

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost
Recovery Factors.

DOCKET NO. 010007-EI
ORDER NO. PSC-01-2272-PHO-EI
ISSUED: November 19, 2001

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on November 8, 2001, in Tallahassee, Florida, before Commissioner Lila A. Jaber, as Prehearing Officer.

APPEARANCES:

Matthew M. Childs, 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 and Lane, 700 Blount Building, 3 West Garden Street, Post Office Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company (GPC).

Lee L. Willis, Esquire, and James D. Beasley, Esquire, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

John W. McWhirter, Jr., Esquire, Joseph A. McGlothlin, Esquire, Vicki Gordon Kaufman, Esquire, and Timothy J. Perry, 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).

Robert D. Vandiver, Esquire, Associate 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 the State of Florida (OPC).

Marlene K. Stern, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

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FPSC-COMMISSION CLERK

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 fuel cost recovery, energy conservation cost recovery, gas conservation cost recovery, and environmental cost recovery proceedings, a hearing is set for November 20 and 21, 2001, in this docket and in Docket No. 010001-EI, Docket No. 010002-EI, Docket No. 010003-GU and Docket No. 010004-GU. The Commission has the option to render a bench decision in this matter. Opening statements, if any, shall not exceed ten minutes per party.

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 Commission Clerk and Administrative Service's confidential files.

IV. POST-HEARING PROCEDURES

If there is not a bench decision, each party may 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. Except for the testimony of excused witnesses, 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 who has not been excused will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall 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 witnesses who take the stand, 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. 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>
*K.M. Dubin	FPL	1, 2, 3, 4, 5, 6, 7, 8 and 9
J.O. Vick	GPC	1, 2, 4, 10A and 10B
S.D. Ritenour	GPC	1, 2, 3, 4, 5, 6, 7, 8, 10A and 10C
*Howard T. Bryant	TECO	1, 2, 3, 4, 5, 6, 7, 8, 11A and 11B
*Gregory M. Nelson	TECO	1, 2, 3 and 4
*Darryl H. Scott	TECO	1, 2, 3 and 4

VII. BASIC POSITIONS

FPL: None necessary.

GPC: 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 2002 through December 2002 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 Bryant, Nelson, and Scott. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period January 2000 through December 2000, the actual/estimated environmental cost recovery true-up for the current period January 2001 through December 2001, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2002 through December 2002.

FIPUG: None necessary.

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

ISSUE 1: Stipulated. See Section X, Proposed Stipulations.

ISSUE 2: Stipulated. See Section X, Proposed Stipulations.

ISSUE 3: Stipulated. See Section X, Proposed Stipulations.

ISSUE 4: Stipulated. See Section X, Proposed Stipulations.

ISSUE 5: Stipulated. See Section X, Proposed Stipulations.

ISSUE 6: Stipulated. See Section X, Proposed Stipulations.

ISSUE 7: Partially stipulated. See Section X, Proposed Stipulations.

ISSUE 8: Partially stipulated. See Section X, Proposed Stipulations.

Company Specific Environmental Cost Recovery Issues

Florida Power & Light Company

ISSUE 9: Partially stipulated. See Section X, Proposed Stipulations.

Gulf Power Company

ISSUE 10A: Should the Commission approve Gulf Power Company's request for recovery of costs for Generic NO_x Control Intelligent System (GNOCIS) through the Environmental Cost Recovery Clause?

POSITIONS

GPC: Yes. The GNOCIS project is being implemented to meet a governmentally imposed environmental requirement on an existing Gulf Power Company power plant. The GNOCIS project satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC.

FIPUG: Agrees with Staff.

OPC: Agrees with Staff.

STAFF: The GNOCIS project is an environmental requirement by the DEP to meet air permit requirements for Smith Unit 3. The GNOCIS project satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC. However, base rates is the more appropriate cost recovery method because the GNOCIS project is due to the siting of a new power plant, Smith Unit 3.

ISSUE 10B: Partially stipulated. See Section X, Proposed Stipulations.

ISSUE 10C: Partially stipulated. See Section X, Proposed Stipulations.

Tampa Electric Company

ISSUE 11A: Partially stipulated. See Section X, Proposed Stipulations.

ISSUE 11B: Partially stipulated. See Section X, Proposed Stipulations.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
K.M. Dubin	FPL	_____ (KMD-1)	ECRC Final True-up for January through December 2000; Exhibits - Appendix 1, Forms 42-1A through 42-8A

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
K.M. Dubin		_____	E C R C
		(KMD-2)	Estimated/Actual True-up for January through December 2001; Exhibits - Appendix 1, Forms 42-1E through 42-8E
		_____	ECRC Projections for January through December 2002; Exhibits - Forms 42-1P through 42-7P
S.D. Ritenour	GPC	_____	Schedules 1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A Calculation Final True-up 1/00 - 12/00
		(SDR-1)	
		_____	Schedules 1E, 2E, 3E, 4E, 5E, 6E, 7E, 8E Calculation Estimated True-up 1/01 - 12/01
		(SDR-2)	
		_____	Schedules 1P, 2P, 3P, 4P, 5P, 6P, 7P Calculation Projection 1/02 - 12/02
		(SDR-3)	

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Howard T. Bryant	TECO	_____	F i n a l Environmental Cost R e c o v e r y Commission Forms 42-1A through 42-8A for the period January 2000 through December 2000
		(HTB-1)	
		_____	Environmental Cost R e c o v e r y Commission Forms 42-1E through 42- 8E for the Period January 2001 through December 2001
		(HTB-2)	
		_____	Forms 42-1P through 42-7P for the period January 2002 through December 2002
		(HTB-3)	

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

X. PROPOSED STIPULATIONS

1. ISSUE 1: What are the appropriate final environmental cost recovery true-up amounts for the period ending December 31, 2000?

FPL: \$1,610,244 under recovery. Pursuant to Commission Order No. PSC-99-0519-AS-EI, this true-up amount is being recorded in a non-recoverable account and is not being included for recovery in the Environmental Cost Recovery Clause.

TECO: \$677,727 over recovery.
GULF: \$643,068 over recovery.

2. **ISSUE 2:** What are the estimated environmental cost recovery true-up amounts for the period January 2001 through December 2001?

FPL: \$140,141 over recovery.
TECO: \$ 33,526 over recovery.
GULF: \$684,892 over recovery.

3. **ISSUE 3:** What are the total environmental cost recovery true-up amounts to be collected or refunded during the period January 2002 through December 2002?

FPL: \$0.
TECO: \$ 711,253 to be refunded.
GULF: \$1,327,960 to be refunded (excluding revenue taxes).

4. **ISSUE 4:** What are the appropriate projected environmental cost recovery amounts for the period January 2002 through December 2002?

FPL: Projected environmental costs for the period January 2002 through December 2002 are \$11,073,337. However, pursuant to Commission Order No. PSC-99-0519-AS-EI, FPL is not requesting recovery of these costs during 2002 and FPL is setting the Environmental Factor for 2002 at zero. .
TECO: \$27,920,097
GULF: \$11,097,405 if Gulf's petition is approved.

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

The factors should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January, 2002, through

December, 2002. Billing cycles may start before January 1, 2002, and the last cycle may be read after December 31, 2002, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

6. **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 2002 through December 2002?

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.

7. **ISSUE 7:** What are the appropriate jurisdictional separation factors for the projected period January 2002 through December 2002?

STIPULATED POSITIONS BETWEEN STAFF AND THE UTILITIES

FPL: Energy Jurisdictional factor 98.96163%; CP Demand Jurisdictional Factor 99.03593%

GULF: The demand jurisdictional separation factor is 96.50747%. 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: The demand jurisdictional separation factor is 91.89189%. The energy jurisdictional separation factors are calculated for each month based on projected retail kWh sales as a percentage of projected total system kWh sales.

FIPUG and OPC take no position.

8. **ISSUE 8:** What are the appropriate environmental cost recovery factors for the period January, 2002, through December, 2002, for each rate group?

STIPULATED POSITIONS BETWEEN STAFF AND ALL UTILITIES
 EXCEPT GULF - RESOLUTION WITH GULF DEPENDS ON OUTCOME OF
 ISSUE 10A

FPL: <u>RATE CLASS</u>	<u>ENVIRONMENTAL RECOVERY FACTOR (\$KWH)</u>
RS1	0.00000
GS1	0.00000
GSD1	0.00000
OS2	0.00000
GSLD1/CS1	0.00000
GSLD2/CS2	0.00000
GSLD3/CS3	0.00000
ISST1D	0.00000
SST1T	0.00000
SST1D	0.00000
CILC D/CILC G	0.00000
CILC T	0.00000
MET	0.00000
OL1/SL1/PL1	0.00000
SL2	0.00000

TECO:

<u>RATE CLASS</u>	<u>ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH</u>
RS, RST	0.159
GS, GST, TS	0.158
GSD, GSDT	0.157
GSLD, GSLDT, SBF, SBFT	0.156
IS1, IST1, SBI1, IS3, IST3, SB13	0.151
SL, OL	0.156

GPC: If the cost of GNOCIS is recovered through the ECRC Staff and Gulf agree that the factors below apply.

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RST, RSVP	0.104
GS, GST	0.104
GSD, GSDT	0.094
LP, LPT	0.088
PX, PXT, RTP, SBS	0.083
OSI, OSII	0.067
OSIII	0.087
OSIV	0.074

If the cost of GNOCIS is recovered through base rates, Staff and Gulf agree that the factors below apply.

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RST, RSVP	0.102
GS, GST	0.102
GSD, GSDT	0.093
LP, LPT	0.087
PX, PXT, RTP, SBS	0.082
OSI, OSII	0.066

OSIII	0.086
OSIV	0.072

FIPUG and OPC take no position.

9. **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 2002?

STIPULATED POSITION BETWEEN STAFF, FPL AND OPC

FPL should be required to follow the provisions of the stipulation in Order No. PSC-99-0519-AS-EI, which state: "For 2002, FPL will not be allowed to recover any costs through the environmental cost recovery docket. FPL may, however, petition to recover in 2003 prudent environmental costs incurred after the expiration of the three-year term of this Stipulation and Settlement in 2002." FPL is authorized to recover these prudently incurred environmental costs in 2003. Interest, however, will not accrue on these expenses.

FIPUG takes no position.

10. **ISSUE 10B:** Should the Commission approve Gulf Power Company's request for recovery of costs for Consumptive Use-Shield Water Substitution Project through the Environmental Cost Recovery Clause?

STIPULATED POSITION BETWEEN STAFF AND GULF

Yes. By Order PSC-01-1788-PAA-EI, the Commission found that Gulf's Shield Water Project satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC.

FIPUG and OPC take no position.

11. **ISSUE 10C:** How should the newly proposed environmental costs for the Consumptive Use-Shield Water Substitution Project be allocated to the rate classes?

STIPULATED POSITION BETWEEN STAFF AND GULF

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.

FIPUG and OPC take no position.

12. **ISSUE 11A:** Should the Commission approve Tampa Electric Company's request for recovery of costs for Gannon Thermal Discharge Study through the Environmental Cost Recovery Clause?

STIPULATED POSITION BETWEEN STAFF AND TECO

Yes. By Order PSC-01-1847-PAA-EI, the Commission found that TECO's Gannon Discharge Study project satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC.

FIPUG and OPC take no position.

13. **ISSUE 11B:** How should the newly proposed environmental costs for the Gannon Thermal Discharge Study project be allocated to the rate classes?

STIPULATED POSITION BETWEEN STAFF, TECO AND FIPUG

The costs for the Gannon Thermal Discharge Study should be allocated to the rate classes using the 12 Coincident Peak and 1/13 Average Demand method.

OPC takes no position.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

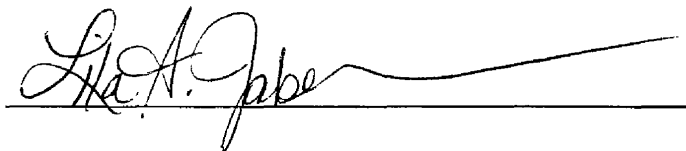
XIII. RULINGS

None

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 19th day of November, 2001.

A handwritten signature in cursive script, reading "Lila A. Jaber", is written over a horizontal line.

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

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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 the Commission Clerk and Administrative Services, 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.