

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 050007-EI
ORDER NO. PSC-05-1107-PHO-EI
ISSUED: November 3, 2005

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on October 24, 2005, in Tallahassee, Florida, before Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer.

APPEARANCES:

JOHN T. BUTLER, ESQUIRE, Squire, Sanders & Dempsey, LLP, including Steel, Hector & Davis, LLP, 200 S. Biscayne Blvd., Suite 4000, Miami, FL 33131-2398 and R. WADE LITCHFIELD, ESQUIRE, Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408-0420
On behalf of Florida Power & Light Company (FPL)

GARY V. PERKO, ESQUIRE, and CAROLYN S. RAEPPEL, ESQUIRE, Hopping, Green & Sams, P.O. Box 6526, Tallahassee, Florida 32314 and R. ALEXANDER GLENN, ESQUIRE, Progress Energy Service Co., LLC, 100 Central Ave., St. Petersburg, FL 33701-3324.
On behalf of Progress Energy Florida (PEF)

LEE L. WILLIS, ESQUIRE and JAMES D. BEASLEY, ESQUIRE, Ausley & McMullen, P.O. Box 391, Tallahassee, Florida 32302 and ANGELA LLEWELLYN, ESQUIRE, P.O. Box 111, Tampa, FL 33601-0111
On behalf of Tampa Electric Company (TECO)

JEFFREY A. STONE, ESQUIRE and RUSSELL A. BADDERS, ESQUIRE, and STEVEN R. GRIFFIN, ESQUIRE, Beggs and Lane, P.O. Box 12950, Pensacola, Florida 32591-2950
On behalf of Gulf Power Company (GULF)

JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter Reeves & Davidson, P.A., 400 North Tampa Street, Suite 2450, Tampa, Florida 33601-3350, and TIMOTHY J. PERRY, ESQUIRE, McWhirter Reeves & Davidson, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301
On behalf of the Florida Industrial Power Users Group (FIPUG)

ROBERT SCHEFFEL WRIGHT, ESQUIRE and JOHN T. LAVIA, III, ESQUIRE, Landers & Parsons, P.A., 310 West College Avenue, Tallahassee, Florida 32301
On behalf of the Florida Retail Federation

DOCUMENT NUMBER - DATE

10688 NOV-3 05

FPSC-COMMISSION CLERK

PATRICIA A. CHRISTENSEN, ESQUIRE, 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, 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 7 through 9, 2005, in this docket and in Docket No. 050001-EI, Docket No. 050002-EI, Docket No. 050003-GU and Docket No. 050004-GU. The Commission has the option to render a bench decision in this matter.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes. This hearing will be governed by said Chapter and Chapters 25-22, and 28-106, Florida Administrative Code.

IV. 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 parties 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 a) 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.

V. 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 no bench decision is 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.

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.

VI. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. 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 November 4, 2005, as to whether any such witness shall be required to be present at the 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 X of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*J. O. Vick	GULF	1, 2, 3, 11A, 11C, 11E, 11G, 11H
*T. A. Davis	GULF	1, 2, 3, 4, 5, 6, 7, 8, 11B, 11D, 11F
J. Portuondo	PEF	1, 2, 3, 4, 5, 6, 7, 8, 10B, 10D, 10F
*K. D. Hedrick	PEF	2, 3, 10A
*P. Q. West	PEF	2, 3, 10C, 10E, 10G, 10H
K.M. Dubin	FPL	1, 2, 3, 4, 5, 6, 7, 8, 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H
R. R. LaBauve	FPL	9A, 9C, 9E, 9G
*H. T. Bryant	TECO	1, 2, 3, 4, 5, 6, 7, 8
*G. M. Nelson	TECO	1, 2, 3, 4

VIII. BASIC POSITIONS

GULF: It is 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 2006 through December 2006 including the true-up calculations and other adjustments allowed by the Commission.

PEF: None.

FPL: None.

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 2004 through December 2004, the actual/estimated environmental cost recovery true-up for the current period January 2005 through December 2005, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2006 through December 2006.

OPC: None.

FRF: The investor-owned utilities whose Environmental Cost Recovery Clause charges are to be determined in this docket bear the affirmative burden of proving that their proposed charges are fair, just, and reasonable.

FIPUG: None.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

IX. ISSUES AND POSITIONS

PROPOSED STIPULATION

ISSUE 1: What are the final environmental cost recovery true-up amounts for the period ending December 31, 2004?

FPL: \$505,074 over recovery including interest.
PEF: \$5,961,886 over recovery including interest.
TECO: \$35,849 over recovery including interest.
GULF: \$628,050 over recovery including interest.

OPC, FIPUG and FRF take no position.

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period January 2005 through December 2005?

Proposed Partial Stipulation with Gulf and TECO

GULF: \$ 646,587 over recovery including interest.
TECO: \$ 101,061,442 over recovery including interest.
OPC, FIPUG and FRF take no position at this time.

PEF: \$11,922,307 under-recovery.
FPL: \$4,418,213 over recovery including interest.
OPC: No position at this time.
FRF: No position at this time.

FIPUG: No position at this time.

STAFF: FPL: No position at this time.
PEF: No position at this time.

ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2006 through December 2006?

Proposed Partial Stipulation with Gulf and TECO

GULF: \$41,572,348.

TECO: \$27,754,796.

OPC, FIPUG and FRF take no position at this time.

PEF: \$17,526,546.

FPL: \$31,263,335.

OPC: No position at this time.

FRF: No position at this time.

FIPUG: No position at this time.

STAFF: FPL: No position at this time.
PEF: No position at this time.

ISSUE 4: What are the environmental cost recovery amounts, including true-up amounts for the period January 2006 through December 2006?

Proposed Partial Stipulation with Gulf and TECO

GULF: \$40,326,725 (adjusted for revenue taxes).

TECO: \$73,395,302 adjusted for taxes, to be refunded.

OPC, FIPUG and FRF take no position at this time.

PEF: \$23,503,878 (adjusted for revenue taxes).

FPL: The total environmental cost recovery amount, adjusted for prior period true-ups and revenue taxes, is \$26,359,013.

OPC: No position at this time.

FRF: No position at this time.

FIPUG: No position at this time.

STAFF: FPL: No position at this time.

PEF: No position at this time.

PROPOSED STIPULATION

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 2006 through December 2006?

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 FRF take no position.

PROPOSED STIPULATION

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2006 through December 2006?

FPL: Energy Jurisdictional factor - 98.553348%;
CP Demand Jurisdictional Factor - 98.62224%;
GCP Demand Jurisdictional Factor - 100%.

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

Production Demand Jurisdictional Factors
Base 93.753%,
Intermediate 79.046%,
Peaking 88.979%
Transmission Demand Jurisdictional Factor 70.597%
Distribution Demand Jurisdictional Factor 99.597%

TECO: The demand jurisdictional separation factor is 96.41722%. 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.

GULF: The demand jurisdictional separation factor is 96.64872%. 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.

OPC, FIPUG and FRF take no position.

ISSUE 7: What are the appropriate Environmental Cost Recovery Factors for the period January 2006 through December 2006 for each rate group?

Proposed Partial Stipulation with Gulf and TECO

TECO:

<u>Rate Class</u>	<u>Factor (cents/k Wh)</u>
RS, RST	(0.372)
GS, GST, TS	(0.374)
GSD, GSDT	(0.376)
GSLD, GSLDT, SBF	(0.373)
IS1, IST1, SBI1, SBIT1, IS3, IST3, SBI3	(0.368)
SL,OL	(0.384)
Average Factor	(0.373)

GULF:

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/k Wh
RS, RSVP	.364
GS	.362
GSD, GSDT, GSTOU	.356
LP, LPT	.346
PX, PXT, RTP, SBS	.337
OS-I/II	.334
OSIII	.345

OPC, FIPUG and FRF take no position at this time.

PEF:

RATE CLASS	ECRC Factor Cents/k Wh
Residential	0.062
General Service Non-Demand	
@ Secondary Voltage	0.060
@ Primary Voltage	0.059
@Transmission Voltage	0.059
General Service 100% Load Factor	0.048
General Service Demand	
@ Secondary Voltage	0.056
@ Primary Voltage	0.055
@Transmission Voltage	0.055
Curtable	
@ Secondary Voltage	0.055
@ Primary Voltage	0.054
@Transmission Voltage	0.054
Interruptible	
@ Secondary Voltage	0.049
@ Primary Voltage	0.049
@Transmission Voltage	0.048
Lighting	0.050

FPL:	Rate Class	Environmental Recovery Factor (\$/kWh)
	RS-1/RST1	0.00026
	GS-1/GST1	0.00025
	GSD1/GSDT1/HLFT-1(21-499 kW)	0.00024
	OS2	0.00025
	GSLD1/GSLDT1/CS1/CST1/ HLFT-1 (500-1,999 kW)	0.00024
	GSLD2/GSLDT2/CS2/CST2/ HLFT-1 (2,000 +)	0.00023
	GSLD3/GSLDT3/CS3/CST3	0.00021
	ISST1D	0.00022
	ISST1T	0.00020
	SST1T	0.00020
	SST1D1/SST1D2/SST1D3	0.00022
	CILC D/CILC G	0.00022
	CILC T	0.00021
	MET	0.00025
	OL1/SL1/PL1	0.00019
	SL2/GSCU-1	0.00022

OPC: No position at this time.

FRF: The ECRC charges for each rate class are fall-out numbers. The ECRC charges for FPL and Progress must be calculated consistent with the relevant provisions of the stipulations and settlements that the Commission approved in their respective rate cases.

FIPUG: No position at this time

STAFF: The factors are a mathematic calculation based on the resolution of company specific issues. Staff asks for administrative authority to review the calculations reflecting the Commission's vote and include the resultant factors in the Order.

PROPOSED STIPULATION

ISSUE 8: What should be the effective date of the new environmental cost recovery factors for billing purposes?

The new factors should be effective beginning with the first billing cycle for January 2006, and thereafter through the last billing cycle for December 2006. The first billing cycle may start before January 1, 2006, and the last billing cycle may end after December 31, 2006, so long as each customer is billed for twelve months regardless of when the factors became effective.

OPC and FRF take no position.

Company – Specific Issues:

Florida Power Light Company

ISSUE 9A: Should the Commission approve FPL's request for recovery of costs for a 10 year Hydrobiological Monitoring Program associated with FPL's makeup water withdrawals from the Little Manatee River for its Manatee Unit 3 generating unit?

Proposed Partial Stipulation Between FPL and Staff

Yes, the Commission should approve the Hydrobiological Monitoring Program (HBMP) as described in the prepared testimony of FPL witness R.R. LaBauve filed on August 8, 2005. FPL is undertaking the HBMP project to comply with "environmental laws or regulations," and the costs it seeks to recover for the HBMP project are "environmental compliance costs," as those terms are used in §366.8255, Fla. Stat.

FRF: No position at this time pending review of discovery.

FIPUG: No position at this time.

OPC: No position at this time.

ISSUE 9B: How should FPL's environmental costs for the Little Manatee River Hydrobiological Monitoring Program be allocated to the rate classes?

FPL: The proposed O&M costs for the HBMP Program should be allocated to the rate classes on a 12 coincident peak demand basis. No non-firm credits are appropriate.

FRF: Tentatively agree with Staff.

FIPUG: If approved for recovery, the proposed operating and maintenance costs should be allocated to the rate classes in the same manner that base rates are allocated with appropriate non-firm credits for non-firm customers.

OPC: No position at this time.

STAFF: If approved for recovery, the proposed operating and maintenance costs should be allocated to the rate classes on an average 12 coincident peak demand basis, which is the same manner in which costs are allocated in base rates. No additional non-firm credits are appropriate.

ISSUE 9C: Should the Commission approve FPL's request for recovery of study costs and costs to retrofit various power plants to comply with the Clean Air Interstate Rule?

FPL: Yes, the Commission should approve the Clean Air Interstate Rule (CAIR) Compliance Project as described in the prepared testimony of FPL witness R.R. LaBauve filed on August 8, 2005. FPL is undertaking the CAIR Compliance project to comply with "environmental laws or regulations," and the costs it seeks to recover for the CAIR Compliance project are prudently incurred "environmental compliance costs," as those terms are used in §366.8255, Florida Statutes.

FRF: No position at this time pending review of discovery.

FIPUG: No position at this time.

OPC: No position at this time.

STAFF: No position at this time pending review of discovery.

ISSUE 9D: How should FPL's environmental costs for compliance with the Clean Air Interstate Rule be allocated to the rate classes?

FPL: The operating and maintenance costs should be allocated to the rate classes on an energy basis. The capitalized costs should be allocated to the rate classes on a 12 coincident peak demand and 1/13 energy basis consistent with Commission Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In Re: Petition for rate increase by Florida Power & Light Company. No non-firm credits are appropriate.

FRF: Agree with Staff.

FIPUG: If approved for recovery: 1) the proposed operating and maintenance costs should be allocated to the rate classes on an energy basis; and, 2) the proposed capitalized cost should be allocated to the rate classes on an average 12 coincident peak demand and 1/13 average demand consistent with Commission Order No. PSC-05-0902-S-EI-, issued September 14, 2005, in Docket No. 050045-EI, In Re: petition for rate increase by Florida Power & Light Company, including appropriate credits for non-firm service.

OPC: No position at this time.

STAFF: If approved for recovery: 1) the proposed operating and maintenance costs should be allocated to the rate classes on an energy basis; and, 2) the proposed capitalized cost should be allocated to the rate classes on an average 12 coincident peak demand and 1/13 average demand consistent with Commission Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In Re: Petition for rate increase by Florida Power & Light Company. No additional non-firm credits are appropriate.

ISSUE 9E: Should the Commission approve recovery of FPL's legal costs to challenge the Clean Air Interstate Rule?

FPL: Yes. Those costs are being prudently incurred to help minimize FPL's costs of complying with the Clean Air Interstate Rule, to the benefit of FPL's customers.

FRF: Agree with OPC.

FIPUG: No. Such costs are a prudent expense chargeable to base rates, but should not be recovered through the ECRC.

OPC: No. Such costs are a prudent expense chargeable to base rates, but should not be recovered through the ECRC.

STAFF: No position at this time.

PROPOSED STIPULATION

ISSUE 9F: How should FPL's legal costs to challenge the Clean Air Interstate Rule be allocated to the rate classes?

If approved for recovery, the proposed operating and maintenance costs should be allocated to the rate classes on an energy basis.

OPC, FIPUG and FRF take no position.

ISSUE 9G: Should the Commission approve FPL's request for recovery of costs to model potential visibility degradation in any Class 1 Federal Area associated with air emissions from its electric generating units pursuant to the Regional Haze Rule?

FPL: Yes, the Commission should approve the Regional Haze Rule, Best Available Retrofit Technology (BART) Compliance Project as described in the prepared testimony of FPL witness R. R. LaBauve filed on September 8, 2005. FPL is undertaking the BART Compliance project to comply with "environmental laws or regulations," and the projected costs it seeks to recover for the BART Compliance project are prudent "environmental compliance costs," as those terms are used in §366.8255, Fla. Stat.

FRF: No position.

FIPUG: No position.

OPC: No position.

STAFF: No position at this time pending review of discovery.

PROPOSED STIPULATION

ISSUE 9H: How should FPL's environmental costs for modeling potential visibility degradation pursuant to the Regional Haze Rule be allocated to the rate classes?

If approved for recovery, the proposed operating and maintenance costs should be allocated to the rate classes on an energy basis.

OPC, FIPUG and FRF take no position.

Progress Energy Florida, Inc.

PROPOSED STIPULATION

ISSUE 10A: Should the Commission approve PEF's request for recovery of costs for certain Sea Turtle street lighting activities in Franklin County, Gulf County, and within the City of Mexico Beach?

Yes. The costs for the Sea Turtle Lighting Program meet the requirements of Section 366.8255 for recovery through the Environmental Cost Recovery Clause.

OPC, FIPUG and FRF take no position.

PROPOSED STIPULATION

ISSUE 10B: How should the costs for PEF's Sea Turtle street lighting activities be allocated to the rate classes?

The operating and maintenance costs and capitalized costs for the Sea Turtle Lighting Program should be allocated to the rate classes on a non-coincident peak demand basis.

OPC, FIPUG and FRF take no position.

PROPOSED STIPULATION

ISSUE 10C: Should the Commission approve PEF's request for recovery of costs to assess groundwater arsenic levels and consultant costs for development of an arsenic remediation plan at Plants Anclote, Bartow, Hines, and Crystal River?

Yes. The costs for Arsenic Groundwater Standard Program meet the requirements of Section 366.8255 for recovery through the Environmental Cost Recovery Clause.

OPC, FIPUG and FRF take no position.

ISSUE 10D: How should the costs for PEF's arsenic groundwater monitoring and studies be allocated to the rate classes?

PEF: The operating and maintenance costs for the Arsenic Groundwater Standard Program should be allocated to the rate classes on a 12 coincident peak demand and 1/13 average demand basis. No additional non-firm credits are appropriate.

FRF: Agree with Staff as to cost allocation. No position on non-firm credits.

FIPUG: If approved for recovery, the proposed operating and maintenance costs should be allocated to the rate classes on a 12 coincident peak demand and 1/13 average demand basis including proper credits for non-firm service.

OPC: No position at this time.

STAFF: If approved for recovery, the proposed operating and maintenance costs should be allocated to the rate classes on a 12 coincident peak demand and 1/13 average demand basis. No additional non-firm credits are appropriate.

PROPOSED STIPULATION

ISSUE 10E: Should the Commission approve PEF's request for recovery of costs for installing secondary containment for certain underground storage tanks and small diameter piping at the Bartow and Crystal River Power Plant sites?

Yes. The costs for the Underground Storage Tank Program meet the requirements of Section 366.8255 for recovery through the Environmental Cost Recovery Clause.

OPC, FIPUG and FRF take no position.

ISSUE 10F: How should the costs for PEF's secondary containment facilities at the Bartow and Crystal River Power Plant sites be allocated to the rate classes?

PEF: The capitalized costs for the Underground Storage Tank Program should be allocated to the rate classes on a 12 coincident peak demand and 1/13 average demand basis. No additional non-firm credits are appropriate.

FRF: Agree with Staff as to cost allocation. No position on non-firm credits.

FIPUG: If approved for recovery, the proposed capitalized costs should be allocated to the rate classes on a 12 coincident peak demand and 1/13 average demand basis including proper credits for non-firm service.

OPC: No position at this time.

STAFF: If approved for recovery, the proposed capitalized costs should be allocated to the rate classes on a 12 coincident peak demand and 1/13 average demand basis. No additional non-firm credits are appropriate.

PROPOSED STIPULATION

ISSUE 10G: Should the Commission approve recovery of costs associated with planning and construction of SCR and FGD on four Crystal River coal fired units?

ISSUE 10H: Should the Commission approve recovery of costs associated with installation of low NOx burners and overfire air at Anclote?

PEF represents that the testimony of Patricia Q. West filed on September 8, 2005, regarding the costs associated with certain pollution control projects that PEF tentatively has identified as part of its strategy for complying with the Clean Air Interstate Rule (CAIR) and Clean Air Mercury Rule (CAMR), was based on a preliminary analysis of compliance options based on the language of CAIR as originally proposed, and was submitted for informational purposes. PEF is presently conducting a more detailed analysis of options based on final CAIR rule language. PEF intends to file testimony addressing the results of the more detailed study and its effect on PEF's compliance strategy in Docket No. 060007 when it has completed the analysis. PEF and OPC agree that Issues 10(G) and 10(H) and any consideration of the prudence and reasonableness of

specific technologies and associated project costs related to PEF's CAIR/CAMR activities are premature and shall be deferred. The deferral shall not prejudice the rights of OPC and other parties to conduct discovery and challenge the reasonableness or prudence of any projects or associated costs related to PEF's CAIR/CAMR compliance strategy in future proceedings. Ms. West's testimony shall be entered in the record, but receipt thereof shall not be considered as the Commission's approval of the reasonableness and prudence of PEF's CAIR and CAMR compliance projects. PEF, OPC and any interested intervenors will attempt cooperatively to develop and submit for approval a procedure and schedule designed to govern proceedings on PEF's additional submission. In the event parties cannot agree on appropriate procedural milestones, by motion any party may ask the Commission to establish such a schedule.

Gulf Power Company

PROPOSED STIPULATION

ISSUE 11A: Should the Commission approve GULF's request for recovery of costs for groundwater arsenic remediation activities at Plants Crist and Scholz?

Yes. The FDEP published a new arsenic groundwater standard that lowered the limit from 0.5 mg/L to 0.01 mg/L, effective January 1, 2005. Historical groundwater monitoring data from Plant Crist and Plant Scholz indicate that these facilities are not likely to be able to comply with the lower standard without remediation or other solutions. GULF projects capital expenditures of \$500,000 during 2006 to complete and evaluate the results from studies to determine the nature of the potential impacts to groundwater and identify solutions necessary to ensure compliance with the new standard. Depending on the results, mitigation measures may also be implemented during 2006. These are costs incurred to comply with new environmental legal requirements imposed on the Company and this compliance activity is not being recovered through base rates or any other means.

OPC, FIPUG and FRF take no position.

PROPOSED STIPULATION

ISSUE 11B: How should the costs for GULF's arsenic groundwater remediation activities at Plants Crist and Scholz be allocated to the rate classes?

If approved for recovery, the proposed capitalized costs should be allocated to the rate classes on 12 coincident peak demand and 1/13 average demand basis.

OPC takes no position.

PROPOSED STIPULATION

ISSUE 11C: Should the Commission approve GULF's request for recovery of costs for water conservation measures at Plant Crist?

Yes. This program is part of GULF's water conservation and consumptive use efficiency program required by the consumptive water use permit issued to GULF for Plant Crist by the

Northwest Florida Water Management District (NFWWMD). GULF plans to install automatic level controls on the fire water tanks at Plant Crist to reduce groundwater consumption by an estimated 1.3 million gallons per year. The NFWWMD has agreed that this plan is a valid project to pursue for continued implementation of the water conservation effort as required by the consumptive use permit. The costs associated with this project are being incurred to comply with new environmental legal requirements imposed on the Company and this compliance activity is not being recovered through base rates or any other means.

OPC, FIPUG and FRF take no position.

PROPOSED STIPULATION

ISSUE 11D: How should the costs for GULF's Plant Crist water conservation measures be allocated to the rate classes?

If approved for recovery, the proposed capitalized costs should be allocated to the rate classes on 12 coincident peak demand and 1/13 average demand basis.

OPC takes no position.

PROPOSED STIPULATION

ISSUE 11E: Should the Commission approve GULF's request for recovery of costs for replacement of the copper condenser tubes at Plant Crist with stainless steel condenser tubes?

Yes. The water quality based copper effluent limitations included in Chapter 62, Part 302, Florida Administrative Code, were amended in April 2002 with an effective date of May 2002 to create a more stringent hardness based standard. The more stringent standard has been included by reference in the industrial wastewater permit issued to GULF for Plant Crist. Surface water studies conducted from 2003 through 2005 have determined that the Crist Unit 6 condenser is the main source of the incremental copper increase in the Plant Crist discharge. GULF plans to install stainless steel condenser tubes on Crist Unit 6 to eliminate this source of copper in the plant's discharge canal in order to meet the new water quality standard. The new tubes are expected to be placed in service during May 2006 with estimated project expenditures totaling \$5.5 million. These are costs incurred to comply with new environmental legal requirements imposed on the Company and this compliance activity is not being recovered through base rates or any other means.

OPC, FIPUG and FRF take no position.

PROPOSED STIPULATION

ISSUE 11F: How should the costs for GULF's Plant Crist condenser tube replacement be allocated to the rate classes?

If approved for recovery, the proposed capitalized costs should be allocated to the rate classes on 12 coincident peak demand and 1/13 average demand basis.

OPC and FRF take no position.

PROPOSED STIPULATION

ISSUE 11G: Should the Commission approve recovery of costs associated with planning and construction of the proposed Scrubber Project at Plant Crist?

ISSUE 11H: Should the Commission approve recovery of costs associated with planning and construction of the proposed baghouse project at Smith Unit 2?

The Scrubber Project (Line Item 1.26) discussed in Issue 11G and the Plant Smith Baghouse Project (Line Item 1.27) discussed in Issue 11H are proposed as additions to Gulf's Air Quality programs in order for Gulf to comply with new environmental regulations, including the EPA's Clean Air Interstate Rule (CAIR) and Clean Air Mercury Rule (CAMR), as described in the testimony of Gulf's witness James O. Vick filed on September 15, 2005. CAIR and CAMR are "environmental regulations" as defined in Section 366.8255(1)(c), and costs incurred to comply with these rules are eligible for recovery through the Environmental Cost Recovery Clause. The Scrubber Project and the Baghouse Project are capital projects of such magnitude in dollars and construction time that the Commission's policy regarding AFUDC is applicable. As a result, there is no dollar impact on the ECRC factors for 2006 from these programs. Any money actually spent on these projects in 2006 will be capitalized along with the applicable AFUDC and will be reflected in the proposed ECRC factors for the year when the projects are expected to close to plant-in-service. Although the EPA's CAIR and CAMR are subject to on-going rule challenges which may change the need for the proposed action, at this time the effective date of the rules as promulgated by the EPA have not been stayed. The FDEP has not yet adopted its rules implementing CAIR/CAMR at the state level, but is expected to do so during 2006. As a result, Gulf's decisions regarding the appropriate strategy for CAIR/CAMR compliance are still subject to review. For this reason, Issues 11G and 11H and any consideration of the prudence and reasonableness of specific technologies and associated project costs related to Gulf's CAIR/CAMR activities, including the costs to implement these projects during 2006, shall be deferred to later proceedings in this ongoing docket after Gulf has finalized its decisions regarding these two projects and has submitted additional testimony supporting its choice of CAIR/CAMR compliance options. The deferral of these issues shall not prejudice the rights of Gulf or any parties to this docket with respect to the projects identified in these issues. The deferral shall not be construed as a restriction on Gulf's ability to spend money during 2006 on these projects that are intended for future recovery through the ECRC mechanism and such money shall remain eligible for ECRC recovery subject to future reasonableness and prudence review by the Commission following the filing of Gulf's additional evidence regarding its final compliance strategy. Likewise, the deferral shall not prejudice the rights of OPC and other parties to conduct discovery and possibly challenge the reasonableness or prudence of any projects or associated costs related to Gulf's CAIR/CAMR compliance strategy in such future proceedings. Mr. Vick's testimony shall be entered in the record, but receipt thereof shall not be considered as the Commission's approval of the reasonableness and prudence of Gulf's CAIR and CAMR compliance projects.

FIPUG and FRF take no position.

Tampa Electric Company

There are no company specific issues for Tampa Electric Company.

X. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
J. O. Vick	Gulf	<u>(JOV-1)</u>	Correspondence; Program documentation.
T. A. Davis	Gulf	<u>(TAD-1)</u>	Calculation of final true-up 1/04-12/04.
		<u>(TAD-2)</u>	Calculation of estimated true-up 1/05-12/05.
		<u>(TAD-3)</u>	Calculation of Projection 1/06-12/06.
J. Portuondo	PEF	<u>(JP-1)</u>	ECRC Forms 42-1A through 42-8A
		<u>(JP-2)</u>	ECRC Forms 42-1E through 42-8E.
		<u>(JP-3)</u>	ECRC Forms 42-1P through 42-7P.
K. D. Hedrick	PEF	<u>(KDH-1)</u>	Rule 62B-55.006, F.A.C.
		<u>(KDH-2)</u>	Franklin County Ordinance.
		<u>(KDH-3)</u>	Gulf County Ordinance.
		<u>(KDH-4)</u>	Mexico Beach Ordinance.
P. Q. West	PEF	<u>(PQW-1)</u>	Rule 62-550.310, F.A.C.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(PQW-2)</u>	Rule 62-520.420, F.A.C.
		<u>(PQW-3)</u>	Rule 62-761.510(5), F.A.C.
		<u>(PQW-4)</u>	PEF Underground Storage Tanks.
K. M. Dubin	FPL	<u>(KMD-1)</u>	Appendix I Environmental Cost Recovery Final True up January – December 2004 Commission Forms 42-1A through 42-8A
		<u>(KMD-2)</u>	Appendix I Environmental Cost Recovery Estimated/Actual Period January-December 2005 Commission Forms 42-1E through 42-8E
		<u>(KMD-3)</u>	Appendix I Environmental Cost Recovery Projections January-December 2006 Commission Forms 42-1P through 42-7P
R. R. LaBauve	FPL	<u>(RRL-1)</u>	Manatee Unit 3 Power Plant Siting Application PA-22-44
		<u>(RRL-2)</u>	Final Order of Certification and Excerpts from Conditions of Certification – Section XXXIII – Water Management District. Hydrobiological Monitoring Program Compliance Acti- vities and Dates.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(RRL-3)</u>	Environmental Protection Agency 40 CFR Parts 51, 72-74, 77, 78, and 96 Clean Air Interstate Rule.
		<u>(RRL-4)</u>	Environmental Protection Agency 40 CFR Part 51 Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations; Final Rule.
H. T. Bryant	TECO	<u>(HTB-1)</u>	Final Environmental Cost Recovery Commission Forms 42-1A through 42-8A for the period January 2004 through December 2004.
		<u>(HTB-2)</u>	Environmental Cost Recovery Commission Forms 42-1E through 42-8E for the period January 2005 through December 2005.
		<u>(HTB-3)</u>	Forms 42-1P through 42-7P for January 2006 through December 2006.

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

XI. PROPOSED STIPULATIONS

Generic Issues

Issues 1-8 are stipulated between Staff and TECO, and Staff and Gulf, with OPC, FIPUG and FRF taking no position.

Issues 1 and 6 are stipulated between Staff and all the utilities with OPC, FIPUG and FRF taking no position.

Issue 5 is stipulated between Staff and all the utilities with FIPUG and FRF taking no position.

Issue 8 is stipulated between Staff and all the utilities with OPC and FRF taking no position.

GULF's Specific Issues

Issues 11B, 11D and 11F are stipulated between Gulf, Staff, FIPUG, and FRF, with OPC taking no position.

Issues 11A, 11C and 11E are stipulated between Gulf and Staff with OPC, FIPUG and FRF taking no position.

Issues 11G and 11H are stipulated between Gulf, Staff, OPC, FIPUG and FRF.

FPL's Specific Issues

Issue 9A is stipulated between FPL and Staff.

Issue 9F is stipulated between Staff and FPL with OPC, FIPUG and FRF taking no position.

Issue 9H is stipulated between Staff and FPL with OPC, FIPUG and FRF taking no position.

PEF's Specific Issues

Issues 10A, 10B, 10C and 10E are stipulated between PEF and Staff with OPC, FIPUG and FRF taking no position.

Issues 10G and 10H are stipulated between PEF, OPC, Staff, FIPUG and FRF.

XII. PENDING MOTIONS

None at this time.

XIII. PENDING CONFIDENTIALITY MATTERS

None at this time.

XIV. RULINGS

GULF is granted leave to amend its petition filed on September 16, 2005.

GULF's Request for Temporary Protective Order of Document No. 09979-05 (Response to Citizen's 2nd Request for POD's (No. 2), which consists of Response to Staff's 4th Request for POD's (No. 5)), filed on October 17, 2005, appears to meet the definition of "proprietary confidential business information" in Section 366.093(3), Florida Statutes, and shall be handled in accordance with Rule 25-22.006(6)(c), Florida Administrative Code.


PEF's Motion for Temporary Protective Order of certain information being provided in response to OPC's 2nd set of interrogatories, No. 10, filed on October 19, 2005, appears to meet the definition of "proprietary confidential business information" in Section 366.093(3), Florida Statutes, and shall be handled in accordance with Rule 25-22.006(6)(c), Florida Administrative Code.

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

It is therefore,

ORDERED by Commissioner Rudolph "Rudy" Bradley, 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 Rudolph "Rudy" Bradley, as Prehearing Officer, this 3rd day of November, 2005.


RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

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; 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.