

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost  
recovery clause.

DOCKET NO. 980007-EI  
ORDER NO. PSC-98-1131-PHO-EI  
ISSUED: August 24, 1998

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on Monday, August 17, 1998, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

MATTHEW M. CHILDS, ESQUIRE, Steel Hector and Davis, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301  
On behalf of Florida Power & Light Company (FPL).

JEFFERY A. STONE, ESQUIRE, and RUSSELL A. BADDERS, ESQUIRE, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32576  
On behalf of Gulf Power Company (Gulf).

JAMES D. BEASLEY, ESQUIRE, and LEE L. WILLIS, ESQUIRE, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302  
On behalf of Tampa Electric Company (TECO).

JOHN W. McWHIRTER, ESQUIRE, McWhirter Reeves McGlothlin Davidson Decker Kaufman Arnold & Steen, Post Office Box 3350, Tampa, Florida 33601; JOSEPH A. McGLOTHLIN, ESQUIRE, and VICKI GORDON KAUFMAN, ESQUIRE, McWhirter Reeves McGlothlin Davidson Decker Kaufman Arnold & Steen, 117 South Gadsden Street, Tallahassee, Florida 32301  
On behalf of Florida Industrial Power Users Group (FIPUG).

JOHN ROGER HOWE, ESQUIRE, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399  
On behalf of the Citizens of the State of Florida (OPC).

LESLIE J. PAUGH, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Commission Staff (Staff).

DOCUMENT FILED DATE

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REGISTRATION

**PREHEARING ORDER**

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

As part of the Commission's continuing fuel cost and environmental cost recovery proceedings, a hearing is set for August 26, 27, and 28, 1998, in this docket and in Docket No. 980001-EI. The hearing will address the issues set out in the body of this Prehearing Order. All of the issues, except Issue No. 10, have been stipulated. Issue No. 10 has been addressed by the ruling of the Prehearing Officer.

III. 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

Division of Records and Reporting's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of 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. If a party fails to file a post-hearing statement, 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.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

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.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes

the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

Witnesses whose names are preceded by an asterisk (\*) have been excused. 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. The parties have also stipulated that all exhibits submitted with those witnesses' testimony shall be identified as shown in Section IX of this Prehearing Order and admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
* K.M. Dubin	FPL	1 - 9, 10A
* R.R. Labauve	FPL	10
* J.O. Vick	Gulf	1, 2, 11
* S.D. Cranmer	Gulf	1 - 9, 11
* Karen O. Zwolak	TECO	1A, 2A, 3 - 9

VII. BASIC POSITIONS

**FPL:** The subject of this hearing, as it relates to FPL, is to address the three month period from October 1998 through December 1998. FPL proposes that a factor not be set to reflect projections for the three month period or the net prior period, overrecovery. However, specific issues are contained in this statement as if new factors were being set. This is the basis for calculations of true-ups in future periods.

**Gulf:** It is the basic position of Gulf Power Company that the environmental cost recovery factors currently in effect for the period ending September 30, 1998, remain in effect through the period ending December 31, 1998.

**TECO:** The Commission should approve Tampa Electric's calculation of its environmental cost recovery final

true-up for the period October 1997 through March 1998, its actual true-up amount for the period April 1998 through September 1998, and its projected ECRC revenue requirement and ECRC cost recovery factors for the period October 1998 through December 1998.

**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.

#### VIII. ISSUES AND POSITIONS

##### **Generic Environmental Cost Recovery Issues**

###### **STIPULATED**

**ISSUE 1:** What are the appropriate final environmental cost recovery true-up amounts for the period ending September 30, 1997?

**POSITION:** FPL: \$ 2,157,919 overrecovery.  
GULF: \$ 359,564 overrecovery.

###### **STIPULATED**

**ISSUE 1A:** What are the appropriate final environmental cost recovery true-up amounts for the period ending March 31, 1998?

**POSITION:** TECO: \$ 351,717 overrecovery.

**STIPULATED**

**ISSUE 2:** What are the estimated environmental cost recovery true-up amounts for the period October, 1997, through September, 1998?

**POSITION:** FPL: \$ 926,229 underrecovery.  
GULF: \$ 420,896 overrecovery.

**STIPULATED**

**ISSUE 2A:** What are the estimated environmental cost recovery true-up amounts for the period April, 1998, through September, 1998?

**POSITION:** TECO: \$ 80,017 underrecovery.

**STIPULATED**

**ISSUE 3:** What are the total environmental cost recovery true-up amounts to be collected?

**POSITION:** FPL: \$ 1,231,690 overrecovery.  
GULF: \$ 780,460 overrecovery.  
TECO: \$ 271,700 overrecovery.

**STIPULATED**

**ISSUE 4:** What are the appropriate projected environmental cost recovery amounts for the period October, 1998, through December, 1998?

**POSITION:** FPL: The appropriate recovery amount for the period October, 1998, through December, 1998 is \$3,843,923 (the projected cost plus 3/12 of the total true-up amount in Issue 3).

Gulf: The appropriate recovery amount for the period October, 1998, through December, 1998, is \$2,884,570 (the projected cost plus 3/12 of the total true-up amount in Issue 3).

TECO: The appropriate recovery amount for the period October, 1998, through December, 1998, is \$1,247,203 (the projected cost plus 3/6 of the total true-up amount in

Issue 3 plus \$22,218 to adjust for an amount in question during the February, 1998, ECRC hearing).

**STIPULATED**

**ISSUE 5:** Should the Commission allow the electric utilities to keep their environmental cost recovery factors at the rate set by Order Nos. PSC-97-1047-FOF-EI, issued September 5, 1997, in Docket No. 970007-EI, and PSC-98-0408-FOF-EI, issued March 18, 1998, in Docket No. 980007-EI, for the projected period October, 1998, through December, 1998?

**POSITION:** Yes.

**STIPULATED**

**ISSUE 6:** What is the appropriate recovery period to collect the total environmental cost recovery true-up amounts?

**POSITION:** The appropriate recovery period to collect the total environmental cost recovery true-up amounts is the 15-month period from October, 1998, through December, 1999.

**STIPULATED**

**ISSUE 7:** What should be the effective date of the 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, 1998, through December, 1998. Billing cycles may start before October 1, 1998, and the last cycle may be read after December 31, 1998, so that each customer is billed for three months regardless of when the adjustment factor became effective.



**STIPULATED**

**ISSUE 8:** What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery true-up amounts to be collected?

**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 9:** What are the appropriate Environmental Cost Recovery Factors for the period beginning October, 1998, for each rate group?

**POSITION:** The appropriate factors for each rate group should continue to be those last approved by the Commission for each company:

<u>Rate Class</u>	<u>Environmental Recovery Factor (\$/KWH)</u>
RS1	0.00030
GS1	0.00028
GSD1	0.00025
OS2	0.00069
GSLD1/CS1	0.00024
GSLD2/CS2	0.00023
GSLD3/CS3	0.00016
ISST1D	0.00050
SST1T	0.00021
SST1D	0.00025
CILC D/CILC G	0.00023
CILC T	0.00015
MET	0.00027
OL1/SL1	0.00021
SL2	0.00021

GULF:

<u>Rate Class</u>	<u>Environmental Recovery Factor (¢/KWH)</u>
RS, RST	0.138
GS, GST	0.136
GSD, GSDT	0.118
LP, LPT	0.111
PX, PXT, RTP	0.101
OSI, OSII	0.082
OSIII	0.107
OSIV	0.154
SBS	0.112

TECO:

<u>Rate Class</u>	<u>Environmental Cost Recovery Factor (¢/KWH)</u>
RS, RST	0.033
GS, GST, TS	0.033
GSD, GSDT	0.033
GSLD, GSLDT, SBF, SBFT	0.032
IS1, IST1, SBI1, SBIT1, IS3, IST3, SBI3, SBIT3	0.031
SL, OL	0.032

**Company - Specific Environmental Cost Recovery Issues**

Florida Power & Light Company

**ISSUE 10: Should the Commission approve Florida Power & Light Company's request for recovery of costs of the Wastewater/Stormwater Discharge Elimination Project through the Environmental Cost Recovery Clause?**

**FPL:**

This issue should be deferred, without prejudice to FPL, until the November, 1998, hearing in this docket.

**FIPUG:** No position.

**OPC:** No position.

**STAFF:** This issue should be deferred until the November, 1998, hearing in this docket.

**STIPULATED**

**ISSUE 10A:** How should the newly proposed environmental costs for the Wastewater/Stormwater Discharge Elimination Project be allocated to the rate classes?

**POSITION:** The capital portion of the Wastewater/Stormwater Discharge Elimination Project should be allocated to the rate classes on a 12 CP and 1/13 average demand basis. The operation and maintenance expense portion should be allocated to the rate classes on a 100% demand basis. ...

Gulf Power Company

**STIPULATED**

**ISSUE 11:** What adjustment, if any, should be made to the Environmental Cost Recovery Clause to reflect an amount which may be in base rates for the costs of the underground fuel storage tanks which have been replaced by aboveground fuel storage tanks as reported in Audit Disclosure No. 1 of the Florida Public Service Commission's Environmental Cost Recovery Clause Audit Report for the Period Ended September 30, 1997?

**POSITION:** This issue should be deferred until the November, 1998, hearing in this docket.

IX. EXHIBIT LIST

Witnesses whose names are preceded by an asterisk (\*) have been excused. All exhibits submitted with those witnesses' testimony shall be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
* Dubin	FPL	<u>(KMD - 1)</u>	Environmental Cost R e c o v e r y P r o j e c t i o n s October 1998 - December 1998 Commission Forms 42-1P through 42- 4P and 42-6P through 42-7P
* Dubin	FPL	<u>(KMD - 2)</u>	Appendix II Environmental cost R e c o v e r y Estimated/Actual Period October 1997 - September 1998 Commission Forms 42-1E through 42- 8E
* Labauve	FPL	<u>(RRL - 1)</u>	Final Permit - Putnam Power Plant and Best Management Practices/Polluti on Prevention Conditions
* Labauve	FPL	<u>(RRL - 2)</u>	Permit for FPL Port Everglades Power Plant - Old
* Labauve	FPL	<u>(RRL - 3)</u>	Permit for FPL Port Everglades Power Plant - Current
* Labauve	FPL	<u>(RRL - 4)</u>	NPDES Permit Issuance Dates & BMP3 Submittal Dates

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
* Labauve	FPL	<u>(RRL - 5)</u>	Ambient Water Quality Criteria
* Labauve	FPL	<u>(RRL - 6)</u>	Letter from EPA dated June 13, 1997
* Labauve	FPL	<u>(RRL - 7)</u>	Multiple Source Annual Operating Permit
* Labauve	FPL	<u>(RRL - 8)</u>	Section 24-11, Code of Metropolitan Dade County
* Labauve	FPL	<u>(RRL - 9)</u>	Wastewater/Stormwater Discharge Elimination Diagrams
* Labauve	FPL	<u>(RRL - 10)</u>	Scope of Work by Site
* Cranmer	Gulf	<u>(SDC - 1)</u>	Schedules 1A - 8A (10/96 - 9/97)
* Cranmer	Gulf	<u>(SDC - 2)</u>	Schedules 42-1P through 42-7P (10/98 - 12/98); 42-1E through 42-8E (10/97 - 9/98)
* Zwolak	TECO	<u>(KOZ - 1)</u>	Final true-up Environmental Cost Recovery, Commission Forms 42-1A through 42-8A for the period October 1997 through March

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
* Zwolak	TECO	<u>(KOZ - 2)</u>	Final true-up Environmental Cost Recovery Commission Forms 42-1P through 42- 7P for the period October 1998 - December 1998 and 42-1E through 42- 8E for the period April 1998 - September 1998
* Zwolak	TECO	<u>(KOZ - 3)</u>	Form 42-1P for the Projected Period. October 1998 - December 1998
* Zwolak	TECO	<u>(KOZ - 4)</u>	Form 42-1E2 for the period April 1998 to December 1998

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

X. PROPOSED STIPULATIONS

All issues except, Issue No. 10 are stipulated.

All parties are willing to stipulate that the testimony of all witnesses whom no one wishes to cross examine be inserted into the record as though read, cross examination be waived, and the witness's attendance at the hearing be excused.

XI. PENDING MOTIONS

There are no pending motions.

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XII. RULINGS

Issue No. 10 shall be deferred until the November, 1998, hearing in this Docket.

It is therefore,

ORDERED by Commissioner Susan F. Clark, 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 Susan F. Clark, as Prehearing Officer, this 24th day of August, 1998.

  
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SUSAN F. CLARK  
Commissioner and Prehearing Officer

( S E A L )

LJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, 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.