

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost  
recovery clause.

DOCKET NO. 990007-EI  
ORDER NO. PSC-99-2268-PHO-EI  
ISSUED: November 18, 1999

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on November 4, 1999, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

JEFFREY A. STONE, ESQUIRE, and RUSSELL A. BADDERS, ESQUIRE, of Beggs & Lane, P.O. Box 12950, Pensacola, FL 32576-2950  
On behalf of Gulf Power Company.

JAMES D. BEASLEY, ESQUIRE, and LEE L. WILLIS, ESQUIRE, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302; and Harry W. Long, Jr., Tampa Electric Company, Post Office Box 111, Tampa, Florida 33601  
On behalf of Tampa Electric Company

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.

STEPHEN C. BURGESS, 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 Florida.

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On behalf of Florida Power & Light Company.

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FPSC-RECORDS/REPORTING

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GRACE A. JAYE, ESQUIRE, Florida Public Service  
Commission, 2540 Shumard Oak Boulevard, Tallahassee,  
Florida 32399-0850  
On behalf of the Commission Staff.

### **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 ongoing continuing fuel cost, conservation cost recovery, purchased gas adjustment and environmental cost recovery proceedings, a hearing is set for November 22 and 23, 1999, in this docket and in Docket No. 990001-EI, Docket No. 990002-EG, and Docket No. 990003-GU. The hearing will address the issues set out in the body of this Prehearing Order. There are proposed stipulations on issues five, six, eight, nine, twelve, 13A, 13B, 13C, 13D, 13E, 13G, 14, 14A, 14B, 14C, 14D and 14F.

#### **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.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

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

- a) 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.
- b) 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.
- c) 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.
- d) 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.

- e) 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 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.

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 between the parties, 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, November 19, 1999, as to whether each witness shall be required to be present at hearing. The testimony of excused witnesses will be inserted into the record as though read and all exhibits submitted with those witnesses' testimony shall be identified as shown in Section IX of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
K. M. Dubin	FPL	1-12A
J. O. Vick	Gulf	1, 2, 4, 8, 11, 13, 13B, 13D, 13F
S. D. Ritenour	Gulf	1-11, 13A, 13C, 13E-13G
Karen O. Zwolak	TECO	1-7, 14, 14A-14D
*Gregory M. Nelson	TECO	1-4, 14A, 14C
*Donald E. Pless	TECO	2-4
Phil L. Barringer	TECO	6-11, 14E, 14F
Kent D. Taylor	FIPUG	8-9, 14F-I
Patricia S. Lee	Staff	10
G. John Slemkewicz	Staff	11

Rebuttal

Phil L. Barringer	TECO	8-11, 14F-I
S. D. Ritenour	Gulf	8-11

VII. 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 environmental compliance costs recoverable through the environmental cost recovery clause for the period January 2000 through December 2000 including the true-up calculations and other adjustments allowed by the Commission.

**TECO**: The Commission should approve for environmental cost recovery the compliance programs described in the testimony and exhibits of Tampa Electric Witnesses Nelson, Pless, and Zwolak. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period April 1998 through December 1998, the actual/estimated environmental cost recovery true-up for the current period January 1999 through December 1999, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2000 through December 2000.

**FIPUG**: The Commission should not permit TECO to begin to recover for the scrubbers now because benefits from the scrubbers are not projected to accrue until 2003. If the Commission does permit recovery, the appropriate return should be at the low end of the range (10.75%) since TECO has no risk as to its investment, but rather its return is guaranteed. Further, because the magnitude of the scrubber investment is so large--\$83 million--it should be reviewed in a general rate case.

**OPC**: None.

**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**

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

**POSITION:**

**FPL:** \$678,159 overrecovery (DUBIN)

**TECO:** The appropriate final environmental cost recovery true-up amount for this period is an underrecovery of \$1,053,356. (NELSON, ZWOLAK)

**Gulf:** Underrecovery of \$14,963 for October, 1997, through September, 1998. Overrecovery of \$65,238 for October, 1998, through December, 1998. (VICK, RITENOUR)

**FIPUG:** No position at this time.

**OPC:** Agree with staff.

**Staff:**

**FPL:** This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

**TECO:** This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

**Gulf:** This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

**ISSUE 2:** What are the estimated environmental cost recovery true-up amounts for the period January 1999 through December 1999?

**POSITION:**

**FPL:** \$157,015 overrecovery. (DUBIN)

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**TECO:** The estimated environmental cost recovery true-up amount for the period is an underrecovery of \$2,247,153. (NELSON, PLESS, ZWOLAK)issue 2.

**Gulf:** Overrecovery of \$326,978. (VICK, RITENOUR)

**FIPUG:** No position at this time.

**OPC:** Agree with staff.

**Staff:**

FPL: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

TECO: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

Gulf: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

**ISSUE 3:** **What are the total environmental cost recovery true-up amounts to be collected or refunded during the period January 2000 through December 2000?**

**POSITION:**

**FPL:** \$835,174 overrecovery. (DUBIN)

**TECO:** The total environmental cost recovery true-up amount to be collected during this period is \$3,300,509. (NELSON, PLESS, ZWOLAK)

**Gulf:** Refund of \$377,253, excluding revenue taxes. (RITENOUR)

**FIPUG:** No position at this time.

**OPC:** Agree with staff.



**Staff:**

- FPL: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.
- TECO: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.
- Gulf: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

**ISSUE 4: What are the appropriate projected environmental cost recovery amounts for the period January 2000 through December 2000?**

**POSITION:**

**FPL:** The total environmental cost recovery amount, adjusted for revenue taxes is \$13,395,287. This amount consists of \$14,019,901 of projected environmental cost for the period net of the prior period overrecovery and taxes. FPL requests recovery of \$12,800,000 consistent with Order NO. PSC-99-0519-AS-EI, between energy and demand using the same allocation ratios realized in the calculation of the \$13,395,287.

**TECO:** The appropriate amount is \$22,258,656. (NELSON, PLESS, ZWOLAK)

**Gulf:** \$11,410,361. (VICK, RITENOUR)

**FIPUG:** Resolution of this issue depends on the company-specific issues.

**OPC:** Agree with staff.

**Staff:**

- FPL: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

TECO: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

Gulf: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

**STIPULATED**

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

**POSITION:** The factors should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January, 2000, through December, 2000. Billing cycles may start before January 1, 2000, and the last cycle may be read after December 31, 2000, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. OPC takes no position on this issue.

**STIPULATED**

**ISSUE 6:** What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery true-up amounts 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. FIPUG and OPC take no position on this issue.

**ISSUE 7:** What are the appropriate Environmental Cost recovery Factors for the period January, 2000, through December, 2000, for each rate group?

**POSITION:**

**FPL:**

Rate Class	Environmental Recovery Factor (\$/kWh)
RS1	0.00016
GS1	0.00016

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Rate Class	Environmental Recovery Factor (\$/kWh)
GSD1	0.00014
OS2	0.00019
GSLD1/CS1	0.00014
GSLD2/CS2	0.00014
GSLD3/CS3	0.00011
ISST1D	0.00020
SST1T	0.00010
SST1D	0.00014
CILC D/CILC G	0.00013
CILC T	0.00010
MET	0.00015
OL1/SL1	0.00014
SL2 (DUBIN)	0.00013

**TECO:**

Rate Class	Factor (cents/kWh)
RS, RST	0.135
GS, GST, TS	0.135
GSD, GSDT	0.134
GSLD, GSLDT, SBF, SBFT	0.132
IS1, IST1, SBI1, IS3, IST3, SBI3	0.127
SL, OL	0.133
AVERAGE FACTOR (ZWOLAK)	0.134

**Gulf:**

Rate Class	Environmental Cost Recovery Factors (cents/kWh)
RS, RST, RSVP	.124
GS, GST	.123
GSD, GSDT	.114
LP, LPT	.103
PX, PXT, RTP, SBS	.096
OSI, OSII	.081
OSIII	.101
OSIV (RITENOUR)	.158

**FIPUG:** Resolution of this issue depends on the company-specific issues.

**OPC:** Agree with staff.

**Staff:**

FPL: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

TECO: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

Gulf: This is a fall-out issue. Staff takes no position at this time pending resolution of generic issues and company specific issues at hearing.

**STIPULATED**

**ISSUE 8:** Should the Commission require utilities to petition for approval of recovery of new projects through the Environmental Cost Recovery Clause at least three months prior to due date for projection filing testimony?

**POSITION:** The Commission should require the utilities to file their final ECRC true-ups on the first business day in April of each year. The utilities should also be required to file their current period true-ups at least 90 calendar days before the ECRC hearing. The initial ECRC projections should be filed not later than 60 days before the ECRC hearing. For purposes of this stipulation, true-ups, estimated/actual true-ups and projections shall include both the amounts and justification of the amounts in testimony and exhibits.

**STIPULATED**

**ISSUE 9:** Should the Commission set minimum filing requirements for utilities upon a petition for approval of recovery of new projects through the Environmental Cost Recovery Clause?

**POSITION:** The Commission should continue to evaluate each petition for new ECRC activities and projects on a case by case basis. At a minimum, each petition should contain the following:

1. identification of the specific environmental law(s) or regulation(s) requiring the proposed activity or project;
2. a description of the proposed environmental compliance activity;
3. the associated projected environmental compliance costs, and;
4. an adjustment for the level of costs currently being recovered through base rates or other rate-adjustment clauses must be included in the filing.

**ISSUE 10:** What is the appropriate methodology for making an adjustment to the ECRC project costs to reflect retirements or replacements of plant-in-service that are being recovered through base rates?

**POSITION:**

**FPL:** For still serviceable plant-in-service being recovered through base rates but being retired because a new environmental law requires the replacement, the undepreciated balance of the retirement should be credited to plant-in-service and debited to the base

reserve account. No adjustment should be made to reduce the plant-in-service amounts to be recovered through the ECRC because the environmental regulation was the cause of the premature retirement of the base plant.

**TECO:** No adjustment is necessary for equipment that has been replaced due to new or more stringent environmental requirements. Continuing to recover the initial investment through base rates and recovering new environmental equipment through the ECRC is not double recovery of the same assets because the investment in the replaced assets should be recovered, and the new investment should also be fully recovered. (BARRINGER)

**Gulf:** It is not necessary or appropriate to make an adjustment to the cost of a capital project recoverable through ECRC to reflect retirements or

**FIPUG:** No position at this time.

**OPC:** Agree with staff.

**Staff:** Witness Lee's testimony addresses incremental costs to be recovered through the ECRC.

**ISSUE 11:** Have the companies made the appropriate adjustments to remove ECRC project costs that are being recovered through base rates?

**POSITION:**

**FPL:** Yes.

**TECO:** Yes. No environmental project costs included in the last rate case are being recovered through the ECRC. (BARRINGER)

**Gulf:** Yes. (RITENOUR)

**FIPUG:** No position at this time.

**OPC:** Agree with staff.

**Staff:** Witness Slemkewicz's testimony addresses whether an adjustment for "costs currently being recovered through

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base rates" is required to environmental compliance costs submitted for recovery pursuant to Section 366.8255, Florida Statutes.

### **Company-Specific Environmental Cost Recovery Issues**

#### **Florida Power & Light Company**

##### **STIPULATED**

**ISSUE 12:** What effect does Florida Power & Light Company's stipulation have on the ECRC?

**POSITION:** For 2000, the Stipulation does not allow FPL to recover a level of costs, including true-ups, in excess of \$12.8 million. The level of costs incurred above the cap will not be recovered through the ECRC in future periods. FIPUG and OPC take no position on this issue.

**ISSUE 12A:** What adjustments, if any, should be made to the depreciation expense for the environmental compliance true-up?

##### **POSITION:**

**FPL:** No adjustments are necessary.

**FIPUG:** No position at this time.

**OPC:** Agree with staff.

**Staff:** No position at this time pending the evidence adduced at hearing.

#### **Gulf Power Company**

**ISSUE 13:** Should the Commission approve Gulf Power Company's request for recovery costs of the Gulf Coast Ozone Study project through the Environmental Cost Recovery Clause?

##### **POSITION:**

**Gulf:** Yes. This is a prudent environmental compliance activity resulting from Gulf's compliance with new, more stringent environmental requirements of Title I of the Clean Air

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Act Amendments of 1990 which will become applicable to Gulf as result of its having facilities in counties that may be designated as ozone non-attainment areas with regard to ambient air quality standards. This project is an operating and maintenance expense which arose since Gulf Power's last rate case and is not recovered through any other cost recovery mechanism or through base rates. This project is appropriate for recovery through the Environmental Cost Recovery Clause. (VICK)

**FIPUG:** No position at this time.

**OPC:** Agree with staff.

**Staff:** No position at this time pending the evidence adduced at hearing.

**STIPULATED**

**ISSUE 13A:** How should the newly proposed environmental costs for the Gulf Coast Ozone Study project be allocated to the rate classes?

**POSITION:** This project should be allocated to the rate classes on an energy basis. Nevertheless, it is FIPUG's position that costs should be allocated on a capacity basis; however, FIPUG recognizes that the Commission has previously decided to allocate such costs on an energy basis.

**STIPULATED**

**ISSUE 13B:** Should the Commission approve Gulf Power Company's request for recovery of costs of the Mercury Emissions Information Collection Effort through the Environmental Cost recovery Clause?

**POSITION:** Yes. The Commission found, in Order PSC-99-0912-PAA-EI, that the proposed Mercury Emissions Information Collection Effort qualifies for recovery through the ECRC. However, the amounts to be recovered should be based on the resolution of issues ten and eleven. FIPUG and OPC take no position on this issue.



**STIPULATED**

**ISSUE 13C:** How should the newly proposed environmental costs for the Mercury Emissions Information Collection Effort be allocated to the rate classes?

**POSITION:** The recoverable costs for Mercury Emissions Information Collection Effort project being done to meet the requirements of the Clean Air Act Amendments of 1990, should be allocated to the rate classes on an energy basis as set forth in previous orders by the Commission. Nevertheless, it is FIPUG's position that costs should be allocated on a capacity basis; however, FIPUG recognizes that the Commission has previously decided to allocate such costs on an energy basis.

**STIPULATED**

**ISSUE 13D:** Should the Commission approve Gulf Power Company's request for recovery of costs of the Plant Smith Sodium Injection System project through the Environmental Cost Recovery Clause?

**POSITION:** Yes. The Commission found, in Order No. PSC-00-1954-PAA-EI, that the proposed Plant Smith Sodium Injection system project qualifies for recovery through the ECRC. However, the amount to be recovered should be based on the resolution of issues ten and eleven. FIPUG and OPC take no position on this issue.

**STIPULATED**

**ISSUE 13E:** How should the newly proposed environmental costs for the plant Smith Sodium Injection System project be allocated to the rate classes?

**POSITION:** The recoverable costs for the Plant Smith Sodium Injection System project being done to meet the requirements of the Clean Air Act Amendments of 1990, should be allocated to the rate classes on an energy basis as set forth in previous orders of the Commission. Nevertheless, it is FIPUG's position that costs should be allocated on a capacity basis; however, FIPUG recognizes that the Commission has previously decided to allocate such costs on an energy basis.

**ISSUE 13F:** What adjustments, 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 20, 1997?

**POSITION:**

**Gulf:** No adjustment should be made to the Environmental Cost Recovery Clause. The Underground Fuel Tank Replacement Project (PE 4397) was approved in Order No. PSC-94-0044-FOF-EI, as a project that is in response to new environmental regulations and that was not considered in Gulf's last rate case. The underground fuel tanks were retired prior to the end of their useful economic life due to the more strict dictates of new environmental regulations. Consistent with standard utility group accounting practices, the rate base recovered through base rates has not been reduced as a result of this premature retirement of underground storage tanks that were, but of the new environmental regulations, still viable for fuel storage. Therefore, the entire cost of the new above ground storage tanks represents the increased cost to Gulf Power resulting from the new environmental requirements that became effective since the last rate case. The carrying cost for this new investment is not currently being recovered through any other cost recovery mechanism or through base rates and is therefore appropriate for recovery through the Environmental Cost Recovery Clause. (VICK, RITENOUR)

**FIPUG:** Any amount in base rates should be removed from environmental cost recovery so that there is no double recovery.

**OPC:** Agree with staff.

**Staff:** By agreement, this issue was deferred from a prior ECRC hearing. The parties agree that the retroactive effect of an adjustment, if any, to ECRC recoverable plant investment that may occur as part of the ultimate resolution of this issue will extend back to September, 1998. The methodology for determining the adjustment

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amount should be consistent with the resolution of issue ten.

**STIPULATED**

**ISSUE 13G:**

**Is Gulf in compliance with Order No. PSC-94-0044-FOF-EI, regarding the maintenance of separate subaccounts consistent with the Uniform System of Accounts for all items included in the environmental compliance cost recovery factor?**

**POSITION:** Gulf continues to believe that it has been in compliance with Order No. PSC-94-0044-FOF-EI, since the implementation of the ECRC through the use of specific location numbers for O&M expenses and the use of unique work order numbers in the plant accounting system. The accounting practice which has been in place since 1993 has not been questioned by any party prior to this year. However, in order to address the concerns expressed in the most recent audit report, the Company is willing to begin making manual entries to the general ledger no later than the first quarter of 2000. These entries will separately identify the plant related ECRC amounts in the applicable FERC accounts.

**Tampa Electric Company**

**STIPULATED**

**ISSUE 14:**

**How should the newly proposed environmental costs for the Big Bend Unit 1 and 2 Flue Gas Desulfurization project be allocated to the rate classes?**

**POSITION:** The recoverable costs for the Big Bend Unit 1 and 2 FGD project being done to meet the requirements of the Clean Air Act Amendments of 1990, should be allocated to the rate classes on an energy basis as set forth in previous Orders of the Commission. Nevertheless, it is FIPUG's position that costs should be allocated on a capacity basis; however, FIPUG recognizes that the Commission has previously decided to allocate such costs on an energy basis.

**STIPULATED**

**ISSUE 14A:**

**Should the Commission approve Tampa Electric Company's request for recovery of costs of the EPA**

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**Mercury Emissions Information Collection Effort  
through the Environmental Cost recovery Clause?**

**POSITION:** Yes. The Commission voted on this matter at the Agenda Conference held on October 5, 1999. The EPA Mercury Emission Information Collection Effort is a project which qualifies for recovery through the ECRC. However, the amounts to be recovered should be based on the resolution of issue eleven. FIPUG and OPC take no position on this issue.

**STIPULATED**

**ISSUE 14B:** How should the newly proposed environmental costs for the EPA Mercury Emission Information Collection Effort be allocated to the rate classes?

**POSITION:** The recoverable costs for the EPA Mercury Emission Information Collection Effort being done to meet the requirements of the Clean Air Act Amendments of 1990, should be allocated to the rate classes on an energy basis as set forth in previous orders by the Commission. Nevertheless, it is FIPUG's position that costs should be allocated on a capacity basis; however, FIPUG recognizes that the Commission has previously decided to allocate such costs on an energy basis.

**STIPULATED**

**ISSUE 14C:** Should the Commission approve Tampa Electric Company's request for the recovery of costs of the Gannon Electrostatic Precipitator Optimization Study through the Environmental Cost recovery Clause?

**POSITION:** Yes. The Commission voted on this matter at the Agenda Conference held on October 5, 1999. The Gannon Electrostatic Precipitator Optimization Study is a project which qualifies for recovery through the ECRC. However, the amounts to be recovered should be based on the resolution of issue eleven. FIPUG and OPC take no position on this issue.

**STIPULATED**

**ISSUE 14D:** How should the newly proposed environmental costs for the Gannon Electrostatic Precipitator Optimization Study be allocated to the rate of classes?

**POSITION:** The recoverable costs for the Gannon Electrostatic Precipitator Optimization Study being done to meet the requirements of the Clean Air Amendments of 1990, should be allocated to the rate classes on an energy basis as set forth in previous orders by the Commission. Nevertheless, it is FIPUG's position that costs should be allocated on a capacity basis; however, FIPUG recognizes that the Commission has previously decided to allocate such costs on an energy basis.

**ISSUE 14E:** What adjustments, if any, should be made to the ECRC to reflect the assets recovered through base rates that were replaced and retired in connection with the Big Bend CEM and Gannon Ignition Oil Tank ECRC projects?

**POSITION:**

**TECO:** Tampa Electric has adjusted the ECRC to correctly reduce the Gannon Ignition Oil Tank net investment by the amount projected to be incurred during the last rate case. Tampa Electric has also agreed to adjust the net investment of plant in-service for the Big Bend CEM project. Although the company's current position on replacement of assets due to new environmental requirements is not consistent with this adjustment to the Big Bend CEM project agreed to in Order No. PSC-96-1048-FOF-EI issued August 14, 1996, the company agrees to abide by the decision reached in this order and adjust depreciation expense and associated return on investment for these items. (BARRINGER)

**FIPUG:** Any amount in base rates should be removed from environmental cost recovery so that there is no double recovery.

**OPC:** Agree with staff.

**Staff:** No position at this time pending the evidence adduced at hearing.

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**STIPULATED**

**ISSUE 14F:** Should TECO be required to maintain separate subaccounts for all items included in the environmental cost recovery factors?

**POSITION:** In order to address Staff's efforts to implement more automated audit capabilities, the company is willing to begin making manual entries to the general ledger no later than the first quarter of 2000. These entries will separately identify the plant-related ECRC amounts in the applicable FERC accounts. OPC takes no position on this issue.

**ISSUE 14G:** When should the costs of the scrubbers be recovered through the ECRC?

**POSITION:**

**TECO:** This issue should not be heard in this proceeding. The question of benefits or savings is only relevant to the decision of which compliance alternative is the most effective, a matter that this Commission has already resolved in Order No. PSC-99-0075-FOF-EI, issued January 11, 1999 in Docket No. 980693-EI. The reason for moving forward expeditiously with the construction of the most cost effective compliance alternative is to meet a legal compliance obligation. Florida law and Commission precedence entitles utilities to begin recovering costs incurred at the time eligible project expenses are incurred. (BARRINGER)

**FIPUG:** Yes.

**OPC:** No position pending the evidence adduced at hearing.

**Staff:** No position at this time pending the evidence adduced at hearing.

**ISSUE 14H:** If recovery of the cost of TECO's scrubbers is on a kWh basis, should wholesale customers bear a portion of the cost responsibility based on their consumption?

**POSITION:**

**TECO:** Yes. As it pertains to long-term, firm transactions, the fixed costs for these environmental projects, such as the Big Bend Units 1 and 2 FGD, are separated and allocated to these wholesale customers. However, it is inappropriate to allocate fixed costs to non-separated, short-term wholesale transactions since such opportunity-sales are based on incremental pricing and are designed to alleviate the burdens of other ratepayers by capturing an incremental contribution to fixed cost. The consequence of allocating fixed costs to non-separated, short-term wholesale transactions would be an increase in costs and, most likely a reduction, if not elimination, of these kind of sales. (ZWOLAK)

**FIPUG:** Yes.

**OPC:** No position pending the evidence adduced at hearing.

**Staff:** No position at this time pending the evidence adduced at hearing.

**ISSUE 14I:**       **What ROE should be applied to the recovery of the scrubbers?**

**POSITION:**

**TECO:** This issue should not be heard in this proceeding. This Commission has already reached a conclusion on this issue in a number of ECRC decisions, finding that a utility should use the midpoint of its last authorized return on equity range for purposes of capital investment recovery under the ECRC. The current midpoint of Tampa Electric's authorized return on equity is 11.75%. (ZWOLAK)

**FIPUG:** The low end of the range should be used.

**OPC:** Agree with FIPUG.

**Staff:** No position at this time pending the evidence adduced at hearing.

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	KMD-1	Appendix I Environmental Cost Recovery Projections January 2000 - December 2000
		KMD-2	Appendix II Environmental Cost Recovery Estimated/Actual Period January 1999 through December 1999 Commission Forms 42-1E through 42-8E
		KMD-3	Appendix I Commission Forms 42-1A through 42-8A Final True-Up October 1997 through September 1998
		KMD-4	Appendix I Commission Forms 42-1A through 42A-8A Final True-Up for October 1998 through December 1998



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<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Ritenour	Gulf	SDR-1	Schedules 1A-1 through 8A-1 10/97 - 9/98 Schedules 1A-2 through 8A-2 10/98 - 12/98
		SDR-2	Schedules 42-1P through 42-7P (1/00-12/00); 42-1E through 42-8E (1/99-12/99)
Zwolak	TECO	KOZ-1	Final true-up Environmental Cost Recovery, Commission Forms 42-1A through 42-8A for the period April 1998-December 1998
		KOZ-2	Final true-up Environmental Cost Recovery, ( K O Z - 2 ) Commission Forms 42-1P through 42-7P for the period September 1999-December 1999 and 42-1E through 42-8E for the period January 1999-August 1999

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		KOZ-3	Form 42-1P for the Projected P e r i o d September 1999 December 1999
	TECO	KOZ-4	Form 42-1E2 for the period January 1999 t h r o u g h December 1999
*Nelson	TECO	GMN-1	Gannon Unit 5 and 6 stack e x t e n s i o n supporting documents
*Pless	TECO	DEP-1	Flue gas desulfurization project capital and O & M expenditures compared to o r i g i n a l projections
Taylor	FIPUG	KDT-1	Credentials
Lee	Staff	PSL-1	Addreses incremental costs to be r e c o v e r e d through the ECRC

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

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X. PROPOSED STIPULATIONS

There are proposed stipulations on issues five, six, eight, nine, twelve, 13A, 13B, 13C, 13D, 13E, 13G, 14, 14A, 14B, 14C, 14D, and 14F.

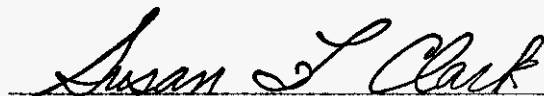
XI. PENDING MOTIONS

There is a pending request for official recognition by Commission Staff.

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 18th day of November, 1999.

  
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SUSAN F. CLARK  
Commissioner and Prehearing Officer

( S E A L )

GAJ

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

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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.

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.