

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Environmental Cost) DOCKET NO. 950007-EI
Recovery Clause.) ORDER NO. PSC-95-0947-PHO-EI
_____) ISSUED: August 4, 1995

Pursuant to Notice, a Prehearing Conference was held on July 19, 1995, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

Matthew M. Childs, P.A., Esquire, Steel Hector & Davis,
215 South Monroe Street, Suite 601, Tallahassee, FL 32301
On behalf of Florida Power & Light Company.

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P.O. Box 12950, Pensacola, FL 32576-2950
On behalf of Gulf Power Company.

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Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

Joseph A. McGlothlin, Esquire, Vicki Gordon Kaufman,
Esquire, McWhirter, Reeves, McGlothlin, Davidson, Rief
and Bakas, 117 South Gadsden Street, Tallahassee, Florida
32301.
On behalf of the Florida Industrial Power Users Group.

Vicki D. Johnson, Esquire, Florida Public Service
Commission, Gerald L. Gunter Building, 2540 Shumard Oak
Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

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On behalf of the Commissioners.

DOCUMENT NUMBER-DATE

07459 AUG-4 85

FPS-C-RECORDS/REPORTING

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Commission's continuing fuel and environmental cost recovery proceedings, a hearing is set for August 9 - 11, 1995, in this docket and in Docket No. 950001-EI. The hearing will address the issues set out in the body of this Prehearing Order.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

Witnesses and exhibits of witnesses whose names are preceded by an asterisk (*) have been stipulated into the record. The parties have stipulated that the testimony of those witnesses will be inserted into the record as though read and cross-examination will be waived.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
*B. T. Birkett	FPL	1 - 9
*W. M. Reichel	FPL	10a - b
*M. L. Gilchrist	GULF	2, 4

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
*J. O. Vick	GULF	1, 2, 4, 11b - g
*S. D. Cranmer	GULF	1, 2, 3, 4, 5, 6 - 9, 11a

V. BASIC POSITIONS

FPL: None necessary.

GULF: It is the basic position of Gulf Power Company that the proposed environmental cost recovery factors present the best estimate of Gulf's cost for its environmental compliance activities for the period October 1995 through March 1996, including the true-up calculations and other adjustments allowed by the Commission.

FIPUG: None at this time.

OPC: None necessary.

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.

VI. ISSUES AND POSITIONS

STIPULATED

ISSUE 1: What are the appropriate final environmental cost recovery true-up amounts for the period ending March 31, 1995?

POSITIONS:

FPL: \$419,418 overrecovery.

GULF: \$101,428 overrecovery.

STIPULATED

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period April, 1995 through September, 1995?

POSITIONS:

FPL: \$686,372 underrecovery.

GULF: \$522,197 overrecovery.

STIPULATED

ISSUE 3: What are the total environmental cost recovery true-up amounts to be collected during the period October, 1995 through March, 1996?

POSITIONS:

FPL: \$266,954 net underrecovery.

GULF: Refund of \$623,625 (excluding revenue taxes).

STIPULATED

ISSUE 4: What are the appropriate projected environmental cost recovery amounts for the period October, 1995 through March, 1996?

POSITIONS:

FPL: The appropriate projected environmental cost recovery amount to be collected during the period is \$7,681,233.

GULF: \$5,297,190

STIPULATED

ISSUE 5: What should be the effective date of the new environmental cost recovery factors for billing purposes?

POSITION: The factor should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period October, 1995 through March, 1996. Billing cycles may start before October 1, 1995, and the last cycle may be read after March 31, 1996, so that each customer is billed for six months regardless of when the adjustment factor became effective.

STIPULATED

ISSUE 6: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery true-up amounts to be collected during the period October, 1995 through March, 1996?

POSITION: The depreciation rates used to calculate the depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service.

STIPULATED

ISSUE 7: Should the Commission approve the recovery of the cost for dismantlement associated with investments for approved projects through the Environmental Cost Recovery Clause?

POSITION: Yes, provided that the dismantlement costs associated with the allowed capital investment are not being recovered in any other cost recovery mechanism, the dismantlement amount is supported by a dismantlement study, and the accrual is developed as prescribed in Order No. 24741, Docket No. 890186-EI.

STIPULATED

ISSUE 8: How should the newly proposed environmental costs be allocated to the rate classes?

POSITIONS:

FPL: The costs of the National Pollutant Discharge Elimination System permit fees to the Florida Department of Environmental Protection should be allocated on a demand basis.

FPL: The costs of fuel discharge response and clean-up activities pursuant to Florida Department of Environmental Protection Rule 17-762.820, Florida Administrative Code, should be allocated on a demand basis for O&M costs and 12CP 1/13 for capital costs.

GULF: The costs of the National Pollutant Discharge Elimination System permit fees to the Florida Department of Environmental Protection should be allocated on a demand basis.

GULF: The costs of the mobile equipment purchase for Substation Contamination Investigation should be allocated on 12CP 1/13 energy basis.

GULF: The costs of the Florida Department of Environmental Protection Rule 17-551, Florida Administrative Code, Control of Lead and Copper should be allocated on a demand basis.

STIPULATED

ISSUE 9: What are the appropriate Environmental Cost Recovery Factors for the period October, 1995 through March, 1996 for each rate group?

POSITIONS:

FPL:	<u>Rate Class</u>	<u>Environmental Recovery Factor (\$/KWH)</u>
	RS1	0.00023
	GS1	0.00023
	GSD1	0.00020
	OS2	0.00019
	GSLD1/CS1	0.00020
	GSLD2/CS2	0.00020
	GSLD3/CS3	0.00019
	ISST1D	0.00021
	SST1T	0.00021
	SST1D	0.00018
	CILC D/CILC G	0.00020
	CILC T	0.00019
	MET	0.00021
	OL1/SL1	0.00015
	SL2	0.00019

GULF: See table below:

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RST	0.153
GS, GST	0.151
GSD, GSDT, SBS	0.136
LP, LPT, SBS	0.126
PX, PXT, RTP, SBS	0.116
OSI, OSII	0.088
OSIII	0.124
OSIV	0.088

¹The recovery factor applicable to customers taking service under Rate Schedule SBS is determined as follows: customers with a Contract Demand in the range of 100 to 499 KW will use the recovery factor applicable to Rate Schedule GSD; customers with a Contract Demand in the range of 500 to 7,499 KW will use the recovery factor applicable to Rate Schedule LP; and customers with a Contract Demand over 7,499 KW will use the recovery factor applicable to Rate Schedule PX.

COMPANY - SPECIFIC ENVIRONMENTAL COST RECOVERY ISSUES

Florida Power & Light Company

STIPULATED

ISSUE 10a: Should the Commission approve Florida Power & Light's request to recover the cost of the National Pollutant Discharge Elimination System permit fees to the Florida Department of Environmental Protection pursuant to Rule 62-4.052, Florida Administrative Code, through the Environmental Cost Recovery Clause?

POSITION: Yes. This activity is a requirement of the Florida Department of Environmental Protection. All expenses were incurred after April 13, 1993, are not being recovered in any other cost recovery mechanism, and were not considered at the time of Florida Power & Light's last rate case.

STIPULATED

ISSUE 10b: Should the Commission approve FPL's request that the cost to clean up fuel oil discharges from its above ground fuel storage tanks, if found to be reasonable and prudent, be included as a separate line item within the scope of the Maintenance of Above Ground Fuel Storage Tanks activity?

POSITION: Yes, if appropriate these costs would be included as a separate line item within the scope of the Maintenance of Above Ground Fuel Storage Tanks activity. Rule 62-762.820, Florida Administrative Code, which is part of the Maintenance of Above Ground Fuel Storage Tanks Rule, requires that when evidence of a discharge is discovered the owner must contain, remove and abate the discharge. However, the Commission need not determine whether the Company has prudently and reasonably incurred such expenses until after the Company actually incurs such clean-up expenses.

Gulf Power Company

STIPULATED

ISSUE 11a: What is the appropriate amount of dismantlement costs associated with Gulf Power Company's approved investments to be recovered through the Environmental Cost Recovery Clause?

POSITION: The appropriate amount of dismantlement costs is \$147,889 annually.

STIPULATED

ISSUE 11b: Should the Commission approve Gulf Power Company's request to recover the cost of the National Pollutant Discharge Elimination System permit fees to the Florida Department of Environmental Protection pursuant to Rule 62-4.052, Florida Administrative Code, through the Environmental Cost Recovery Clause?

POSITION: Yes. This activity is a requirement of the Florida Department of Environmental Protection. All expenses were incurred after April 13, 1993, are not being recovered in any other cost recovery mechanism, and were not considered at the time of Gulf Power Company's last rate case.

STIPULATED

ISSUE 11c: Should the Commission approve Gulf Power Company's request to recover the cost of compliance with the Florida Department of Environmental Protection Rule 17-551, Florida Administrative Code, Control of Lead and Copper through the Environmental Cost Recovery Clause?

POSITION: Yes. The abatement expenses to reduce and control lead and copper contaminants in the water at Plant Crist and Plant Smith, as well as the expenses for measurements and monitoring, are appropriate for recovery. These expenses were incurred after April 13, 1993, are not being recovered in any other cost recovery mechanism, and were not considered at the time of Gulf Power Company's last rate case.

STIPULATED

ISSUE 11d: Should the Commission approve Gulf Power Company's request to recover the costs of the mobile equipment purchase for Substation Contamination Investigation through the Environmental Cost Recovery Clause?

POSITION: Yes. The purchase of the equipment was the least cost option reviewed by GULF's management. This purchase is expected to reduce charges to O&M approved activities for groundwater investigation and remediation. The three options considered were:

1. Maintaining an existing contract and services:
Monthly cost \$73,000.

2. Purchase the treatment system and contract Southern Company Services for operator expenses:
Monthly cost \$45,670.
3. Purchase the treatment system and GULF subcontract for operator expenses:
Monthly cost \$42,670.

All expenses were incurred after April 13, 1993, are not being recovered in any other cost recovery mechanism, and were not considered at the time of Gulf Power Company's last rate case.

STIPULATED

ISSUE 11e: Should the Commission approve recovery of Gulf Power Company's costs of Generation Steam Studies through the Environmental Cost Recovery Clause?

POSITION: This issue is deferred until the February 1996 hearing.

STIPULATED

ISSUE 11f: Should the Commission approve recovery of Gulf Power Company's costs of Climate Challenge through the Environmental Cost Recovery Clause?

POSITION: No.

STIPULATED

ISSUE 11g: What adjustment, if any, should be made to address the resolution of the O & M expenses identified in Disclosure No. 3 of the PSC Audit Report for the six month period ending March 31, 1995?

POSITION: \$28,260 of O & M expenses for the period April 1994 through March 1995 should be reversed. The net adjustment with interest should be included in Gulf's next true-up filing.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
*Birkett	FPL	_____ (BTB-1)	Document 1/ Environmental Compliance Cost Projections October 1995 - March 1996
*Birkett	FPL	_____ (BTB-2)	Document 2/ Calculation Of Allocation By Rate Class
*Birkett	FPL	_____ (BTB-3)	Document 3/ Calculation of Factors
*Birkett	FPL	_____ (BTB-4)	Document 4/ Schedule Of Capital In- vestment De- preciation And Return October 1995 - March 1996
*Birkett	FPL	_____ (BTB-5)	Document 5/ Calculation of Estimated Actual Variance April 1995 - September 1995
*Birkett	FPL	_____ (BTB-6)	Document 6/ Estimated Actual Environmental Compliance Costs April 1995 - September 1995
*Birkett	FPL	_____ (BTB-7)	Document 7/ Calculation Of Over / Under Recovery April 1995 - September 1995

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
*Birkett	FPL	(BTB-8)	Document 8/ Schedule of Capital In- vestment De- preciation and Return April 1995 - September 1995
*Reichel	FPL	(WMR-1)	Document 1/Rule 62-4.052, F.A.C.
*Reichel	FPL	(WMR-2)	Document 2/Pule 62-762.820, F.A.C.
*Reichel	FPL	(WMR-3)	Document 3/ Project De- scription And Progress Reports
*Vick	GULF	(JOV-1)	ECR Investment Expenditures, Operations and Maintenance Expenses, State NPDES Admini- stration Program, Lead and Copper Rule
*Cranmer	GULF	(SDC-1)	Calculation of final true-up, 10/94 through 3/95; Calcula- tion of true- up and interest provision, 10/94 through 3/95; Re- coverable En- vironmental O&M Expenses 10/94 through 3/95; Jurisdictional Recoverable En- vironmental Costs

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
*Cranmer	GULF	_____ (SDC-1) (cont'd)	Related to Investment, 10/94 through 3/95; Investment-Related Costs by Project, 10/94 through 3/95
*Cranmer	GULF	_____ (SDC-2)	Total Recoverable Revenue Requirements, Plant Schedules, Recoverable Operations and Maintenance Expenses, Calculation of Environmental Cost Recovery Factors
*Cranmer	GULF	_____	Gulf Power Company's responses to Staff's First Set of Interrogatories, No. 1-12
* ---	STAFF	_____	Staff Audit Report

VIII. PROPOSED STIPULATIONS

Florida Power & Light Company and Gulf Power Company have stipulated to all issues in the Prehearing Order.

IX. PENDING MOTIONS

There are no pending motions at this time.

X. OTHER MATTERS

Florida Power & Light Company and Gulf Power Company have no other matters pending Commission review.

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It is therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 4th day of August, 1995.



J. TERRY DEASON, Commissioner and
Prehearing Officer

(S E A L)

VDJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(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.