

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost
recovery clause.

DOCKET NO. 020007-EI
ORDER NO. PSC-02-1590-PHO-EI
ISSUED: November 15, 2002

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on November 4, 2002, in Tallahassee, Florida, before Commissioner Michael A. Palecki, as Prehearing Officer.

APPEARANCE:

RICHARD D. MELSON, ESQUIRE and GARY V. PERKO, ESQUIRE,
Post Office Box 6526, Tallahassee, Florida 32314
On behalf of Florida Power Corporation (FPC).

JAMES A. MCGEE, ASSOCIATE GENERAL COUNSEL, 100 Central
Avenue, St. Petersburg, Florida 33701-3324
On behalf of Florida Power Corporation (FPC).

JOHN T. BUTLER, P.A., Steel Hector & Davis LLP, 200 South
Biscayne Boulevard, Suite 4000, Miami, Florida
33131-2398 and R. WADE LITCHFIELD, ESQUIRE, 700 Universe
Boulevard, Juno Beach, Florida 33408-0420
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 32591-2950
On behalf of Gulf Power Company (GULF).

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, McWhirter Reeves
McGlothlin Davidson Decker Kaufman & Arnold, P.A., 400
North Tampa Street, Suite 2450, Tampa, Florida
33601-3350, VICKI GORDON KAUFMAN, ESQUIRE and TIMOTHY J.
PERRY, ESQUIRE, McWhirter Reeves McGlothlin Davidson
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Tallahassee, Florida 32301

DOCUMENT NUMBER-DATE

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

ROBERT VANDIVER, ASSOCIATE PUBLIC COUNSEL, Room 812, 111
W. Madison Street, 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 Florida Public Service Commission
(FPSC).

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 through 22, 2002, in this docket and in Docket No. 020001-EI, Docket No. 020002-EI, Docket No. 020003-GU and Docket No. 020004-GU. 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 Commission Clerk and Administrative Service'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; provided, however, that the parties do not need to file post-hearing statements as to any issue that is resolved by the Commission at the hearing.

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 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, 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 Friday, November 15, 2002, 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>		
*Javier Portuondo	FPC	1,2,3,4,5,6,7,8, 12b and 12d
*James Timothy Silar	FPC	2,3,4,12a and 12c
K.M. Dubin	FPL	1,2,3,4,5,6,7,8, 9a,9b,9c,9d,9e,9f, 9g and 9h
R.R. Labauve	FPL	9c,9e and 9g
*J.O. Vick	Gulf	1,2 and 4
*S.D. Ritenour	Gulf	1,2,3,4,5,6,7,8 and 10a, 10b
*Howard T. Bryant	TECO	1,2,3,4,5,6,7,8 and 11a
*Greg M. Nelson	TECO	1,2,3, and 4

VII. BASIC POSITIONS

FPC: The Commission should approve FPC's petition for recovery through the ECRC of costs incurred in connection with its "Substation Environmental Investigation, Remediation, and Pollution Prevention Program" and its "Distribution System Environmental Investigation, Remediation, and Pollution Prevention Program."

FPL: None necessary.

GULF: It is the basic position of Gulf Power Company that the environmental cost recovery factors proposed by the Company present the best estimate of Gulf's environmental compliance costs recoverable through the environmental cost recovery clause for the period January 2003 through December 2003 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 and Nelson. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period January 2001 through December 2001, the actual/estimated environmental cost recovery true-up for the current period January 2002 through December 2002, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2003 through December 2003.

FIPUG: None.

OPC:

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: Proposed Stipulation. See Section X.

ISSUE 2: Proposed Stipulation. See Section X.

ISSUE 3: Proposed Stipulation. See Section X.

ISSUE 4: What are the appropriate projected environmental cost recovery amounts for the period January 2003 through December 2003?

FPC: \$4,083,711

FPL: The total environmental cost recovery amount, adjusted for revenue taxes is \$18,131,802. This amount consists

of \$10,575,188 of projected environmental cost for the period January through December 2003, net of the prior period under recovery and taxes. (Dubin)

GULF: \$10,237,375 (Vick, Ritenour)

TECO: The appropriate amount is \$25,795,266. (Bryant, Nelson)

FIPUG: No position.

OPC: No position.

STAFF: FPL: No position at this time. Staff is reviewing responses to discovery requests.
 TECO: Agrees with TECO.
 GULF: Agrees with Gulf.
 FPC: Agrees with FPC assuming Issues 12A-D are approved.

ISSUE 5: Proposed Stipulation. See Section X.

ISSUE 6: Proposed Stipulation. See Section X.

ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2003 through December 2003 for each rate group?

FPC: The appropriate factors are as follows:

Rate Class	ECR Factor cents/kWh
Residential	0.014
General Service Non-Demand	
@ Secondary Voltage	0.012
@ Primary Voltage	0.012
@ Transmission Voltage	0.012
General Service 100% Load Factor	0.005
General Service Demand	

@ Secondary Voltage	0.008
@ Primary Voltage	0.008
@ Transmission Voltage	0.008
Curtailable	
@ Secondary Voltage	0.010
@ Primary Voltage	0.010
Interruptible	
@ Secondary Voltage	0.007
@ Primary Voltage	0.007
@ Transmission Voltage	0.007
Lighting	0.011

<u>FPL:</u>	Rate Class	Environmental Recovery Factor (\$/kWh)
	RS-1	0.00020
	GS-1	0.00020
	GSD1	0.00019
	OS2	0.00019
	GSLD1/CS1	0.00019
	GSLD2/CS2	0.00018
	GSLD3/CS3	0.00017
	ISST1D	0.00018
	SST1T	0.00017
	SST1D	0.00018
	CILC D/CILC G	0.00018
	CILC T	0.00016
	MET	0.00019
	OL1/SL1	0.00017
	SL2	0.00017
	(Dubin)	

GULF: See table below: (Ritenour)

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RSVP	.105
GS, GSTOU	.104
GSD, GSDT	.097
LP, LPT	.092
PX, PXT, RTP, SBS	.088
OS-I/II	.077
OSIII	.090
OSIV	.077

TECO: The appropriate factors are:

Rate Class	Factor (cents/kWh)
RS, RST	\$0.144
GS, GST, TS	\$0.144
GSD, GSDT	\$0.143
GSLD, GSLDT, SBF, SBFT	\$0.142
IS1, IST1, SBI1, SBIT1, IS3,	
IS3, IST3, SBI3, SBIT3	\$0.137
SL, OL	\$0.142
Average Factor	\$0.143
(Bryant)	

FIPUG: No position.

OPC: No position.

STAFF: FPL: FPL's factors cannot be calculated until Issues 9C, 9E and 9G are resolved, and staff has no position on those issues at this time.
 TECO: Agrees with TECO.
 GULF: Agrees with Gulf.

FPC: Agrees with FPC assuming Issues 12A-D are approved.

ISSUE 8: Proposed Stipulation. See Section X.

Company Specific Environmental Cost Recovery Issues

Florida Power & Light Company

ISSUE 9A: Proposed Stipulation. See Section X.

ISSUE 9B: Proposed Stipulation. See Section X.

ISSUE 9C: Should the Commission approve Florida Power & Light Company's request for recovery of costs for the Pipeline Integrity Management Project through the Environmental Cost Recovery Clause?

FPL: Yes. FPL is implementing the Pipeline Integrity Management Project ("PIM Project") to comply with the U.S. Department of Transportation's regulations in 49 CFR Part 195. The regulation requires operators with 500 or fewer miles of regulated pipelines to establish a program for managing the integrity of pipelines that could affect high consequence areas if a leak or rupture occurs. The PIM Project costs are reasonable and necessary in order to comply with these regulations. (Labauve, Dubin)

FIPUG: No. This is a base rates item.

OPC: OPC reserves the right to object to recovery of these costs pending review of discovery.

STAFF: No position at this time. Staff is reviewing responses to discovery requests.

ISSUE 9D: Proposed Stipulation. See Section X.

ISSUE 9E: Should the Commission approve Florida Power & Light Company's request for recovery of costs for Oil Spill Prevention, Control & Countermeasures through the Environmental Cost Recovery Clause?

FPL: Yes. FPL is implementing the Oil Spill Prevention, Control, and Countermeasures that comprise the SPCC Project to comply with the U.S. Environmental Protection Agency's amended regulations in 40 CFR Part 112. The amended regulations requires certain facilities to prepare and implement SPCC Plans and address oil spill prevention requirements including the establishment of procedures, methods, equipment, and other requirements to prevent discharges of oil. The SPCC Project costs are reasonable and necessary in order to comply with these amended regulations. (Labauve, Dubin)

FIPUG: No. This is a base rates item.

OPC: No position.

STAFF: No position at this time. Staff is reviewing responses to discovery requests.

ISSUE 9F: Proposed Stipulation. See Section X.

ISSUE 9G: Should the Commission approve FPL's request to recover costs for the Manatee Reburn NOx Control Technology Project through the Environmental Cost Recovery Clause?

FPL: Yes. FPL has entered into an agreement with the Florida Department of Environmental Protection (FDEP) to implement that Manatee Reburn NOx Control Technology Project at the Manatee Units 1 and 2 for the exclusive purpose of ensuring compliance with ozone ambient air quality standards in the Tampa Bay Airshed. The costs of this Project are reasonable and necessary in order to fulfill the terms of the FDEP agreement. Per Section 366.8255(1)(d)7, Florida Statutes, FPL is entitled to recover the costs of this project through the Environmental Cost Recovery Clause. (Labauve, Dubin)

FIPUG: No. This is a base rates item.

OPC: No position.

STAFF: No position at this time. Staff is reviewing responses to discovery requests.

ISSUE 9H: Proposed Stipulation. See Section X.

Gulf Power Company

ISSUE 10A: Proposed Stipulation. See Section X.

ISSUE 10B: Proposed Stipulation. See Section X.

Tampa Electric Company

ISSUE 11A: Proposed Stipulation. See Section X.

Florida Power Corporation

ISSUE 12A:

Should the Commission approve Florida Power Corporation's request for recovery of costs for Substation Environmental Investigation, Remediation, and Pollution Prevention?

FPC: Yes, these costs meet the requirements of Section 366.8255 for recovery through the Environmental Cost Recovery Clause.

FIPUG: No. This is a base rates item.

OPC: No position.

STAFF: Yes.

ISSUE 12B:

How should the newly proposed environmental costs for the Substation Environmental Investigation, Remediation, and Pollution Prevention be allocated to the rate classes?

FPC: Agree with staff.

OPC: No position.

FIPUG: These expenses are base rates items, but should the Commission authorize their recovery FIPUG agrees with staff with respect to the allocation.

STAFF: The costs should be allocated to the rate classes on a 12

Coincident Peak (CP) basis.

ISSUE 12C:

Should the Commission approve Florida Power Corporation's request for recovery of costs for Distribution System Environmental Investigation, Remediation, and Pollution Prevention?

FPC: Yes, these costs meet the requirements of Section 366.8255 for recovery through the Environmental Cost Recovery Clause.

FIPUG: No. This is a base rate item and to the extent that it is the result of faulty operations, it should be borne by FPC rather than its customers.

OPC: No position.

STAFF: Yes.

ISSUE 12D:

How should the newly proposed environmental costs for the Distribution System Environmental Investigation, Remediation, and Pollution Prevention be allocated to the rate classes?

FPC: Agree with staff.

FIPUG: FIPUG opposes recovery of these costs through the ECRC. Should the Commission authorize recovery of the costs, the costs should be allocated to distribution customers in the manner they were allocated in FPC's last general rate case.

OPC: No position.

STAFF: The costs should be allocated to the rate classes on a Class (Non-coincident Peak) basis.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			<u>Direct</u>
Javier Portuondo	FPC	_____ (JP-1)	ECR Forms 42-1A through 42-5A (Revised November 12, 2002)
		_____ (JP-2)	ECR Forms 42-1P through 42-7P (Revised November 12, 2002)
James Timothy Silar	FPC	_____ (JTS-1)	Chapters 376 and 403, Florida Statutes
K.M. Dubin	FPL	_____ (KMD-1)	Environmental Cost Recovery Final True-up January - December 2001 Commission Forms 42 - 1A through 42 - 8A

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
K.M. Dubin	FPL	<hr/> (KMD-2)	Appendix I Environmental Cost Recovery Estimated/ Actual Period J a n u a r y T h r o u g h December 2002 Commission Forms 42-1E - 42-8E (Revised November 15, 2002)
		<hr/> (KMD-3)	Appendix I Environmental Cost Recovery Projections January - December 2003 Commission Forms 42-1P - 42-7P (Revised November 15, 2002)
		<hr/> (KMD-4)	Appendix I Environmental Cost Recovery Projections January - December 2003 Commission Forms 42-1P - 42-7P (Revised November 15, 2002)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
R.R. Labauve	FPL	<hr/> (RRL-1)	Document I U.S. Department of Transportation Regulation 49 CFR Part 195
		<hr/> (RRL-2)	Conceptual Application of Reburning in a Utility Boiler
		<hr/> (RRL-3)	Environmental Protection Agency 40 CFR Part 112
S.D. Ritenour	Gulf	<hr/> (SDR-1)	Calculation of Final True-up 1/01 - 12/01
		<hr/> (SDR-2)	Calculation of Estimated True-up 1/02 - 12/02
		<hr/> (SDR-3)	Calculation of Projection 1/03 - 12/03
Howard T. Bryant	TECO	<hr/> (HTB-1)	F i n a l Environmental Cost Recovery Commission Forms 42-1A through 42-8A for the period January 2001 t h r o u g h December 2001

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(HTB-2)	Environmental Cost Recovery Commission Forms 42-1E through 42-8E for the Period January 2002 t h r o u g h December 2002
		(HTB-3)	Forms 42-1P through 42-7P Forms for the January 2003 t h r o u g h December 2003

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

X. PROPOSED STIPULATIONS

ISSUE 1: What are the appropriate final environmental cost recovery true-up amounts for the period ending December 31, 2001?

FPL: \$0 for purposes of setting ECRC factors for 2003.
TECO: \$1,001,138 under recovery
GULF: \$187,480 over recovery
FPC: \$0

FIPUG and OPC take no position.

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period January 2002 through December 2002?

FPL: \$7,271,601 under recovery, assuming the Pipeline

Integrity Management Project is approved.
TECO: \$3,457,263 over recovery
GULF: \$445,767 over recovery
FPC: \$0

FIPUG and OPC take no position.

ISSUE 3: What are the total environmental cost recovery true-up amounts to be collected or refunded during the period January 2003 through December 2003?

FPL: \$7,271,601 under recovery, assuming the Pipeline Integrity Management Project is approved.
TECO: \$2,456,125 net over recovery
GULF: \$633,247 net over recovery
FPC: \$0

FIPUG and OPC take no position.

ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2003 through December 2003?

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.

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2003 through December 2003?

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

12CP Transmission Demand Jurisdictional Factor
72.115%

12CP Distribution Demand Jurisdictional Factor
99.529%

FPL: Energy Jurisdictional Factor 98.97818%
CP Demand Jurisdictional Factor 99.01742%
GCP Demand Jurisdictional Factor 100.00000%

GULF: The demand jurisdictional separation factor is 96.50187%. 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.

TECO: The demand jurisdictional separation factor is 95.43611%. The energy jurisdictional separation factors are calculated for each month based on retail kWh sales as a percentage of projected total system kWh sales. These are shown on the schedules sponsored by witness Bryant. (Bryant)

FIPUG and OPC take no position.

ISSUE 8: 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 2003 through December 2003. Billing cycles may start before January 1, 2003, and the last cycle may be read after December 31, 2003, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

OPC takes no position.

ISSUE 9A: 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 2003?

In Order No. PSC-01-2463-FOF-EI dated December 18, 2001, the Commission states "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". All of the costs FPL is seeking to recover in this docket are consistent with these provisions.

OPC takes no position.

ISSUE 9B: How should the newly proposed environmental costs for the St. Lucie Turtle Net project be allocated to the rate classes?

The capital costs associated with the St. Lucie Turtle Net project should be allocated on a 12 Coincident Peak (CP) and 1/13 Average Demand (AD) basis.

OPC takes no position.

ISSUE 9D: How should the newly proposed environmental costs for the Pipeline Integrity Management Project be allocated to the rate classes?

The proposed capital costs for the Pipeline Integrity Management Project should be allocated to the rate classes on a 12 Coincident Peak (CP) and 1/13 Average Demand basis. The proposed O&M costs should be allocated to the rate classes on a 12 CP basis.

OPC takes no position.

ISSUE 9F: How should the newly proposed environmental costs for the Oil Spill Prevention, Control & Countermeasures activities be allocated to the rate classes?

The proposed capital costs for the Oil Spill Prevention, Control & Countermeasures activities should be allocated to the rate classes on a 12 Coincident Peak (CP) and 1/13 Average Demand basis. The proposed O&M costs should be allocated to the rate classes on a 12 CP basis.

OPC takes no position.

ISSUE 9H: How should the newly proposed environmental costs for the Manatee Reburn NOx Control Technology Project be allocated to the rate classes?

Pursuant to Order No. PSC-94-0044-FOF-EI, the proposed costs should be allocated to the rate classes on an energy basis because the costs are required for compliance with the Clean Air Act.

FIPUG and OPC take no position.

ISSUE 10A: How should the costs projected for 2003 associated with the implementation of the Ozone Agreement between Gulf and the Department of Environmental Protection be allocated to the rate classes?

This issue has been rendered moot by the stipulation regarding Issue 10B.

FIPUG and OPC take no position.

ISSUE 10B: How should Order No. PSC-02-1396-PAA-EI be implemented to allow Gulf to recover incremental depreciation expense for the revised depreciation schedule of Crist Units 1, 2 and 3 through the Environmental Cost Recovery Clause?

The Commission's directives in Order No. PSC-02-1396-PAA-EI should be modified to allow Gulf to depreciate/amortize Crist Units 1, 2, and 3 to reflect a December 31, 2011, retirement date for the units. This change means that there will be no incremental increase in depreciation/amortization expense resulting from the early retirement of Crist Units 1, 2, and 3 and consequently no impact on the ECRC. This stipulation is in substitution for the directives set forth in Order No. PSC-02-1396-PAA-EI that require Gulf to (1) revise the depreciation schedule for Crist Units 1-3 to reflect retirements on or before December 31, 2006, and (2) to submit a new depreciation study for the entire Crist Plant within 90 days of the Consummating Order in Docket No. 020943-EI. As a result of the Commission's approval of this stipulation, Gulf will no longer be required to submit a new depreciation study

for the entire Crist Plant within 90 days of the Consummating Order in Docket No. 020943-EI, and Gulf will be required to reflect the December 31, 2011, retirement date for Crist Units 1, 2, and 3 as the scheduled date to complete the depreciation or amortization of net unrecovered assets for Crist Units 1, 2, and 3 in all future depreciation studies filed by Gulf through 2011 as required pursuant to Rule 25-6.0436(8)(a).

FIPUG and OPC take no position.

ISSUE 11A: How should the environmental costs for the Polk NOx Emissions Reduction project be allocated to the rate classes?

The recoverable costs for the Polk NOx Emissions Reductions project should be allocated to the rate classes on an energy basis.

FIPUG and OPC take no position.

XI. PENDING MOTIONS

Gulf's Motion for Leave to File Supplemental Testimony, filed on November 8, 2002. This Motion will be rendered moot if the Commission approves the stipulations for Issues 10A and 10B.

FPC's Motion for Leave to File Revised Exhibits, filed on November 13, 2002.

FPL's Motion for Leave to File Revised Testimony, filed November 15, 2002.

XII. PENDING CONFIDENTIALITY MATTERS

No confidentiality matters are pending.

XIII. RULINGS

Opening statements, if any, shall not exceed ten minutes per party.

FPC's Motion for Temporary Protective Order filed on October 31, 2002, shall be granted.

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It is therefore,

ORDERED by Commissioner Michael A. Palecki, 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 Michael A. Palecki, as Prehearing Officer, this 15th Day of November, 2002.



MICHAEL A. PALECKI
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

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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.