

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost
recovery clause.

DOCKET NO. 030007-EI
ORDER NO. PSC-03-1245-PHO-EI
ISSUED: November 5, 2003

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference will be held on October 23, 2003, in Tallahassee, Florida, before Commissioner Braulio L. Baez, as Prehearing Officer.

APPEARANCES:

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)

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On behalf of Gulf Power Company (GULF)

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On behalf of Progress Energy Florida (PEF)

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On behalf of Progress Energy Florida (PEF)

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, McWhirter Reeves McGlothlin Davidson Decker Kaufman & Arnold, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301
On Behalf of the Florida Industrial Power Users Group (FIPUG)

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On behalf of the Citizens of the State of Florida (OPC)

MARLENE K. STERN, ESQUIRE, and ADRIENNE VINING, 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 12 through 14, 2003, in this docket and in Docket No. 030001-EI, Docket No. 030002-EI, Docket No. 030003-GU and Docket No. 030004-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

A bench decision may be made at the conclusion of the hearing, in which case post-hearing statements and briefs will not be necessary. If a bench decision is not made, 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.

VII. 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, 2003, 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	FP&L	1,2,3,4,5,6,7,8,9, 10a,10b,10c,10d,10e 10f, 10h
*R.R. Labauve	FP&L	10a, 10c, 10e and 10g
J.O. Vick	Gulf	1,2,4,12a,12c and 12e
*S.D. Ritenour	Gulf	1,2,3,4,6,7,8,9, 12a,12b,12c,12d,12e and 12f
*Javier Portuondo	PEF	1,2,3,4,5,6,7,8,9, 11b and 11d
*Kent D. Hedrick	PEF	2,3 and 4
*Patricia Q. West	PEF	2,3,4,11a,11c and 11d
*Howard T. Bryant	TECO	1,2,3,4,6,7,8,9, 13a and 13b
*Greg M. Nelson	TECO	1,2,3,4

VIII. BASIC POSITIONS

FP&L: 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 2004 through December 2004 including the true-up calculations and other adjustments allowed by the Commission.

PEF: The Commission should approve PEF's petition for approval of its environmental cost recovery true-up and proposed

environmental cost recovery factors for the period January 2004 to December 2004.

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 2002 through December 2002, the actual/estimated environmental cost recovery true-up for the current period January 2003 through December 2003, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2004 through December 2004.

FIPUG: None.

OPC: None at this time.

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 stated herein.

Generic Environmental Cost Recovery Issues

ISSUE 1: Proposed Stipulation. See Section XI.

ISSUE 2: Proposed Stipulation. See Section XI.

ISSUE 3: Proposed Stipulation. See Section XI.

ISSUE 4: What are the projected environmental cost recovery amounts for the period January 2004 through December 2004?

GULF: \$14,108,217

STAFF: Gulf: Based on the resolution of company specific issue 12A.

Proposed Stipulation for all other parties. See Section XI.

ISSUE 5: What are the environmental cost recovery amounts, including true-up amounts, for the period January 2004 through December 2004?

GULF: \$13,679,296

STAFF: Gulf: Based on the resolution of company specific issue 12A.

Proposed Stipulation for all other parties. See Section XI.

ISSUE 6: Proposed Stipulation. See Section IX.

ISSUE 7: Proposed Stipulation. See Section XI.

ISSUE 8: What are the appropriate environmental cost recovery factors for the period January, 2004, through December, 2004, for each rate group?

GULF:

Rate Class	Environmental Cost Recovery Factors ¢/KWH
RS, RSVP	.136
GS	.135
GSD, GSDT, GSTOU	.128
LP, LPT	.121
PX, PXT, RPT, SBS	.116
OSI, OSII	.104
OSIII	.120
OSIV	.104

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STAFF: Gulf: This is a fallout issue and staff's position will be based on resolution of generic issues 1-7 and company specific issues.

Proposed Stipulation for all other parties. See Section XI.

ISSUE 9: Proposed Stipulation. See Section XI.

Company Specific Environmental Cost Recovery Issues

Florida Power & Light

ISSUE 10A: Proposed Stipulation. See Section XI.

ISSUE 10B: Proposed Stipulation. See Section XI.

ISSUE 10C: Proposed Stipulation. See Section XI.

ISSUE 10D: Proposed Stipulation. See Section XI.

ISSUE 10E: Proposed Stipulation. See Section XI.

ISSUE 10F: Proposed Stipulation. See Section XI.

ISSUE 10G: Proposed Stipulation. See Section XI.

ISSUE 10H: Proposed Stipulation. See Section XI.

Progress Energy Florida

ISSUE 11A: Proposed Stipulation. See Section XI.

ISSUE 11B: Proposed Stipulation. See Section XI.

ISSUE 11C: Proposed Stipulation. See Section XI.

ISSUE 11D: Proposed Stipulation. See Section XI.

Gulf Power Company

ISSUE 12A:

Should the Commission approve Gulf's request for recovery of costs for the Plant Crist Unit 7 Scrubber Study through the Environmental Cost Recovery Clause?

GULF: Yes. This project is necessary for Gulf to determine how to comply with new mercury standards which are being finalized by the EPA. Gulf must perform this study at this time because Gulf must be in compliance with the mercury standard within a short period of time after the standard becomes final.

FPL: No position.

PEF: No position.

TECO: No position.

FIPUG: No position.

OPC: No position.

STAFF: No. The study is not required by an environmental law or regulation as defined in Section 366.8255(1), Florida Statutes.

ISSUE 12B: Proposed Stipulation. See Section XI.

ISSUE 12C: Proposed Stipulation. See Section XI.

ISSUE 12D: Proposed Stipulation. See Section XI.

ISSUE 12E: Proposed Stipulation. See Section XI.

ISSUE 12F: Proposed Stipulation. See Section XI.

Tampa Electric Company

ISSUE 13A: Proposed Stipulation. See Section XI.

ISSUE 13B: Proposed Stipulation. See Section XI.

X. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
K.M. Dubin	FP&L	_____	Environmental Cost Recovery Final True-up January - December 2002 Commission Forms 42 - 1A through 42 - 8A
		(KMD-1)	
		_____	Appendix I Environmental Cost Recovery Estimated/Act ual Period January Through December 2003 Commission Forms 42-1E - 42-8E
		(KMD-2)	
		(As revised on October 21, 2003.)	
		_____	Appendix I Environmental Cost Recovery Projections January - December 2004 Commission Forms 42-1P - 42-7P
		(KMD-3)	
R.R. LaBauve	FP&L	_____	Rule 62-761.500, F.A.C.
		(RRL-1)	

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<hr/> (RRL-2)	FPL's Existing Underground Storage Tank Systems
		<hr/> (RRL-3)	St John's River Water Management District Consumptive Use Permit Number 10652, Cape Canaveral Plant
		<hr/> (RRL-4)	St. John's River Water Management District Consumptive Use Permit Number 9202, Sanford Plant
		<hr/> (RRL-5)	Draft Title V Air Permit, Port Everglades Plant
		<hr/> (RRL-6)	Advantages/Di sadvantages - Particulate Removal Technologies
		<hr/> (RRL-7)	Advantages/Di sadvantages- SO3 Removal Technologies

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
S.D. Ritenour	Gulf	(SDR-1)	Calculation of Final True-up 1/02 - 12/02
		(SDR-2)	Calculation of Estimated True-up 1/03 - 12/03
		(SDR-3)	Calculation of Projection 1/04 - 12/04
Javier Portuondo	PEF	(JP-1) (including the substitution made on 10/2/03)	ECR Forms 42-1A through 42-5A
		(JP-2) (renumbered from JP-1 as filed on 9/5/03; revised again on 10/17/03.)	ECR Forms 42-1E through 42-8E (revised 10/17/03)
		(JP-3) (Renumbered from JP-2 as filed on 9/8/03; revised again on 10/17/03.)	ECR Forms 42-1P through 42-7P (Revised 10/17/03)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Kent D. Hedrick	PEF	(KDH-1)	Settlement by Short Form Consent Order of Progress Energy Substations
		(KDH-2)	Progress Energy Substation Inspection Plan
Patricia Q. West	PEF	(PQW-1)	67 Fed. Reg. 2136 (Jan. 26, 2002)
		(PQW-2)	Rule 72-761.510, Fla. Admin. Code
Howard T. Bryant	TECO	(HTB-1)	F i n a l Environmental Cost Recovery Commission Forms 42-1A through 42-8A for the period January 2002 through
		(HTB-2)	Environmental Cost Recovery Commission Forms 42-1E through 42-8E for the Period January 2003 t h r o u g h December 2003

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<hr/> (HTB-3)	Forms 42-1P through 42-7P Forms for the January 2004 t h r o u g h December 2004

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

XI. PROPOSED STIPULATIONS

ISSUE 1: What are the final environmental cost recovery true-up amounts for the period ending December 31, 2002?

FPL: \$205,349 over recovery
PEF: \$38,833 under recovery
Gulf: \$229,600 over recovery
TECO: \$456,568 under recovery
FIPUG and OPC take no position.

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period January 2003 through December 2003?

FPL: \$850,933 over recovery
Gulf: \$209,163 over recovery
PEF: \$10,822,944 under-recovery
TECO: \$163,803 under recovery
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 2004 through December 2004?

FPL: \$1,056,282 over recovery
Gulf: \$438,763 over recovery
PEF: \$10,861,777 under-recovery
TECO: \$620,371 under recovery
FIPUG and OPC take no position.

ISSUE 4: What are the projected environmental cost recovery amounts for the period January 2004 through December 2004?

FPL: \$13,798,551
PEF: \$10,236,534
TECO: \$26,200,066
FIPUG and OPC take no position.

ISSUE 5: What are the environmental cost recovery amounts, including true-up amounts, for the period January 2004 through December 2004?

FPL: \$12,945,763 (including true-up amounts and adjusted for revenue taxes.
PEF: \$21,113,502 adjusted for revenue taxes:
TECO: \$26,820,437 or \$26,839,747 adjusted for taxes.
FIPUG and OPC take no position.

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 2004 through December 2004?

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 7: What are the appropriate jurisdictional separation factors for the projected period January 2004 through December 2004?

FP&L: Energy Jurisdictional Factor: 98.750007%
CP Demand Jurisdictional Factor: 98.84301%
GCP Demand Jurisdictional Factor: 100.00000%

GULF: The demand jurisdictional separation factor is 96.50187%. Energy jurisdictional separation factors are calculated each month based on retail KWH sales as a percentage of projected total territorial KWH sales.

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

Transmission demand jurisdictional factor - .72.115%
Distribution demand jurisdictional factor - 99.529%
Composite Production demand jurisdictional factor - 90.897%
Composite Production energy jurisdictional O&M factor - 91.848%

For 2003 and 2004 actual purposes, PEF will use production stratified separation factors.

TECO: The demand jurisdictional separation factor is 95.43611%. 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.

ISSUE 8: What are the appropriate environmental cost recovery factors for the period January, 2004, through December, 2004, for each rate group?

FP&L:

Rate Class	Environmental Recovery Factor (\$/kWh)
RS- 1	0.00013
GS- 1	0.00013
GSD 1	0.00012
OS2	0.00015
GSLD1/CSI	0.00012
GSLD21CS2	0.00012
GSLD3/CS3	0.00011

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Rate Class	Environmental Recovery Factor (\$/kWh)
SST1T	0.00010
SST1D	0.00012
CILC D/CILC G	0.00011
CILC T	0.00010
MET	0.00013
OL1/SL1/PL1	0.00009
SL2	0.00011

PEF:

Rate Class	<u>ECR</u> <u>Factor</u> <u>cents/kWh</u>
Residential	0.061
General Service Non-Demand	
@Secondary Voltage	0.058
@Primary Voltage	0.057
@Transmission Voltage	0.057
General Service 100% Load Factor	0.032
General Service Demand	
@Secondary Voltage	0.048
@Primary Voltage	0.048
@Transmission Voltage	0.047
Curtable	
@Secondary Voltage	0.057
@Primary Voltage	0.056
Interruptible	
@Secondary Voltage	0.037
@Primary Voltage	0.037
@Transmission Voltage	0.036

Rate Class	<u>ECR Factor cents/kWh</u>
Lighting	0.051

TECO:

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

FIPUG and OPC take no position.

ISSUE 9: 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 2004 through December 2004. Billing cycles may start before January 1, 2004, and the last cycle may be read after December 31, 2004, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

OPC takes no position.

FPL Specific Issues

ISSUE 10A:

Should the Commission approve FPL's request for recovery of costs for the Underground Storage Tank Replacement/Removal through the Environmental Cost Recovery Clause?

Yes. The project is required by Rule 62-761.500, Florida Administrative Code. Recovery through the Environmental Cost Recovery Clause will not provide double recovery.

FIPUG, OPC, TECO, Gulf and PEF take no position.

ISSUE 10B:

How should FPL's newly proposed environmental costs for the Underground Storage Tank Replacement/Removal be allocated to the rate classes?

Proposed costs for the UST Replacement/Removal Project should be allocated to the rate classes on an average 12 Coincident Peak demand basis.

OPC, TECO, Gulf and PEF take no position.

ISSUE 10C:

Should the Commission approve FPL's request for recovery of costs for the Lowest Quality Water Source Project through the Environmental Cost Recovery Clause?

Yes. This project is required in order to comply with conditions in the consumptive use permits (CUPs) issued for FPL's Sanford and Cape Canaveral plants by the St. Johns River Water Management District. The purpose of those conditions is to preserve Florida's groundwater, an important environmental resource. The project will satisfy these CUP conditions in a cost-effective manner.

FIPUG, OPC, TECO, Gulf and PEF take no position.

ISSUE 10D:

How should FPL's newly proposed environmental costs for the Lowest Quality Water Source Project be allocated to the rate classes?

Proposed costs for the LQWS Project should be allocated to the rate classes on an average 12 Coincident Peak demand basis.

OPC, TECO, Gulf and PEF take no position.

ISSUE 10E:

Should the Commission approve FPL's request for recovery of costs for the Port Everglades Electrostatic Precipitator Technology Project through the Environmental Cost Recovery Clause?

Yes. FPL's Title V permit for Port Everglades, No. 0110036-006-AV, effective January 1, 2004, expressly requires installation of an electrostatic precipitator.

FIPUG, OPC, TECO, Gulf and PEF take no position.

ISSUE 10F:

How should FPL's newly proposed environmental costs for the Port Everglades Electrostatic Precipitator Technology Project be allocated to the rate classes?

Proposed costs for the Port Everglades ESP Technology Project should be allocated to the rate classes on an energy basis.

FIPUG, OPC, TECO, Gulf and PEF take no position.

ISSUE 10G:

Should the Commission approve FPL's request for recovery of costs for the inclusion of the Manatee Plant in FPL's Wastewater/Stormwater Discharge Elimination & Reuse (WSDER) Project through the Environmental Cost Recovery Clause?

Yes. FPL must meet BMP3 requirements at its Manatee plant as a condition of the NPDES permit for the plant,

as is the case for several other plants. FPL did not originally include the Manatee Plant in its request for approval of the WSDER Project because it anticipated addressing wastewater and stormwater management issues through the Orimulsion certification that it was seeking at the time.

FIPUG, OPC, TECO, Gulf and PEF take no position.

ISSUE 10H:

How should FPL's newly proposed costs for the WSDER Project be allocated to the rate classes?

Proposed costs for the WSDER Project should be allocated to the rate classes on an average 12 Coincident Peak demand basis.

FIPUG, OPC, TECO, Gulf and PEF take no position.

Progress Specific Issues

ISSUE 11A:

Should the Commission approve PEF's request for recovery of costs for the Pipeline Integrity Management Program?

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

OPC, TECO, Gulf and FPL take no position.

ISSUE 11B:

How should PEF's newly proposed environmental costs for the Pipeline Integrity Management Program be allocated to the rate classes?

The capital costs for the Pipeline Integrity Management Program should be allocated to the rate classes on a 12 Coincident Peak and 1/13 Average Demand basis and the O&M costs should be allocated on an energy basis.

OPC, TECO, Gulf and FPL take no position.

ISSUE 11C:

Should the Commission approve PEF's request for recovery of costs for the Aboveground Tank Secondary Containment Program?

PEF should be allowed to recover costs through the ECRC for the installation of or upgrades to secondary containment for field-erected above ground storage tank systems as required by the 1998 amendments incorporated into Rule 62-761.510 (Table AST, Keynotes W and U), Florida Administrative Code. If PEF seeks recovery for any other activities under the Project it shall identify those as new activities in testimony in future proceedings in the ongoing Environmental Cost Recovery Clause Docket. This does not preclude PEF from filing a petition for recovery of Project costs at any other time during the year.

OPC, TECO, Gulf and FPL take no position.

ISSUE 11D:

How should PEF's newly proposed environmental costs for the Aboveground Tank Secondary Containment Program be allocated to the rate classes?

The recoverable costs for the Aboveground Tank Secondary Containment Program should be allocated to the rate classes on a 12 Coincident Peak and 1/13 Average Demand basis.

OPC, TECO, Gulf and FPL take no position.

Gulf Specific Issues

ISSUE 12B:

How should Gulf's newly proposed environmental costs for the Plant Crist Unit 7 Scrubber Study be allocated to the rate classes?

The capital costs associated with this project should be allocated to the rate classes on an energy basis.

FIPUG, OPC, TECO, FPL and PEF take no position.

ISSUE 12C:

Should the Commission approve Gulf's request for recovery of costs for the Plant Crist Fourier Transform Infrared Spectrometer through the Environmental Cost Recovery Clause?

Yes. The Crist Unit 7 SCR Construction Permit requires monitoring for ammonia in stack gas emissions. The FTIR is the best, cost-effective method to monitor ammonia emissions as required in that Construction Permit.

FIPUG, OPC, TECO, FPL and PEF take no position.

ISSUE 12D:

How should Gulf's newly proposed environmental costs for the Plant Crist Fourier Transform Infrared Spectrometer be allocated to the rate classes?

The capital costs associated with this project should be allocated to the rate classes on an energy basis.

FIPUG, OPC, TECO, FPL and PEF take no position.

ISSUE 12E:

Should the Commission approve Gulf's request for recovery of costs for the Plant Crist Stormwater Project through the Environmental Cost Recovery Clause?

Yes. The Spill Prevention Control and Countermeasures regulation (Title 40, Code of Federal Regulation Part 112) was revised to include oil-containing electrical equipment. Gulf must implement appropriate containment and/or diversionary structures to prevent oil from this equipment from entering waterways. This project is required for Gulf to comply with this new requirement.

FIPUG, OPC, TECO, FPL and PEF take no position.

ISSUE 12F:

How should Gulf's newly proposed environmental costs for the Plant Crist Stormwater Project be allocated to the rate classes?

The capital costs associated with his project should be allocated to the rate classes on a 12 Coincident Peak and 1/13 Average Demand basis.

OPC, TECO, FPL and PEF take no position.

TECO Specific Issues

ISSUE 13A:

How should the costs for the Bayside SCR Consumables Project, approved in Order No. PSC-03-0469-PAA-EI, in Docket No. 021255, issued on April 4, 2003, be allocated to the rate classes?

The costs should be allocated on an energy basis.

FIPUG, OPC, Gulf, FPL and PEF take no position.

ISSUE 13B:

How should the costs for the Big Bend Unit 4 SOFA Project, approved in Order No. PSC-03-0684-PAA-EI, issued on June 6, 2003, be allocated to the rate classes?

The costs should be allocated on an energy basis.

FIPUG, OPC, Gulf, FPL and PEF take no position.

Stipulated Exhibits

1. FPL's Title V permit for Port Everglades, No. 0110036-006-AV.
2. The recommendation filed in Docket No. 030711-EI on October 22, 2003, the responses to interrogatories 1-13 filed in Docket No. 030711-EI, and the responses to interrogatories 13, 14 and 15 filed in Docket No. 030007-EI.

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XII. PENDING MOTIONS

None.

XIII. PENDING CONFIDENTIALITY MATTERS

None.

XIV. RULINGS

PEF's Motion to Consolidate made at the Prehearing Conference was granted by Order No. PSC-03-1230-PCO-EI.

Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, 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 Braulio L. Baez, as Prehearing Officer, this 5th Day of November, 2003.



BRAULIO L. BAEZ
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

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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; or (2) 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.