

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost
recovery clause.

DOCKET NO. 000007-EI
ORDER NO. PSC-00-2168-PHO-EI
ISSUED: November 14, 2000

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on November 3, 2000, in Tallahassee, Florida, before Commissioner Lila A. Jaber, as Prehearing Officer.

APPEARANCES:

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

JEFFREY A. STONE, ESQUIRE, and RUSSELL A. BADDERS,
ESQUIRE, Beggs & Lane, 700 Blount Building, 3 West Garden
Street, P.O. Box 12950, Pensacola, FL 32576-2950
On behalf of Gulf Power Company (GULF).

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

JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter Reeves
McGlothlin Davidson Decker Kaufman Arnold & Steen, P.A.,
400 North Tampa Street, Suite 2450, Tampa, FL 33601-3350
and JOSEPH A. MCGLOTHLIN, ESQUIRE, and VICKI GORDON
KAUFMAN, ESQUIRE, McWhirter Reeves Davidson Decker
Kaufman Arnold & Steen, P.A., 117 South Gadsden Street,
Tallahassee, FL 32301
On behalf of Florida Industrial Power Users Group
(FIPUG).

STEPHEN C. BURGESS, ESQUIRE, Deputy Public Counsel,
Office of Public Counsel (OPC), c/o the Florida
Legislature, 111 West Madison Street, Room 812,
Tallahassee, FL 32399-1400
On behalf of the Citizens of the State of Florida.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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MARLENE K. STERN, ESQUIRE, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee,
Florida 32399-0850
On behalf of the Commission Staff (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 20, 21 and 22, 2000, in this docket and in Docket No. 000001-EI, Docket No. 000002-GU, and Docket No. 000003-EI. The parties have reached agreement concerning all issues identified for resolution at this hearing. Therefore, the case will be presented to the panel as a stipulation. Staff is prepared to present the panel with a recommendation at hearing for approval of the stipulated positions set forth herein. The Commission has the option to render a bench decision in this matter.

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 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. Summaries of testimony, if any, will be limited to five minutes. 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 from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified by Monday, November 13, 2000, as to whether any such 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	1-9
*J. O. Vick	Gulf	1,2,4,10B,10D

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
*S. D. Ritenour	Gulf	1,2,3,4,5,6,7,8, 10A,10C
*Karen O. Zwolak	TECO	1,2,3,4,5,6,7,8, 11A,11B,11C,11D, 11E,11F,11G,11H
*Gregory M. Nelson	TECO	4,11A,11C,11E,11G
*Stanley J. Martin	TECO	4,11A,11C,11E,11G

VII. BASIC POSITIONS

FPL: None.

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 2001 through December 2001 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 Martin, Nelson, and Zwolak. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period January 1999 through December 1999, the actual/estimated environmental cost recovery true-up for the current period January 2000 through December 2000, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2001 through December 2001.

FIPUG: None.

OPC: None.

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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 December 31, 1999?

POSITION:

FPL: \$1,644,089 over recovery.
TECO: \$281,469 over recovery.
GULF: \$541,592 over recovery.

STIPULATED

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period January 2000 through December 2000?

POSITION:

FPL: \$2,019,621 over recovery.
TECO: \$3,066,655 under recovery.
GULF: \$1,266,925 over recovery.

STIPULATED

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ISSUE 3: What are the total environmental cost recovery true-up amounts to be collected or refunded during the period January 2001 through December 2001?

POSITION:

FPL: \$3,663,710 to be refunded.
TECO: \$2,892,660 to be recovered.
GULF: \$1,808,517 to be refunded.

STIPULATED

ISSUE 4: What are the appropriate projected environmental cost recovery amounts for the period January 2001 through December 2001?

POSITION:

FPL: \$6,400,000.
TECO: \$28,083,687.
GULF: \$10,786,018.

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, 2001, through December, 2001. Billing cycles may start before January 1, 2001, and the last cycle may be read after December 31, 2001, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

STIPULATED

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ISSUE 6: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2001 through December 2001?

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: What are the appropriate jurisdictional separation factors for the projected period January 2001 through December 2001?

POSITION:

FPL: Energy Jurisdictional factor 98.94554%;
CP Demand Jurisdictional Factor 99.01014%

GULF: The demand jurisdictional separation factor is .9650747. The energy jurisdictional separation factors are calculated for each month based on retail kWh sales as a percentage of projected total system kWh sales.

TECO: As shown in the revised testimony of Witness Zwolak (projection filing), Exhibit KOZ-3, Document No. 1, page 1 of 1, Form 42-2P, lines 5 and 6, and page 19 of 19, Form 42-4P, line 10.

STIPULATED

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ISSUE 8: What are the appropriate environmental cost recovery factors for the period January, 2001, through December, 2001, for each rate group?

POSITION:

FPL: RATE CLASS

ENVIRONMENTAL RECOVERY

	<u>FACTOR (\$KWH)</u>
RS1	0.00008
GS1	0.00007
GSD1	0.00007
OS2	0.00007
GSLD1/CS1	0.00007
GSLD2/CS2	0.00006
GSLD3/CS3	0.00006
ISST1D	0.00006
SST1T	0.00005
SST1D	0.00007
CILC D/CILC G	0.00006
CILC T	0.00005
MET	0.00007
OL1/SL1	0.00006
SL2	0.00006

GULF:

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RST, RSVP	0.096
GS, GST	0.096
GSD, GSDT	0.087
LP, LPT	0.082
PX, PXT, RTP, SBS	0.077

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OSI, OSII	0.063
OSIII	0.081
OSIV	0.069

TECO: The appropriate factors are:

<u>Rate Class</u>	<u>Factor (cents/kWh)</u>
RS, RST	\$0.165
GS, GST, TS	\$0.165
GSD, GSDT	\$0.164
GSLD, GSLDT, SBF, SBFT	\$0.163
IS1, IST1, SBL1, IS3, IST3, SBI3	\$0.159
SL, OL	\$0.162
Average Factor	\$0.164

COMPANY SPECIFIC ENVIRONMENTAL COST RECOVERY ISSUES

Florida Power & Light Company

STIPULATED

ISSUE 9: What effect does Florida Power & Light Company's stipulation approved by Order No. PSC-99-0519-AS-EI have on the company's level of recovery for 2001?

POSITION:

Florida Power & Light Company should be required to follow the provisions of the stipulation. For 2001, the Stipulation does not allow FPL to recover a level of costs, including true-ups, in excess of \$6.4 million. The level of costs incurred above the cap will not be recovered through the ECRC in future periods.

Gulf Power Company

STIPULATED

ISSUE 10A: How should the newly proposed environmental costs for the Generic NO_x Control Intelligent System to Plant Smith Unit 1 project be allocated to the rate classes?

POSITION:

The recoverable costs for Generic NO_x Control Intelligent System to Plant Smith Unit 1 should be allocated to the rate classes on an energy basis.

STIPULATED

ISSUE 10B: Should the Commission approve Gulf Power Company's request for recovery of costs for the Consumptive Water Use Monitoring Activity through the Environmental Cost Recovery Clause?

POSITION:

Yes. The Commission voted on this matter in Docket No. 000808-EI at the September 26, 2000, Agenda Conference. The Commission found that the proposed Consumptive Water Use Monitoring Activity qualifies for recovery through the ECRC.

STIPULATED

ISSUE 10C: How should the newly proposed environmental costs for the Consumptive Water Use Monitoring Activity be allocated to the rate classes?

POSITION:

The recoverable costs for Consumptive Water Use Monitoring Activity should be allocated to the rate classes using the 12 Coincident Peak and 1/13 Average Demand method.

STIPULATED

ISSUE 10D: Should the Commission approve Gulf Power Company's request for recovery of costs for Gulf Coast Ozone Study through the Environmental Cost Recovery Clause?

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POSITION:

Yes. The Commission approved this project for cost recovery in Order No. PSC-00-1167-PAA-EI. Gulf has requested recovery of amounts that have been calculated consistent with Order No. PSC-00-1167-PAA-EI. (Vick)

Tampa Electric Company

STIPULATED

ISSUE 11A: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Big Bend Units 1, 2, and 3 Flue Gas Desulfurization System Optimization and Utilization Program through the Environmental Cost Recovery Clause?

POSITION:

Yes. By Order No. PSC-00-1906-PAA-EI, issued October 18, 2000, in Docket No. 000685-EI, the Commission found that the proposed program qualifies for recovery through the ECRC.

STIPULATED

ISSUE 11B: How should the newly proposed environmental costs for the Big Bend Units 1, 2, and 3 Flue Gas Desulfurization System Optimization and Utilization Program be allocated to the rate classes?

POSITION:

The Big Bend Units 1, 2, and 3 Flue Gas Desulfurization System Optimization and Utilization Program is necessary to meet the requirements of the DEP and EPA pursuant to authority derived from the Clean Air Act. Therefore, the recoverable costs should be allocated to the rate classes on an energy basis as set forth in previous Commission Orders.

STIPULATED

ISSUE 11C: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Particulate Emission Minimization and Monitoring Program through the Environmental Cost Recovery Clause?

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POSITION:

Yes. The Commission voted on this matter in Docket No. 001186-EI at the October 17, 2000, Agenda Conference. The Commission found that the proposed program qualifies for recovery through the ECRC.

STIPULATED

ISSUE 11D: How should the newly proposed environmental costs for the Particulate Emission Minimization and Monitoring Program be allocated to the rate classes?

POSITION:

The Particulate Emission Minimization and Monitoring Program is necessary to meet the requirements of the DEP and EPA pursuant to authority derived from the Clean Air Act. Therefore, the recoverable costs should be allocated to the rate classes on an energy basis as set forth in previous Commission Orders.

STIPULATED

ISSUE 11E: Should the Commission approve Tampa Electric Company's request for the recovery of costs of the Reduction of Nitrogen Oxide Emission Program through the Environmental Cost Recovery Clause?

POSITION:

Yes. The Commission voted on this matter in Docket No. 001186-EI at the October 17, 2000, Agenda Conference. The Commission found that the proposed program qualifies for recovery through the ECRC.

STIPULATED

ISSUE 11F: How should the newly proposed environmental costs for the Reduction of Nitrogen Oxide Emission Program be allocated to the rate of classes?

POSITION:

The Particulate Emission Minimization and Monitoring Program is being done to meet the requirements of the DEP and EPA pursuant to authority derived from the Clean Air Act. Therefore, the recoverable costs should be allocated to the rate classes on an energy basis as set forth in previous Commission Orders.

STIPULATED

ISSUE 11G: Should the Commission approve Tampa Electric Company's request for the recovery of costs of the Big Bend Unit 4 Particulate Matter Continuous Emission Monitor through the Environmental Cost Recovery Clause?

POSITION:

TECO's estimated in service cost for the Particulate Matter Continuous Emission Monitor (PM-CEM) on Big Bend Unit 4 is \$178,050 based on preliminary quotations. This project is a condition in TECO's settlement with the EPA. TECO's estimated compliance date for this activity is March 1, 2002. TECO's base rates were not set to include the specific costs for a PM-CEM on any of TECO's generating units. Therefore, the project qualifies for recovery through the ECRC.

STIPULATED

ISSUE 11H: How should the newly proposed environmental costs for the Big Bend Unit 4 Particulate Matter Continuous Emission Monitor be allocated to the rate of classes?

POSITION:

The recoverable costs should be allocated to the rate classes on an energy basis.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
K.M. Dubin	FPL	<u>(KMD-1)</u>	Environmental Cost Recovery Final True-up January-December 1999 Commission Forms 42-1A through 42-8A
K.M. Dubin	FPL	<u>(KMD-2)</u>	Appendix I Environmental Cost Recovery Estimated/ Actual Period January - December 2000 Commission Forms 42-1E-42-8E
K.M. Dubin	FPL	<u>(KMD-3)</u>	Appendix I Environmental Cost Recovery Projections January - December 2001 Commission Forms 42-1P-42-7P
Ritenour	GULF	<u>(SDR-1)</u>	Schedules 1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A Calculation of Final True-up 1/99 - 12/99
Ritenour	GULF	<u>(SDR-2)</u>	Schedules 1E, 2E, 3E, 4E, 5E, 6E, 7E, 8E Calculation of Estimated True-up 1/00 - 12/00

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Ritenour	GULF	<hr/> (SDR-3)	Schedules 1P, 2P, 3P, 4P, 5P, 6P, 7P Calculation of Projection 1/01 - 12/01
Karen O. Zwolak	TECO	<hr/> (KOZ-1)	Revised Final Environmental Cost Recovery Commission Forms 42-1A through 42-8A for the period January 1999 through December 1999
Karen O. Zwolak	TECO	<hr/> (KOZ-2)	Revised true-up Environmental Cost Recovery, Commission Forms 42-1E through 42-8E for the Period January 2001 through December 2001
Karen O. Zwolak	TECO	<hr/> (KOZ-3)	Revised forms 42-1P through 42-7P Forms for the Period January 2001 through December 2001

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Gregory M. Nelson	TECO	<hr/> (GMN-1)	Clean Air Act Compliance Plan dated September 2000 with Appendix A (CFJ) and Appendix B (EPA Consent Decree)
Stanley J. Martin	TECO	<hr/> (SJM-1)	Bid Bend FGD Unit 1, 2 and 3 2000 / 2001 Reliability and Performance Improvement Projects; Big Bend Station Forecast of Costs for Reductions of NOx Emissions and Big Bend Station Forecast of Costs for Reductions of Particulate Matter.

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

X. PROPOSED STIPULATIONS

All issues in this Prehearing Order have been stipulated. There are no other pending proposals for stipulations.

H. OTHER MATTERS:

There are no other matters pending at this time.

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XI. PENDING MOTIONS

There are no pending motions at this time.


XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

It is therefore,

ORDERED by Commissioner Lila A. Jaber, 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 Lila A. Jaber as Prehearing Officer, this 14th Day of November, 2000.


LILA A. JABER
Commissioner and Prehearing Officer

(S E A L)

MKS

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.

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.