

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power  
cost recovery clause and  
generating performance incentive  
factor.

DOCKET NO. 990001-EI  
ORDER NO. PSC-99-0196-PHO-EI  
ISSUED: February 8, 1999  
**TRANSMISSION RECONSIDERATION**

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on January 27, 1999, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

JAMES A. MCGEE, ESQUIRE, Post Office Box 14042, St. Petersburg, Florida 33733-4042

On behalf of Florida Power Corporation (FPC).

MATTHEW M. CHILDS, ESQUIRE, Steel Hector & Davis LLP, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301

On behalf of Florida Power & Light Company (FPL).

JEFFREY A. STONE, ESQUIRE, and RUSSELL A. BADDERS, ESQUIRE, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32576-2950

On behalf of Gulf Power Company (Gulf).

JAMES D. BEASLEY, ESQUIRE, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302

On behalf of Tampa Electric Company (TECO).

VICKI GORDON KAUFMAN, ESQUIRE, McWhirter Reeves McGlothlin Davidson Decker Kaufman Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301

On behalf of the Florida Industrial Power Users Group (FIPUG).

STEPHEN C. BURGESS, ESQUIRE, Office of the 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 (OPC).

WILLIAM COCHRAN KEATING, IV, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Commission Staff (Staff).

DOCUMENT NUMBER-DATE

01601 FEB-89

FPSC-RECORDS/REPORTING

**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

By Order No. PSC-98-1080-FOF-EI, issued August 10, 1998, the Commission granted Florida Power Corporation's Motion for Reconsideration of Order No. PSC-98-0073-FOF-EI in this docket. This matter is currently set for an administrative hearing as set forth in Order No. PSC-98-1080-FOF-EI.

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, 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.

Pursuant to Rule 28-106.215, Florida Administrative Code, 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 40 pages, and shall be filed at the same time.

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

- \* As a result of discussions at the prehearing conference, each witness whose name is preceded by an asterisk (\*) has been excused if no Commissioner assigned to hear this case seeks to cross-examine the particular witness. Parties shall be notified by the close of business on Friday, February 5, 1999, as to whether each such witness shall be required to be present at hearing. The testimony of excused witnesses will be inserted into the record as though read.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Slusser	FPC	1, 2, 3
*Dubin	FPL	1, 2, 4
*Howell	GULF	1, 2
Ritenour	GULF	2, 5

VII. BASIC POSITIONS

**FPC:** None necessary.

**FPL:** FPL's transmission revenue associated with economy transactions should continue to be separated based on energy. FPL's current energy and demand separation factors are very close therefore changing the calculation process at this time would not be beneficial because the resulting allocation of transmission revenue would not be materially different.

**GULF:** It is the basic position of Gulf Power Company that a transmission-related separation factor based on coincident peak demand properly allocates transmission revenues between the retail and wholesale jurisdictions. However, for administrative simplicity, Gulf proposes to allocate the transmission revenues flowed through the fuel clause based on energy sales adjusted for line losses. For Gulf Power, the energy allocator and the demand allocator are very similar. Due to the immateriality of this difference in the energy and demand

allocators and the administrative costs involved in changing the allocator for the transmission revenues associated with economy sales, Gulf proposes to continue using the energy allocator to flow these transmission revenues through the fuel clause to its customers.

**TECO:** Transmission revenues should be allocated according to transmission usage and generation revenues allocated through the current energy allocation. The allocations would determine the percentage of transmission revenues which would be ultimately credited to the fuel clauses.

**FIPUG:** Transmission revenues should be separated on an energy basis.

**OPC:** It is not necessary for the Commission to depart from its current practice of separating economy energy sales profit based on the production separation factor.

**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

**ISSUE 1:** Does the FERC require that revenue from non-firm transmission services subject to FERC jurisdiction be reflected as a revenue credit in the derivation of firm transmission service rates subject to FERC jurisdiction?

#### **POSITIONS:**

**FPC:** Yes. FERC's cost of service and ratemaking practices have traditionally required the crediting of non-firm revenues on a functional basis to the fully allocated costs assigned to firm customers.

**FPL:** Yes.

**GULF:** Yes. The FERC included this requirement in both Order No. 888 and Order No. 888-A for transmission providers using annual system peak load pricing for their transmission services. On page 304 of the FERC's Order No. 888, the FERC clearly states that as part of the mechanism to prevent over-recovery of costs ". . . revenue from non-firm services should continue to be reflected as a revenue credit in the derivation of firm transmission tariff rates. This requirement was reaffirmed by the FERC in Order No. 888-A that was issued on March 4, 1997. At page 247 of Order No. 888-A, the FERC stated that ". . . the Commission [FERC] explained that revenue from non-firm transmission services should continue to be reflected as a revenue credit in the derivation of firm transmission service rates. The Commission [FERC] noted that the combination of allocating costs to firm point-to-point service and the use of a revenue credit for non-firm transmission service will satisfy the requirements of a conforming rate proposal enunciated in our Transmission Pricing Policy Statement." Southern Companies (including Gulf Power) has filed their Open Access Transmission Service Tariff to conform to the foregoing requirements of FERC Order No. 888 and FERC Order No. 888-A. (Howell)

**TECO:** Generally FERC does require revenue crediting of non-firm transmission services against the revenue requirements of the firm transmission rate.

**FIPUG:** This issue remains to be proven during the hearing.

**OPC:** This issue remains to be proven during the hearing.

**STAFF:** No position at this time pending further discovery.

**ISSUE 2:** **How should the transmission revenues associated with economy transactions over the Energy Broker Network be allocated between the retail and wholesale jurisdictions?**

**POSITIONS:**

**FPC:** FPC has for years consistently utilized a 12 CP methodology before the FERC and this Commission to

establish jurisdictional transmission cost responsibility. A jurisdictional factor derived using this methodology should be used to separate transmission revenues associated with economy transactions over the Energy Broker Network between the retail and wholesale jurisdictions.

**FPL:** For FPL, such transmission revenues should continue to be separated based on energy.

**GULF:** Given the Commission's prior decision to credit such transmission revenues through the fuel clause, a transmission-related jurisdictional separation factor based on coincident peak demand properly allocates transmission revenues between the retail and wholesale jurisdictions. This is consistent with the way in which the transmission-related plant costs and O & M expenses were allocated in Gulf Power's last rate case.

Gulf continues to believe that any transmission revenues received by the Company due to economy energy transactions should be credited to operating revenues rather than through the fuel clause. In this fashion, the FPSC's surveillance mechanism would be used to ensure that such revenues do not cause the Company to over-earn. By crediting the transmission revenues to operating revenues (rather than through the fuel clause), the Company avoids the prospect of having to, in effect, give away the same revenues twice. However, given the Commission's prior decision to credit such transmission revenues through the fuel clause, and given that it is likely for the foreseeable future that non-firm transmission revenues received by Gulf Power will not be flowed back to the FERC jurisdiction through annual updates to Southern's firm transmission rates, Gulf's only remaining concern relative to this issue involves the administrative costs associated with Gulf Power's use of a transmission-related jurisdictional separation factor to allocate revenues between the wholesale and retail jurisdictions. This concern is discussed in connection with Issue 5 below. (Howell, Ritenour)

**TECO:** Transmission revenues should be separated between the retail and wholesale jurisdictions in a manner which reflects transmission usage. The allocations would



determine the percentage of transmission revenues which would ultimately be credited to the fuel clauses.

**FIPUG:** Transmission revenues should be separated on an energy basis.

**OPC:** By using the energy-related, separation factor.

**STAFF:** No position at this time pending further discovery.

**ISSUE 3:** How should Florida Power Corporation allocate transmission revenues associated with economy transactions over the Energy Broker Network between the retail and wholesale jurisdictions?

**POSITIONS:**

**FPC:** For sales under existing economy sales agreements (*i.e.*, entered prior to Order 888), where revenues have simply been unbundled into generation and transmission components, the appropriate jurisdictional portions of both the generation and transmission components of economy sales should be treated as a credit to the retail customer's fuel charge.

**FPL:** N/A.

**GULF:** No position.

**TECO:** No position.

**FIPUG:** Transmission revenues should be separated on an energy basis.

**OPC:** By using the energy-related, separation factor.

**STAFF:** No position at this time pending further discovery.

**ISSUE 4:** How should Florida Power & Light allocate transmission revenues associated with economy transactions over the Energy Broker Network between the retail and wholesale jurisdictions?

**POSITIONS:**

**FPC:** N/A

**FPL:** For FPL such transmission revenues should continue to be allocated between the retail and wholesale jurisdictions based on energy.

**GULF:** No position.

**TECO:** No position.

**FIPUG:** Transmission revenues should be separated on an energy basis.

**OPC:** By using the energy-related, separation factor.

**STAFF:** No position at this time pending further discovery.

**ISSUE 5:** How should Gulf Power Company allocate transmission revenues associated with economy transactions over the Energy Broker Network between the retail and wholesale jurisdictions?

**POSITIONS:**

**FPC:** N/A

**FPL:** N/A.

**GULF:** For administrative simplicity, Gulf proposes to allocate the transmission revenues flowed through the fuel clause based on energy sales adjusted for line losses, as it has been doing for transmission revenues related to economy sales effective January 1997 pursuant to FPSC Order No. PSC-98-0073-FOF-EI dated January 13, 1998. For Gulf Power, the energy allocator and the demand allocator are very similar. Use of the demand allocator for Gulf Power

would not cause a material change in the amount of transmission revenues that would be flowed to customers through the fuel clause. However, changing the allocation for these transmission revenues would require fairly substantial changes to Gulf Power's over/under recovery calculation each month, and to the actual "A" schedules filed each month and the final true-up and projection schedules, each filed annually. Due to the immateriality of the difference in results between continuing to apply the energy allocator as compared to application of the demand allocator, and the administrative costs involved with changing the allocator for the transmission revenues associated with economy sales, Gulf Power is proposing to continue using the energy allocator to flow these transmission revenues through the fuel clause to its customers. (Ritenour)

**TECO:** No position.

**FIPUG:** Transmission revenues should be separated on an energy basis.

**OPC:** By using the energy-related, separation factor.

**STAFF:** No position at this time pending further discovery.

**ISSUE 6:** How should Tampa Electric Company allocate transmission revenues associated with economy transactions over the Energy Broker Network between the retail and wholesale jurisdictions?

**POSITIONS:**

**FPC:** N/A

**FPL:** N/A.

**GULF:** No position.

**TECO:** Transmission revenues should be allocated according to transmission usage. The allocations would determine the percentage of transmission revenues which would ultimately be credited to the fuel clauses.

- FIPUG:** Transmission revenues should be separated on an energy basis.
- OPC:** By using the energy-related, separation factor.
- STAFF:** No position at this time pending further discovery.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Slusser	FPC	<u>                    </u> (WCS - 1)	Extractions from FPC's Open Access Transmission Tariff
Slusser	FPC	<u>                    </u> (WCS - 2)	Summary of Firm Transmission Loadings at Time of Monthly Peak Demand.

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

X. PROPOSED STIPULATIONS

The parties have stipulated to move the following into the record of this proceeding: (1) the prefiled direct testimony, in its entirety, of FPL witness Dubin; (2) the entire transcript of staff's deposition of FPL witness Dubin; and (3) FPL's responses to Staff's Third Set of Interrogatories to FPL (Nos. 7-14).

In addition, the parties have stipulated to move the following into the record of this proceeding: (1) the prefiled direct testimony, in its entirety, of Gulf witness Howell; (2) the entire transcript of staff's deposition of Gulf witness Howell; and (3) Gulf's responses to Staff's Second Set of Interrogatories to Gulf (Nos. 5-8).

The parties have also stipulated that FPC witness Slusser's prefiled direct testimony should be amended to delete the complete

sentence beginning at page 5, line 8, and ending at page 5, line 13, of the testimony.

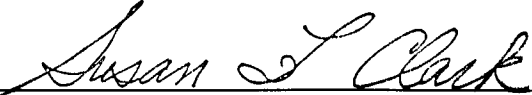
XI. PENDING MOTIONS

There are no pending motions at this time.

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 8th day of February, 1999.

  
\_\_\_\_\_  
SUSAN F. CLARK  
Commissioner and Prehearing Officer

( S E A L )

WCK

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.

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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.

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.

MEMORANDUM

FEBRUARY 8, 1999

RECORDED-4780

SEP 3 - 8 PM 1:10

RECORDS AND REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (C. KEATING) *WCK RVE*

RE: DOCKET NO. 990001-EI - FUEL AND PURCHASED POWER COST RECOVERY CLAUSE AND GENERATING PERFORMANCE INCENTIVE FACTOR.

99-0196-P410-EI

Attached is a PREHEARING ORDER to be issued in the above-referenced docket. (Number of pages in order - 14)

WCK/js

Attachment

cc: Division of Electric and Gas (Harlow)

Division of Auditing and Financial Analysis (Merta)

I:transpho.wck

**MUST GO TODAY**

*Copies*  
10/10