calculated.

PLANT-IN-SERVICE (\$000)							
6/93	7/93	8/93	9/93	10/93	11/93	12/93	1/93
14,558	14,558	22,875	22,980	22,980	23,328	25,142	25,142
2/94	3/94	4/94	5/94	6/94	7/94	8/94	9/94
25,142	25,142	25,142	25,142	25,142	25,142	25,142	56,736

ISSUE 8: What is the appropriate amount of CWIP?

GULF: See table below: (Scarborough, Vick, Lee, Cranmer)

CONSTRUCTION WORK IN PROGRESS (non-interest bearing) (\$000)							
6/93	7/93	8/93	9/93	10/93	11/93	12/93	1/94
9,235	10,001	2,191	2,578	4,077	6,190	4,634	6,654
2/94	3/94	4/94	5/94	6/94	7/94	8/94	9/94
11,174	13,494	17,386	21,026	23,366	23,977	24,887	2,002

The Company included its investment in non-interest bearing construction work in progress (CWIP-NIB) in its determination of the revenue requirements associated with the environmental capital projects identified for recovery through the ECR clause. These CWIP-NIB balances represent investment on which the Company is incurring a carrying cost from the moment the expenditure is made until the time the project is cleared to Plant-in-Service. If the Company's carrying costs on the CWIP-NIB balances related to these projects are not recovered through the ECR clause, these carrying costs would be lost to the Company forever since these projects are not eligible for AFUDC. Allowing CWIP-NIB as a part of the environmental net utility plant considered for recovery through the ECR is consistent with the treatment that would be applied to a similar non-environmental

investment in CWIP-NIB in any other revenue requirements docket.

FIPUG: This is a fall-out issue based on the resolution of prior issues.

ORGULF: Not at issue for this party.

UMWA: The appropriate amount of CWIP excludes costs associated with the purchase of emission allowances.

OPC: Zero. Section 366.8255(1)(d)1 only allows for the inclusion of "in-service" capital investment.

STAFF: The following table includes expenditures made prior to April 13, 1993, the allowance or disallowance of which depends on the resolution of Issue 3.

CONSTRUCTION WORK IN PROGRESS (non-interest bearing)							
(\$000)							
6/93	7/93	8/93	9/93	10/93	11/93	12/93	1/94
9,170	9,781	1,896	2,258	3,342	4,540	4,546	6,546
2/94	3/94	4/94	5/94	6/94	7/94	8/94	9/94
11,046	13,346	16,418	19,238	20,758	20,978	21,798	1,612

ISSUE 9: What amount of accumulated depreciation should be applied to investment in the environmental cost recovery factor?

GULF: See table below: (Cranmer)

ACCUMULATED DEPRECIATION (\$000)							
6/93	7/93	8/93	9/93	10/93	11/93	12/93	1/94
829	880	944	1,021	1,099	1,178	1,264	1,360
2/94	3/94	4/94	5/94	6/94	7/94	8/94	9/94
1,456	1,552	1,648	1,744	1,840	1,936	2,032	2,178

FIPUG: This is a fall-out issue based on the resolution of prior issues.

ORGULF: Not at issue for this party.

UMWA: No position.

OPC: Agree with Staff.

STAFF: This is a calculation based upon the resolution of other issues.

STIPULATED

ISSUE 10: What is the appropriate amount of working capital?

POSITION: \$3,000.

ISSUE 11: What is the appropriate net environmental investment?

GULF: See table below: (Cranmer)

NET ENVIRONMENTAL INVESTMENT (\$000)							
6/93	7/93	8/93	9/93	10/93	11/93	12/93	1/94
25,638	26,353	26,796	27,751	29,172	31,554	33,971	35,895
2/94	3/94	4/94	5/94	6/94	7/94	8/94	9/94
40,319	42,543	46,339	49,883	52,127	52,642	53,456	64,858

FIPUG: This is a fall-out issue based on the resolution of prior issues.

ORGULF: Not at issue for this party.

UMWA: This is a mathematical calculation which is based upon the decisions made regarding other stated issues.

OPC: Agree with Staff.

STAFF: This is a calculation based upon the resolution of other issues.

Cost of Capital

(Policy)

ISSUE 12: What rate of return on equity (ROE) should Gulf Power be allowed to earn on capital investment costs?

GULF: The Company's last authorized rate of return on common equity which, pursuant to the stipulation approved by the Commission in Docket No. 930221-EI, is 12.00%. See Order No. PSC-93-0771-FOF-EI, issued May 20, 1993. It is the Company's position that the proceedings related to the ECR or any other cost recovery mechanism are not the proper forum for the Commission to address possible changes to a utility's authorized rate of return on common equity. (Scarborough)

FIPUG: No position.

ORGULF: Not at issue for this party.

UMWA: Agree with Office of Public Counsel.

OPC: The bottom of the allowed equity range should be used for purposes of quantifying "environmental compliance costs" pursuant to Section 366.8255(1)(d). A separate determination would still have to be made whether environmental compliance costs were already being recovered through current rates.

STAFF: Gulf Power should be allowed to earn its midpoint ROE of 12.0% on capital investment costs.

ISSUE 13: What is the appropriate overall rate of return for the recovery of capital investment costs?

GULF: 10.5778 percent. This rate of return (ROR) has been calculated using the jurisdictional capital structure and the cost rates for each component of the jurisdictional capital structure (except for common equity²) approved by the Commission in the Company's last completed rate case, Docket No. 891345-EI. Use of the last approved capital structure and cost rates is consistent with the approach used in the fuel cost recovery docket when the Company was recovering a return on its investment in railcars that were once owned by the Company. This methodology is also consistent with the capital structure and cost rates used in connection with capital investments recovered through the Conservation Cost Recovery clause. Use of the last approved capital structure and cost rates as a fixed rate for determining the revenue requirements associated with environmental investment is appropriate in this clause because it greatly enhances and simplifies the administration of the true-up mechanism and the audit requirements associated with the ECR clause, both for the Company and the

²Pursuant to the stipulation recently approved by the Commission in Order No. PSC-93-0771-FOF-EI under which the Company agreed to lower its authorized return on equity from 12.55 percent to 12.00 percent for all regulatory purposes, 12.00 percent has been used as the cost of common equity. See Issue 12, above.

Commission Staff. In order to properly reflect the Company's ROR, it is important to match the particular capital structure used with the particular cost rates applicable to that capital structure. In other words, it would be inappropriate to update the capital structure without also updating the costs, and vice versa. (Scarborough, Cranmer)

FIPUG: No position.

ORGULF: Not at issue for this party.

UMWA: Agree with Office of Public Counsel.

OPC: The bottom of the overall rate of return range should be used for purposes of quantifying "environmental compliance costs" pursuant to Section 366.8255(1)(d). A separate determination would still have to be made whether environmental compliance costs were already being recovered through current rates.

STAFF: No position pending further development of the record.

Environmental Expenses

ISSUE 14: What level of operating and maintenance expenses should be allowed?

GULF: \$2,191,000. (Vick, Lee, Cranmer)

FIPUG: This is a fall-out issue based on the resolution of prior issues.

ORGULF: Not at issue for this party.

UMWA: This is a mathematical calculation which is based upon the decisions made regarding other stated issues.

OPC: Public Counsel is not disputing specific O&M expense levels. But cost recovery should not be allowed for the aggregate dollars claimed for all programs and activities to the extent that Gulf Power is earning at or above the bottom of the range for its allowed return on equity.

STAFF: Gulf Power Company has requested \$2,191,022 in operating and maintenance over a 15 month period. Staff recommends the 15 month total of these expenses should be \$1,898,701, based upon resolution of Issue 3.

ISSUE 15: What amount of depreciation/amortization expense should be allowed?

GULF: \$1,349,000. (Cranmer)

FIPUG: This is a fall-out issue based on the resolution of prior issues.

ORGULF: Not at issue for this party.

UMWA: No position.

OPC: Agree with Staff.

STAFF: No position at this time.

STIPULATED

ISSUE 16: What is the appropriate amount of taxes?

POSITION: There are no property taxes included in the company's request. The appropriate amount of income taxes and revenue taxes are dependent upon the resolution of other issues.

ISSUE 17: What is the appropriate amount of environmental expenses?

GULF: \$3,540,000. (Cranmer)

FIPUG: This is a fall-out issue after the appropriate criteria are applied.

ORGULF: Not at issue to this party.

UMWA: This is a mathematical calculation which is based upon the decisions made regarding other stated issues.

OPC: Agree with Staff.

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STAFF: No position at this time.

STIPULATED

ISSUE 18: What is the appropriate revenue tax expansion factor?

POSITION: 1.01609.

ISSUE 19: What is the appropriate system revenue requirement?

GULF: \$8,917,000. (Cranmer)

FIPUG: This is a fall-out issue after the appropriate criteria are applied.

ORGULF: Not at issue for this party.

UMWA: No position.

OPC: Agree with Staff.

STAFF: This is a calculation based upon the resolution of other issues.

Rates

ISSUE 20: What is the appropriate jurisdictional factor?

GULF: 0.9651588. (Cranmer)

FIPUG: No position.

ORGULF: Not at issue for this party.

UMWA: No position.

OPC: No position.

STAFF: No position at this time.

(Policy)

ISSUE 21: How should environmental costs be allocated to the rate classes?

GULF: The revenue requirements associated with environmental compliance should be allocated to rate class using the cost-of-service methodology approved by the Commission in the Company's last rate case. Allocation factors should be calculated using updated load data on file with the Commission in accordance with Rule 25-6.0437. Gulf's last approved cost-of-service study splits the allocation of production-related investment and depreciation between demand and energy: 12/13th is allocated based on demand and 1/13th is allocated based on energy. The investment and depreciation identified by Gulf for purposes of calculating the ECR revenue requirements are all production-related and should therefore be allocated 12/13th on demand and 1/13th on energy. With regard to O & M expenses, the determination whether an item is demand-related or energy-related should be based on the manner the affected O & M account was allocated in the last rate case.

Investment related to compliance with the Clean Air Act Amendments of 1990 should not be differentiated from other production-related investment for purposes of allocation to rate classes. These costs are vital components to the operation of a power plant similar to such other items as boilers, burners, turbine generators, fuel handling equipment, etc. The Clean Air Act related investment in production plant is generally related to the size of the power plant and does not vary with energy use. Therefore, there is no compelling reason for varying from the practice followed with regard to the allocation of production-related investment: 12/13th on demand and 1/13th on energy. (Cranmer)

FIPUG: Costs should be classified in the same manner as each FERC account and allocated to the rate classes based on the same production plant cost of service methodology approved in Gulf Power's last rate case--the 12 CP and 1/13th method. (Pollock)

ORGULF: Not at issue for this party.

UMWA: No position.

OPC: No position.

STAFF: At a minimum, all compliance costs relating to the Clean Air Act Amendments of 1990 should be allocated on an energy basis.

(Policy)

ISSUE 22: How should environmental costs be recovered from the rate classes?

GULF: Through a kWh factor differentiated by rate class based on the allocation determined in Issue 21 above. (Cranmer)

FIPUG: Costs should be recovered on a per KW basis from within each demand-metered class. (Pollock)

ORGULF: Not at issue for this party.

UMWA: No position.

OPC: No position.

STAFF: The environmental costs should be recovered from all rate classes on an energy basis.

ISSUE 23: What is the appropriate effective date of the environmental cost recovery factor?

GULF: The factor should be effective beginning with the cycle 1 meter readings for January 1994 and thereafter for the period January, 1994, through September, 1994. Billing cycles may start before January 1, 1994, and the last cycle may be read after September 30, 1994, so that each customer is billed for nine months regardless of when the adjustment factor became effective. Cycle 1 meter readings for January 1994 are scheduled to occur on January 3, 1994. (Scarborough, Cranmer)

FIPUG: Agree with Staff.

ORGULF: Not at issue for this party.

UMWA: Agree with Staff.

OPC: No position.

STAFF: The current factor should be established at the conclusion of the hearing and be assessed beginning with the Cycle 1 meter readings for January 1, 1994 and continue through September 30, 1994. A new factor should be established in the August 1994 Fuel Adjustment Hearings for the six-month period of October 1994 through March 1995, and set each six months thereafter.

ISSUE 24: What are the appropriate environmental cost recovery factors?

GULF: See table below:³ (Cranmer)

³The factors listed in the table differ from those proposed in the original filing. The listed factors are designed to recover the identified revenue requirements over the nine month period from January 1994 through September 1994. The original filing proposed to recover the same revenues over twelve months, from October 1993 through September 1994.

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RST	0.168
GS, GST	0.165
GSD, GSDT	0.120
LP, LPT	0.104
PX, PXT	0.083
OSI, OSII	(0.005)
OSIII	0.089
OSIV	(0.012)
SS	0.136

FIPUG: This is a fall-out issue after the appropriate criteria are applied.

ORGULF: Not at issue for this party.

UMWA: This is a mathematical calculation which is based upon the decisions made regarding other stated issues.

OPC: Agree with Staff.

STAFF: This is a calculation based upon the resolution of other issues.

Other

(Policy)

ISSUE 25: Should Gulf be required to maintain separate subaccounts for all items included in the environmental cost recovery factor?

GULF: No. There are other, equally effective, accounting mechanisms that can be used to track the costs and

revenues associated with the ECR clause in order to provide a clear audit trail. For example, the work order system more effectively tracks plant expenditures. (Scarborough)

FIPUG: Yes. Maintenance of subaccounts will allow the Commission and interested parties to track and verify costs related to environmental compliance and insure that they are not being recovered through base rates or some other recovery mechanism. (Pollock)

ORGULF: Yes.

UMWA: Yes.

OPC: Yes.

STAFF: Yes. This is consistent with the conservation and oil backout rules and Order No. PSC-93-1580-FOF-EI, issued October 29, 1993 in Docket No. 930661-EI, FPL's Petition of ECRC, and does not preclude the company from using a work order system to capture its environmental costs.

(Policy)

ISSUE 26: Should the environmental cost recovery factor be set coincident with the fuel adjustment periods?

GULF: The timing should be coincident with the fuel adjustment hearings, but on an annual rather than a six-month basis. In order to provide for more level factors over time and also to balance the workload of the Company and the Commission, Gulf's environmental cost recovery factors should be set annually for the period October through September. Hearings would be held in conjunction with the fuel adjustment proceedings in August of each year. This would balance the workload with the annual setting of conservation cost recovery factors for the period April through March in conjunction with the fuel adjustment hearings held in February or March of each year. (Scarborough, Cranmer)

FIPUG: Yes. Setting and review of the environmental cost recovery factor semi-annually will allow parties and the Commission to review them twice a year and will avoid

excessive over and under recoveries due to a longer projection period. (Pollock)

ORGULF: Yes.

UMWA: Yes.

OPC: Yes.

STAFF: Yes.

STIPULATED

ISSUE 27: Are the environmental cost recovery factors based on reasonable forecasts of customers, KWH, and KW?

POSITION: Yes.

(Policy)

ISSUE 28: What ratemaking treatment should be accorded costs associated with emission allowances?

GULF: At this time, the only impact emission allowances have on Gulf's requested recovery relates to the working capital component of net environmental investment related to the allowances presently owned by the Company as a result of the EPA auction in the Spring of 1993. Thus, the only issue ripe for resolution in this case is whether the value of allowances held by the Company for future use or sale should be included in working capital. Gulf's position is that such allowances should be included in working capital for purposes of determining the net environmental investment addressed in the determination of revenue requirements to be recovered through the ECR clause. (Scarborough, Cranmer)

FIPUG: No position.

ORGULF: Not at issue for this party.

UMWA: The FPSC should adopt the ratemaking treatment for emission allowances adopted by the Georgia PSC in pending docket No. 4152-U. FERC's allowance rule expressly reserves to the states the determination of the

appropriate ratemaking treatment for emission allowances. Ratepayers should not be deprived of the opportunity cost of emission allowances held in a bank for future use.

OPC: The net cost of emission allowances, after giving recognition to any revenues from the sale of allowances, should be recognized as a fuel-related expense.

STAFF: The ratemaking treatment should be consistent with the accounting treatment established in the FERC system of accounts and prescribed by the Commission. Currently, the only ratemaking treatment that needs to be addressed is the emission allowance inventory. Allowance inventory should be included in working capital. Any gains associated with the sale or other disposition of the allowances should be deferred and netted against the costs of allowances included in the inventory until the allowances are actually used in compliance with Phase I of the Clean Air Act Amendments of 1990.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Vick	GULF	<u>(JOV-1)</u>	Total Company environmental capital expenditures and clearings to environmental plant-in-service, 7/93-9/94; Total Company environmental O & M expenses, 7/93-9/94 & 12-month 1990 allowed; Listing of environmental laws & regulations.
Lee	GULF	<u>(CRL-1)</u>	Power Generation environmental capital expenditures, 7/93-9/94; Power Generation environmental O & M expenses, 7/93-9/94 & 12-month 1990 allowed.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Cranmer	GULF	<u>(SDC-2)</u>	Calculation of recoverable revenue requirements; Calculation of net environmental investment; Calculation of revenue requirement rate of return; Calculation of adjustment for level of costs recovered through base rates; Development of recovery factors by rate class; Rate Schedule ECR.
Vick	GULF	<u>(JOV-2)</u>	O & M expenses -- new projects or programs.
Hubbard	ORGULF	<u>(PEH-1)</u>	Complaint by The Ohio River Company and Orgulf Transport Co. vs. Gulf Power Company and Southern Company Services, Inc., filed August 30, 1993 in the United States District Court for the Southern District of Ohio - Western Division.
Bass	STAFF	<u>(RSB-1)</u>	Section 366.8255, Florida Statutes.

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

VIII. PROPOSED STIPULATIONS

The following issues have been identified as proposed stipulations:
1, 10, 16, 18, and 27

A stipulation may be possible on Issue 23 regarding the effective dates for the initial set of ECR factors resulting

from this proceeding. The only difference between the parties on Issue 23 appears to relate to the frequency that the factors should be reviewed and may be more appropriately addressed under Issue 26.

The following issues are calculations based upon the resolution of other issues:
7, 9, 11, 14, 15, 17, 19, and 24

IX. PENDING MOTIONS

Gulf Power has a pending motion for confidential treatment regarding certain materials provided to the Commission Staff during the course of discovery.

X. OTHER MATTERS

None.

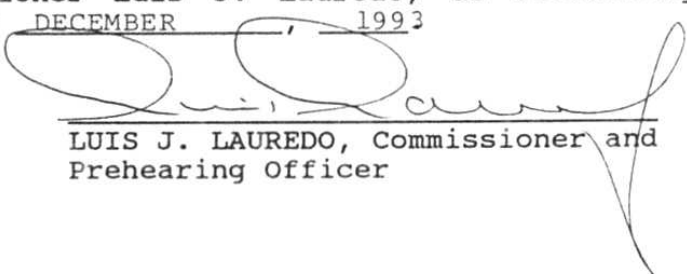
XI. RULINGS

Late-filed deposition exhibits from the deposition of Gulf Power's witnesses on November 15, 1993 are due by noon on December 3, 1993.

It is therefore,

ORDERED by Commissioner Luis J. Lauredo, 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 Luis J. Lauredo, as Prehearing Officer, this 6th day of DECEMBER, 1993



LUIS J. LAUREDO, Commissioner and
Prehearing Officer

(S E A L)
DLC/MAP:bmi

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.