

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 070002-EG
ORDER NO. PSC-07-0878-PHO-EG
ISSUED: October 31, 2007

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on October 22, 2007, in Tallahassee, Florida, before Commissioner Matthew M. Carter II, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD, ESQUIRE, AND NATALIE F. SMITH, ESQUIRE,
700 Universe Boulevard, Juno Beach, Florida 33408-0420
On behalf of Florida Power & Light Company (FPL).

NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello & Self, P.A., Post
Office Box 15579, Tallahassee, Florida 32317
On behalf of Florida Public Utilities Company (FPUC).

JEFFREY A. STONE, ESQUIRE, RUSSELL A. BADDERS, ESQUIRE AND
STEVEN R. GRIFFIN, ESQUIRE, Beggs & Lane, Post Office Box 12950,
Pensacola, Florida 32591-2950
On behalf of Gulf Power Company (Gulf).

JOHN T. BURNETT, ESQUIRE, Associate General Counsel, Progress Energy
Service Co., LLC, Post Office Box 14042, St. Petersburg, Florida 33733-4042
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).

PATRICIA A. CHRISTENSEN, ESQUIRE, Associate Public Counsel, JOSEPH
A. MCGLOTHLIN, ESQUIRE, Associate Public Counsel, AND CHARLES J.
BECK, ESQUIRE, Deputy Public Counsel, Office of Public Counsel, c/o The
Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida
32399-1400
On behalf of the Citizens of the State of Florida (OPC).

JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter, Reeves & Davidson, P.A.,
400 North Tampa Street, Suite 2450, Tampa, Florida 33602
On behalf of the Florida Industrial Power Users Group (FIPUG).

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FPSC-COMMISSION CLERK

KATHERINE E. FLEMING, ESQUIRE, Florida Public Service Commission,
2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Commission's continuing energy conservation cost recovery proceedings, an administrative hearing is set for November 6-8, 2007. The parties have reached agreement concerning all issues identified for resolution at this hearing. Staff is prepared to present the panel with a recommendation at the hearing for approval of the stipulated positions set forth herein. The Commission may render a bench decision in this matter.

II. 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.

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 25-17, 25-22, and 28-106, Florida Administrative Code.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 119.07(1), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, shall be treated by the Commission 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 pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, Florida Statutes. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this 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. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. 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.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

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 Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), Florida Administrative Code, if continued confidentiality of the information is to be maintained.

V. 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.

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 Wednesday, October 31, 2007, 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 IX of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*Kenneth Getchell	FPL	1, 2, 3
*Marc S. Seagrave	FPUC	1, 2, 3
*William D. Eggart	GULF	1, 2, 3
*John A. Masiello	PEF	1, 2, 3
*Howard T. Bryant	TECO	1, 2, 3, 4, 5

VII. BASIC POSITIONS

FPL: FPL's proposed Conservation Cost Recovery Factors for the January 2008 through December 2008 recovery period and true-up amounts for prior periods should be approved.

FPUC: FPU has properly projected its costs and calculated its true-up amounts and conservation cost recovery factors. Those amounts and factors should be approved by the Commission.

GULF: It is the basic position of Gulf Power Company that the proposed ECCR factors present the best estimate of Gulf's Conservation expense for the period January 2008 through December 2008, including the true up calculations and other adjustments allowed by the Commission.

PEF: None necessary.

TECO: The Commission should determine that Tampa Electric has properly calculated its conservation cost recovery true-up and projections and that the appropriate conservation cost recovery factor to be applied by Tampa Electric during the period January 2008 through December 2008 is 0.076 cents per KWH for

Interruptible, 0.098 cents per KWH for Residential, 0.095 cents per KWH for General Service Non-Demand and Temporary Service, 0.084 cents per KWH for General Service Demand – Secondary, 0.083 cents per KWH for General Service Demand – Primary, 0.075 cents per KWH for General Service Large Demand and Firm Standby – Secondary, 0.074 cents per KWH for General Service Large Demand and Firm Standby – Primary, 0.073 cents per KWH for General Service Large Demand and Firm Standby – Subtransmission, and 0.034 cents per KWH for Lighting.

The Commission should also approve the \$7.48 per KW Contracted Credit Value Tampa Electric has calculated for the GSLM-2 and GSLM-3 rate riders for use during the period January 2008 through December 2008.

OPC: None at this time.

FIPUG: FIPUG'S basic position is that current conservation programs could be improved if customer initiated demand side programs were given credence by the Commission and if the RIM tests were modified to focus on programs that have the potential for causing base rate increases rather than the current formula which causes programs to fail unless fuel savings combined with avoided plant costs out point lost base rate revenue by 120%. This position does not affect currently requested conservation cost recovery factors, but should be given consideration to incent future customer initiated conservation programs.

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 Conservation Cost Recovery Issues

STIPULATED

ISSUE 1: What are the appropriate final conservation cost recovery true-up amounts for the period January 2006 through December 2006?

POSITIONS:

Florida Power & Light (FPL)	\$161,769	Overrecovery
Florida Public Utilities (FPUC)	\$44,616	Overrecovery
Gulf Power Company (GPC)	\$952,442	Overrecovery
Progress Energy Florida (PEF)	\$11,529,794	Overrecovery
Tampa Electric Company (TECO)	\$1,192,467	Overrecovery

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 2: What are the appropriate conservation cost recovery factors for the period January 2008 through December 2008?

POSITIONS:

FPL	Rate Class	ECCR Factor
	RS1/RST1	0.145 cents/Kwh
	GS1/GST1	0.143 cents/Kwh
	GSD1/GSDT1/HLTF (21-499kW)	0.133 cents/Kwh
	OS2	0.150 cents/Kwh
	GSLD1/GSLDT1/CS1/CST1/HLTF (500-1,999 kW)	0.130 cents/Kwh
	GSLD2/GSLDT2/CS2/CST2/HLTF (2,000+kW)	0.119 cents/Kwh
	GSLD3/GSLDT3/CS3/CST3	0.114 cents/Kwh
	ISST1D	0.120 cents/Kwh
	ISST1T	0.095 cents/Kwh
	SST1T	0.095 cents/Kwh
	SST1D1/SST1D2/SST1D3	0.120 cents/Kwh
	CILC D/CILC G	0.119 cents/Kwh
	CILC T	0.113 cents/Kwh
	MET	0.138 cents/Kwh

FPL	Rate Class	ECCR Factor
	OL1/SL1/PL1 SL2, GSCU1	0.085 cents/Kwh 0.102 cents/Kwh
FPUC	Rate Class	ECCR Factor
	(Consolidated)	0.00067 cents/Kwh
GULF	Rate Class	ECCR Factor
	RS, RSVP	0.097 cents/Kwh
	GS	0.094 cents/Kwh
	GSD, GSDT, GSTOU	0.090 cents/Kwh
	LP, LPT	0.085 cents/Kwh
	PX, PXT, RTP, SBS	0.081 cents/Kwh
	OSI, OSII	0.071 cents/Kwh
	OSIII	0.084 cents/Kwh
PEF	Rate Class	ECCR Factor
	Residential	0.201 cents/Kwh
	General Svc. Non-Demand	0.181 cents/Kwh
	@ Primary Voltage	0.179 cents/Kwh
	@ Transmission Voltage	0.177 cents/Kwh
	General Svc. 100% Load Factor	0.145 cents/Kwh
	General Svc. Demand	0.163 cents/Kwh
	@ Primary Voltage	0.161 cents/Kwh
	@ Transmission Voltage	0.160 cents/Kwh
	Curtaillable	0.136 cents/Kwh
	@ Primary Voltage	0.135 cents/Kwh
	@ Transmission Voltage	0.133 cents/Kwh
Interruptible	0.148 cents/Kwh	
@ Primary Voltage	0.147 cents/Kwh	
@ Transmission Voltage	0.145 cents/Kwh	
Lighting	0.087 cents/Kwh	

TECO	Rate Class	ECCR Factor
	Interruptible	0.076 cents/Kwh
	Residential	0.098 cents/Kwh
	General Svc., TS	0.095 cents/Kwh
	General Svc. Demand	0.084 cents/Kwh
	@ Primary Voltage	0.083 cents/Kwh
	General Svc. LD, SBF	0.075 cents/Kwh
	@ Primary Voltage	0.074 cents/Kwh
	@ Subtransmission Voltage	0.073 cents/Kwh
	SL, OL	0.034 cents/Kwh

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 3: What should be the effective date of the new conservation cost recovery factors for billing purposes?

POSITION: The factors should be effective beginning with the specified conservation cost recovery cycle and thereafter for the period January 2008 through December 2008. Billing cycles may start before January 1, 2008, and the last cycle may be read after December 31, 2008, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

OPC: No position.

FIPUG: January 1, 2008.

Company Specific Conservation Cost Recovery Issues

Tampa Electric Company

STIPULATED

ISSUE 4: What is the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric Company for the period January 2008 through December 2008?

POSITION: In accordance with the program requirement and methodology established by Order No. PSC-99-1778-FOF-EI, issued September 10, 1999, in Docket No. 990037-EI, the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders will be \$7.48 per KW for the period January 2008 through December 2008.

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 5: What are the residential Price Responsive Load Management (RSVP-1) rate tiers for Tampa Electric Company for the period January 2008 through December 2008?

POSITION: In accordance with the program requirement and methodology established by Order No. PSC-07-0740-TRF-EG, issued September 17, 2007, in Docket No. 070056-EG, the rate tiers for RSVP-1 will be as follows:

Rate Tier	
P4	39.895 cents/ Kwh
P3	7.041 cents/ Kwh
P2	(1.033) cents/ Kwh
P1	(2.343) cent/Kwh

OPC: No position provided.

FIPUG: No position provided.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Kenneth Getchell	FPL	KG-1	Schedules CT-1 through CT-6, Appendix A
Kenneth Getchell	FPL	KG-2	Schedules C-1 through C-5
Marc S. Seagrave	FPUC	MSS-1	True-up calculations and Schedules CT-1, CT-2, CT-3, CT-4, CT-5, and CT-6
Marc S. Seagrave	FPUC	MSS-2	Projections calculations and Schedules C-1, C-2, C-3, C-4, and C-5

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
William D. Eggart	GULF	WDE-1	Schedules CT-1 through CT-6
William D. Eggart	GULF	WDE-2	Schedules C-1 through C-5
John A. Masiello	PEF	JAM-1T	ECCR Adjusted Net True-Up for January – December 2006, Schedules CT1 – CT5
John A. Masiello	PEF	JAM-1P	Estimated/Actual True-Up, January – December 2007 and ECCR Factors for Billings in January – December 2008, Schedules C1 – C5
Howard T. Bryant	TECO	HTB-1	Schedules supporting cost recovery factor, actual January 2006 – December 2006
Howard T. Bryant	TECO	HTB-2	Schedules supporting conservation costs projected for the period January 2008 – December 2008

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

X. PROPOSED STIPULATIONS

There are proposed stipulations on all issues, noting that OPC and FIPUG have taken no position.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIII. POST-HEARING PROCEDURES

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.

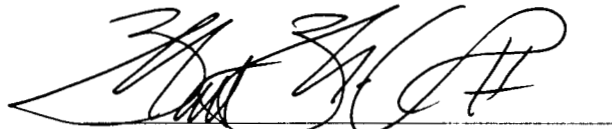
XIV. RULINGS

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

It is therefore,

ORDERED by Commissioner Matthew M. Carter II, 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 Matthew M. Carter II, as Prehearing Officer, this 31st day of October, 2007.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

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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 Office of Commission Clerk, 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.