

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.	DOCKET NO. 100001-EI ORDER NO. PSC-10-0734-FOF-EI ISSUED: December 20, 2010
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The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
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FINAL ORDER APPROVING EXPENDITURES AND TRUE-UP AMOUNTS FOR FUEL
ADJUSTMENT FACTORS; GPIF TARGETS, RANGES, AND REWARDS; AND
PROJECTED EXPENDITURES AND TRUE-UP AMOUNTS FOR CAPACITY COST
RECOVERY FACTORS

BY THE COMMISSION:

As part of the continuing fuel and purchased power adjustment and generating performance incentive clause proceedings, an administrative hearing was held by the Public Service Commission on November 1-2, 2010, in this docket.¹ The hearing addressed the issues set out in Order No. PSC-10-0654-PHO-EI, issued October 29, 2010 (Prehearing Order). Several of the positions on these issues were not contested by the parties and were presented to

¹ This hearing did not involve any issues related to Florida Power & Light Company (FPL), nor did FPL participate.

us for approval without objections, but some contested issues remained for our consideration. As set forth fully below, we approve each of the uncontested positions presented. Our rulings on the remaining issues are also discussed below.

We have jurisdiction over this subject matter pursuant to the provisions of Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06, F.S.

I. COMPANY-SPECIFIC FUEL COST RECOVERY ISSUES

A. Progress Energy Florida, Inc.

Hedging Activities for 2009 and for January through July 2010

Having reviewed the testimony, exhibits, and discovery responses of PEF for its hedging activities, we approve as prudent PEF's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices for the 12-month period ending July 31, 2010. PEF entered into its hedging positions at market prices. Our staff audited the company's hedging activity and results for this period and found that the company has followed its Risk Management Plan when entering into hedging positions. Therefore, we find the company's hedging results for this period are prudent.

The appropriate overall objective of a utility hedging program is to mitigate fuel price volatility. With a prudently managed hedging program, the utility will incur hedging gains, or savings, in some periods and will incur hedging losses, or costs, in other periods. The appropriate determinants of prudent hedging activities do not lie within hedging gains or losses, but rather in whether the utility entered into hedging positions at market prices, followed its Risk Management Plan and did not speculate on future market conditions.

Risk Management Plan for 2011

Having reviewed the testimony, exhibits, and discovery responses of PEF, we find that 2011 Risk Management Plan complies with our guidelines. We established guidelines for a utility's Risk Management Plan by Order No. PSC-08-0667-PAA-EI. These guidelines specify the utility must file a minimum quantity of volumes of fuel to be hedged, ensure separation of duties when carrying out hedging activities and ensure the utility is dealing with credit-worthy counter-parties. By following its 2011 Risk Management Plan, PEF would accomplish the commission goal of utility hedging by reducing fuel price volatility, and would not engage in speculative hedging activities. We note that PEF's Risk Management Plan has not changed significantly from the company's previously approved Risk Management Plan.

Recovery of Costs Associated with the CR3 Outage

By Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, the issue of prudence of PEF's replacement power costs related to the extended outage at Crystal River Nuclear Unit 3

(CR3) will be considered in Docket No. 100437-EI. Whether to allow the replacement power costs was decided by this Commission at the November 30, 2010 Commission Conference. Our decision to permit recovery is discussed in depth below.

Background

Progress Energy Florida, Inc. (PEF) experienced an unplanned outage at its Crystal River Nuclear Unit 3 (CR3), starting in mid-December 2009. PEF expects CR3 to return to service in the fourth quarter of 2010. PEF has incurred replacement power costs as a result of the extended outage. PEF is seeking to recover in its 2011 fuel factor all the replacement fuel costs not covered by the Nuclear Electric Insurance Limited (NEIL) policy. PEF provided pre-filed testimony and E-Schedules in support of its proposed 2011 factor. As a result of lower natural gas prices and at the request of staff, PEF's provided revised schedules showing its 2011 fuel factor with and without the costs associated with the outage. Whether PEF should recover the replacement power costs was identified as an issue for consideration during the November 2010 fuel clause hearing.

At the request of our staff during the fuel clause hearing, PEF supplied a hearing exhibit (Exhibit 71) with revised positions, fuel factors, and E-Schedules based on lower natural gas prices. Exhibit 71 also showed the revised 2011 fuel factor with and without the CR3 outage costs. After some review, PEF and the parties stipulated to admitting this exhibit into the record as a basis for this Commission to preliminarily establish PEF's 2011 fuel factor. In addition, we ordered PEF to file a mid-course correction petition and provide E-Schedules that provide a range of recoverable amounts related to CR3 (100 percent, 50 percent, and zero percent). We deferred our decision on whether to allow PEF to recover the CR3 outage costs in the 2011 factor until the November 30, 2010, Commission Conference.

In deferring our decision, we asked the parties to brief the issues related to the CR3 extended outage and specifically address whether PEF should recover some or all of these costs prior to a prudence determination on the underlying cause of the extended outage. On November 8, 2010, PEF filed its post-hearing brief, Florida Industrial Power Users Group (FIPUG), the Office of the Attorney General (AG), the Office of Public Counsel (OPC), and the Florida Retail Federation (FRF) (collectively "Intervenors") filed a joint post-hearing brief, and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS) filed its post-hearing brief.

Herein we address PEF's request to recover replacement power costs for its CR3 through the fuel adjustment clause outage prior to our determination in a separate docket as to the prudence of PEF's actions related to the outage. The issue of prudence will be addressed in Docket No. 100437-EI, a "spin-off" docket.² By separate order regarding PEF's petition for

² Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, in Docket No. 100001-EI, "spun-off" the issue of prudence to a separate proceeding and Docket No. 100437-EI, In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc., was established to review the prudence of the cause and costs of the CR3 outage.

mid-course correction, we declined to approve the fuel factors in PEF's petition and instead kept in place the 2011 fuel factors approved during the November fuel clause hearing.

Analysis of whether to permit recovery of CR3 replacement power costs

At the conclusion of the November 1-2, 2010 fuel clause hearing, we asked the parties to brief the various options available to us as it relates to PEF's request for recovery of the replacement power costs associated with the CR3 outage. Specifically, we requested that the following options be discussed: (1) recovery of CR3 replacement power costs prior to a prudence review; (2) recovery of CR3 replacement power costs only after a prudence review has been conducted by this Commission; and (3) partial recovery of CR3 replacement power costs in the 2011 factors and partial recovery at a later time. In addition, we asked the parties to brief the following orders and their applicability to the instant case: Order Nos. PSC-97-0359-FOF-EI,³ PSC-97-0608-FOF-EI,⁴ PSC-98-0049-FOF-EI,⁵ (three orders relating to the 1997 CR3 outage for which this Commission approved recovery of outage costs), and Order No. PSC-07-0816-FOF-EI⁶ (relating to the PEF coal refund docket).

As noted in the briefs filed by the parties to this proceeding, the decision whether to allow recovery in the 2011 fuel factor of the replacement power costs associated with the CR3 outage involves both legal and regulatory policy considerations. The parties discussed the three options in their briefs. PEF argues that our prior Order Nos. 12645 and PSC-07-0816-FOF-EI require us to approve current recovery of the replacement power costs in the 2011 factor. In the Intervenor's brief, the Intervenor contends that PEF has not met the burden of proving the costs are reasonable as required by Order Nos. PSC-97-0359-FOF-EI and PSC-98-0049-FOF-EI. The Intervenor concludes that we must deny recovery of the CR3 replacement power costs prior to a prudence review. The Intervenor and PCS contend that we have discretion to allow all, some, or none of the costs prior to a prudence review. PEF argues we lack the discretion to disallow all or a part of the replacement power costs.

This order specifically examines whether we have the discretion to allow the recovery of the costs as argued by PEF, to defer the recovery of the costs as argued by the Intervenor and PCS, or to allow a partial recovery of the costs as suggested by the Intervenor and PCS. We have reviewed the parties' arguments and the orders referenced and conclude that all three options are available to us in this docket.

³ Order No. PSC-97-0359-FOF-EI, issued March 31, 1997, in Docket No. 970001-EI, In re: Fuel and purchase power cost recovery clause and generating performance incentive factor.

⁴ Order No. PSC-97-0608-FOF-EI, issued May 28, 1997, in Docket No. 970001-EI, In re: Fuel and purchase power cost recovery clause and generating performance incentive factor.

⁵ Order No. PSC-98-0049-FOF-EI issued January 7, 1998, in Docket No. 971513-EI, In re: Establishment of additional filing requirements in the fuel and purchased power cost recovery clause when certain threshold levels are met.

⁶ Order No. PSC-07-0816-FOF-EI, issued October 10, 2007, in Docket No. 060658-EI, In re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million.

Option 1: Allow Recovery Subject to Refund.

PEF contends that if it meets the requirements of existing orders, we do not have discretion to postpone all or a portion of the recovery of replacement power costs for CR3 in the 2011 fuel factors. PEF asserts that the fuel clause is an ongoing proceeding where the reasonableness of underlying fuel costs sought for recovery is analyzed on an ongoing basis. PEF argues that allowing utilities to recover fuel costs subject to a subsequent prudence review by us prevents regulatory lag and is consistent with our prior decisions. PEF argues that Order 12645, and other orders, allow interim recovery of fuel costs subject to refund. The allowance of interim recovery of costs, subject to refund, is the *quid pro quo* exchange which the utility makes with us for the uncertainty as to whether those costs will be determined to be prudent. PEF asserts that a regulated utility, in exchange for having its rates set by the regulator, is allowed to recover its reasonable and prudent costs. PEF argues that because of that regulatory compact, we cannot use our discretion to deny the utility the benefit of timely recovering interim fuel costs which are subject to refund. According to PEF, we should not deviate from our own policies with no record foundation for doing so. It is the long standing policy of this Commission to allow recovery if the proper showing for recovery is made. PEF asserts that it would be arbitrary and capricious if we attempted to disallow interim recovery.

Analysis of Order No. 12645

Whether a utility may recover fuel costs, subject to refund, prior to a prudence determination requires a discussion of Order No. 12645, issued November 3, 1983, in Docket No. 830001-EU, In re: Investigation of Fuel Adjustment Clauses of Electric Utilities, the seminal order establishing the basis for when we conduct a prudence review in the annual fuel and purchased power cost recovery clause (fuel clause) hearing. This order established that we do not conduct a prudence review of costs in the annual fuel clause hearing unless prudence of a cost is raised as an issue ahead of time. Order No. 12645 at 23-24 (“Although the burden of proving the prudence of its actions will remain with the utility, the question of prudence will arise only as facts regarding fuel procurement justify scrutiny.”) As we stated, “[q]uestions of prudence require careful and often prolonged study. When a question arises as to the prudence of a utility's expenditures, proper time should be taken to fully analyze the question and resolve the matter on all of the facts available.” *Id.* at 23. Until there are facts and evidence in the record, and time to fully analyze those facts and evidence, no determination of prudence can be properly made. *Id.* at 23-24. In the fuel clause hearing, we will:

accept any relevant proof a utility chooses to present at true-up, but [the Commission] will not adjudicate the question of prudence, nor consider [itself] bound to do so until all relevant facts are analyzed and placed before [it]. [The Commission] will be free to revisit any transaction until [it] explicitly determine[s] the matter to be fully and finally adjudicated.

Id. at 24-25. Pursuant to Order No. 12645, we may approve fuel clause related costs prior to a prudence determination. These costs are subject to further review and refund. *Id.* at 22. This order does not address the issue of how costs may be recovered once a cost is called into

question. This order is also silent as to our discretion to allow some or all of the costs prior to a prudence determination.

Analysis of Order No. PSC-07-0816-FOF-EI

We reaffirmed our practice to approve fuel clause related costs prior to a prudence determination by Order No. PSC-07-0816-FOF-EI, issued October 10, 2007, in Docket No. 060658-EI, In re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$ 143 million. In this docket, we conducted a prudence review of certain coal purchases made by PEF and an affiliate company. Although this docket came about in response to a motion made in the 2006 fuel clause proceeding, we made clear that it was a “spin-out” consideration. In this Order, we cited Order 12645, discussed above, as our rationale for examining prudence separately from fuel cost recovery clause consideration. This Order stated:

The fuel clause is a comparison of a utility’s projected fuel costs to the costs actually expended. It is not a prudence review. We will consider prudence of fuel expenditures when the issue is brought to us by the parties.

Order No. PSC-07-0816-FOF-EI at 15. As reaffirmed by this order, a fuel cost recovery clause proceeding is generally not the venue for a prudence review except when the prudence of a cost being recovered is highlighted as a separate issue for us to determine.

We determine that Order No. PSC-07-0816-FOF-EI is not dispositive of the issue of whether we have discretion to postpone recovery of costs when the prudence of those expenditures is called into question. It affirms Order 12645 in that we may go back to review the prudence of expenditures approved and recovered in the fuel clause. An analysis of the our discretion to allow or defer recovery is found in Order No. PSC-97-0359-FOF-EI, discussed here and again below.

Analysis of Order No. PSC-97-0359-FOF-EI

In Order No. PSC-97-0359-FOF-EI, when considering whether to allow the utility to collect replacement power costs prior to the prudence review, we stated:

We are confronted with two options to resolve this matter. If we permit recovery now, we can later order a refund of these costs, with interest, if we determine the costs were imprudently incurred. We may also deny recovery at this time, until we have investigated the outage and assessed the reasonableness of management's actions, both before and after the outage occurred. If we delay recovery of these costs until it is determined that all or a significant portion were prudently incurred, however, we may be putting a significant burden on customers at some future period. That burden will be heightened by interest which will accumulate on the unrecovered costs.

Id. at 14-15. By this Order, we indicated that we have discretion to either allow costs to be recovered prior to a prudence review, or wait until it makes a determination of the prudence of the utility's conduct and then allow those costs to be recovered. In allowing recovery subject to refund, we based our decision on regulatory policy. The Intervenor and PCS also cited Order No. PSC-97-0359-FOF-EI in support of their positions to defer recovery; this Order will be discussed in further detail below.

Option 2: Disallow Recovery Until After a Prudence Review.

Intervenor asserts that we clearly have authority to and should deny recovery of replacement fuel costs until there has been a determination of prudence in the separate proceeding. Intervenor asserts that pursuant to Order No. PSC-97-0359-FOF-EI, as clarified in Order No. PSC-98-0049-FOF-EI, a utility seeking replacement power costs must preliminarily and affirmatively demonstrate two things: 1) that the actions or events that gave rise to the need for the replacement power were reasonable; and 2) that the costs of the replacement power were reasonable. Intervenor asserts that PEF only provided sufficient evidence to satisfy the second prong, and failed to provide sufficient evidence to satisfy the first prong. Intervenor argues PEF understood that the Order required a showing of reasonableness of the actions or events that caused the purchase of replacement power and failed to do so. Intervenor asserts that we should not vitiate or recede from the two-pronged test in Order No. PSC-97-0359-FOF-EI. As such, Intervenor asserts that PEF should not be allowed to recover any replacement costs in advance of the subsequent prudence determination.

PEF asserts that it has provided evidence to support the reasonableness of its fuel costs through its regular filings in the fuel clause. PEF argues that the "actions and events" requirement in Order No. PSC-97-0359-FOF-EI no longer applies because the "actions and events" requirement was not mentioned in Order Nos. PSC-97-0608-FOF-EI and PSC-98-0049-FOF-EI, which were decided subsequently, nor mentioned in any other interim rate recovery proceedings. PEF asserts that Order Nos. PSC-97-0608-FOF-EI and PSC-98-0049-FOF-EI establish that reasonableness of projected costs, as determined by comparing a utility's projected fuel costs to the costs actually expended, is what is required for recovery through the fuel clause.

Analysis of Order No. PSC-97-0359-FOF-EI

In September of 1996, the CR3 unit went offline for an extended period of time. In the 1997 Fuel Clause proceeding, PEF (then doing business as Florida Power Corporation or FPC) sought to recover the replacement power costs associated with the extended CR3 outage. The following excerpts from Order No. PSC-97-0359-FOF-EI, issued March 31, 1997, in Docket No. 970001-EI, are relevant to the instant case:

We have a great deal of difficulty with allowing recovery of these [replacement power] costs. . . . In the past, we have permitted utilities to recover costs on a preliminary basis, subject to audit, 'true-up' with interest and an after-the-fact prudence review.

...

We are confronted with two options to resolve this matter. If we permit recovery now, we can later order a refund of these costs, with interest, if we determine the costs were imprudently incurred. We may also deny recovery at this time, until we have investigated the outage and assessed the reasonableness of management's actions, both before and after the outage occurred. If we delay recovery of these costs until it is determined that all or a significant portion were prudently incurred, however, we may be putting a significant burden on customers at some future period. That burden will be heightened by interest which will accumulate on the unrecovered costs.

Id. at 14-15. From the Order, we displayed some reticence about allowing the utility to recover the 1997 CR3 outage costs. We considered the benefits and burdens to the customers when it considered whether to allow recovery subject to refund of the 1997 CR3 outage replacement power costs prior to a determination of prudence. Ultimately, we allowed the utility cost recovery and initiated a separate docket to determine the prudence of management actions related to the CR3 outage and the replacement power costs.⁷ When considering its two options, we did not cite to any orders; we presumed that it had the discretion to allow or deny the interim recovery.

While the amount of the costs being sought by the utility in 1997 was not mentioned, the amount appears to be significant enough to have caused this Commission to require something more than what the utility had provided in that fuel clause proceeding. We stated:

... In the future, however, when a utility seeks to recover costs which have a significant impact on the utility's fuel adjustment factor, the utility must affirmatively demonstrate prior to approval for recovery that the actions or events that gave rise to the need for the recovery and the underlying costs are reasonable.

Id. at 14. The two additional filing requirements of Order No. PSC-97-0359-FOF-EI can be summarized as follows: 1) "the utility must affirmatively demonstrate prior to approval for recovery that the actions or events that gave rise to the need for the recovery. . . are reasonable," and 2) "demonstrate . . . the underlying costs are reasonable." Id. at 14. While the Order did not define what was required to satisfy the two additional filing requirements, we determine that subsequent Order Nos. PSC-97-0608-FOF-EI and PSC-98-0049-FOF-EI provide insight into the our intent for the additional filing requirements.

Analysis of Order No. PSC-97-0608-FOF-EI

On April 2, 1997, OPC filed for reconsideration of the PEF replacement power decisions rendered in Order No. PSC-97-0359-FOF-EI. FIPUG joined in OPC's motion. By Order No. PSC-97-0608-FOF-EI, issued May 28, 1997, in Docket No. 970001-EI, we denied OPC's reconsideration. OPC argued in its motion that we erred in allowing recovery because the utility

⁷ The determination of prudence was spun-out to Docket No. 970261-EI. Ultimately, the parties agreed to a stipulation and settlement approved by this Commission by Order No. PSC-97-0840-S-EI, issued July 14, 1997. The order approving the stipulation and settlement does not have any bearing on the additional filing requirements established by Order No. 97-0359-FOF-EI.

“brought no evidence to the Commission in this docket explaining whether, or to what extent [the utility’s] replacement fuel costs were prudently, or reasonably incurred.” Id. at 3-4. The utility countered, arguing that evidence of prudence was not required as “the Commission has made no final decision with respect to the recovery of replacement fuel costs . . .,” because prudence was to be determined in a separate docket. Id. at 4.

We rejected OPC’s assertion that we erred in allowing recovery without a showing of prudence, finding that at the time we issued Order No. PSC-97-0359-FOF-EI, “we did not have the issue of prudence . . . before us.” Id. at 5. We reinforced this point by stating that “because we have not yet determined whether the [outage] expenditures were prudent, evidence thereon is not required.” Id. at 5.

We then described what evidence was needed to show that the underlying costs were reasonable, stating:

The evidence to be adduced for prospective fuel cost recovery is the reasonableness of the utilities’ cost projections. The standard for approval of projected fuel costs is a showing that the projections are reasonable in amount. What is required is a showing that the projected kilowatt-hour sales and projected costs for fuel are reasonable.

Id. at 4. We found that the utility presented evidence of the reasonableness of its projected fuel costs by proffering into the record “its Schedule E1-B which establishes its fuel cost of system net generation for the period of October 1996 through March 1997. . . .” Id. at 4. We noted that this schedule included the replacement fuel costs associated with the CR3 outage and was discussed by the utility witness’ prefiled testimony. Id. at 4. As a result, we determined that there was competent substantial evidence in the record to sustain its finding of reasonableness of the projected fuel costs associated with the outage. Id. at 4. We also noted that none of the parties offered any evidence that alleged the utility’s kilowatt-hour sales and fuels costs were not reasonable in amount. Id. at 4. In rejecting OPC’s motion for reconsideration, we explained what evidence is needed to show that the underlying costs associated with an outage are reasonable.

Analysis of Order No. PSC-98-0049-FOF-EI

Because there was some confusion about when the additional filing requirements of Order No. PSC-97-0359-FOF-EI applied, we initiated Docket No. 971513-EI to address our decision in Order No. PSC-97-0359-FOF-EI. By Order No. PSC-98-0049-FOF-EI, issued January 7, 1998, in Docket No. 971513-EI, In re: Establishment of additional filing requirements in the fuel and purchased power cost recovery clause when certain threshold levels are met, we clarified the meaning of “significant impact” which would trigger the additional filing requirements established by Order No. PSC-97-0359-FOF-EI.

In Order No. PSC-98-0049-FOF-EI, we established five percent as the “significant impact” threshold for triggering the additional filing requirements. Id. at 4. We noted that while the other parties did not object to five percent being the “significant impact” threshold, OPC and

FPC had some concerns with setting the threshold at five percent. *Id.* at 2. Both OPC and FPC offered alternative proposals which were discussed and rejected. *Id.* at 2-4. In addition to establishing five percent as the threshold, we also made the following determinations:

Therefore, we find that prior to interim recovery, utilities must demonstrate in their prefiled testimony, the reasonableness of costs that exceed the threshold for increases in fuel adjustment factor filings as set forth herein. The threshold requirement of Order No. PSC-97-0359-FOF-EI will be triggered whenever fuel costs will result in an increase of 5% or more of the utility's six-month fuel adjustment factor for the projection period. . . . A 5% or more standard is reasonable and can be administered fairly to all investor-owned utilities, regardless of the level of its fuel adjustment factor. . . .

The preliminary proof of reasonableness required by this Order is not intended to be a substitute for a full prudence review nor does it abridge parties' rights or obligations in fuel adjustment or prudence proceedings.

Id. at 4. Order No. PSC-98-0049-FOF-EI established the five percent threshold and reiterated that utilities must demonstrate *in prefiled testimony* the reasonableness of costs that exceed the threshold requirement prior to interim recovery. While this order was silent on the "actions or events" requirement in Order No. PSC-97-0359-FOF-EI, it reaffirms the reasonableness of underlying costs requirement.

Option 3: Allow a Portion of the Recovery in 2011 Fuel Factors

At the November fuel hearing, we also asked that the parties and staff discuss our authority to allow a portion of the replacement power costs to be recovered in the 2011 factors and a portion of the costs in a subsequent year.

PEF asserts that we should not arbitrarily apportion the amount of the preliminary costs that PEF may recover. PEF asserts we have never "split the baby" on the issue of interim recovery and there is no logical grounds to do so. Instead, we have always allowed the interim recovery of reasonable costs in their full amounts. To apportion the recovery amount would lead to arbitrary and unreasonable results and cause significant confusion between us, utilities, and customers.

PCS asserts that the question whether to permit interim cost recovery pending the CR3 prudence review, while described as a legal issue, is in fact a policy issue. PCS asserts that it is firmly settled that this Commission has the full legal authority to determine whether to permit or deny recovery for some or all of the CR3 outage costs based on the our responsibility to ensure that rates charged to consumers are fair, just, and reasonable. PCS asserts that it is the utility's burden to prove the reasonableness of costs it is seeking to recover from a consumer in rates. The decision to allow interim recovery falls within our discretion and sound judgment.

PCS also asserts that we should consider the economic circumstances facing the Florida ratepayer. PCS asserts that the timing of the cost recovery, whether now or after a prudence

determination, is important. PCS asserts it would be a burden on the PEF customer to allow PEF to recover CR3 outage costs in advance of a prudence determination. The struggling Florida economy should weigh heavily in the decision whether to allow interim recovery. PCS asserts that the economy along with PEF's failure to offer a *prima facie* demonstration for recovery argue strongly against authorizing CR3 replacement cost recovery in the 2011 fuel factor.

PEF contends that the Intervenor's argument that we should wait to allow preliminary recovery until after a prudence review because the economy is bad is contrary to our established policy. PEF asserts that a "bad economy" is ambiguous and virtually indefinable, and that it should not be considered. PEF asserts our policy is to protect customers from a potentially significant burden of later paying recovery costs with interest; instead, PEF asserts that the utility should bear the burden of added interest.

We agree with PCS that it is within our discretion to allow partial recovery of the costs in the 2011 fuel factor. A review of some recent mid-course correction orders provides examples of this Commission exercising its discretion to extend recovery of costs over more than a one-year period. The following is a brief discussion of two orders relating to our discretion to approve all or a portion of a requested recovery.

Analysis of Order Nos. PSC-08-0494-PCO-EI and PSC-08-0495-PCO-EI

On May 30, 2008, PEF filed a request for mid-course correction to its fuel cost recovery factor, alleging an under-recovery of approximately \$213 million in 2008. On June 3, 2008, FPL filed a separate petition for a mid-course correction to its fuel adjustment factors, alleging an under-recovery of approximately \$746 million in 2008. PEF and FPL requested their mid-course corrections pursuant to the procedures established by prior Commission orders.⁸ By Order Nos. PSC-08-0494-PCO-EI and PSC-08-0495-PCO-EI, issued Aug 5, 2008, in Docket No. 080001-EI (respectively the FPL and PEF mid-course correction orders), FPL and PEF were granted half of their under-recovery in 2008 with the remaining under-recovery being deferred for recovery in their 2009 fuel factors. We find our reasoning in these two orders to be applicable to the instant case.⁹

At the July 1, 2008, Commission Conference, we allowed the parties and interested persons to address the requested mid-course correction, and concerns were raised about the rate

⁸ See Order No. 13694, issued September 20, 1984, in Docket No. 840001-EI and Docket No. 840003-GU, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor; In re: Purchased gas cost recovery clause, and Order No. PSC-98-0691-FOF-PU, issued May 19, 1998, in Docket No. 980269-PU, In re: Consideration of change in frequency and timing of hearing for the fuel and purchased power cost recovery clause, capacity cost recovery clause, generating performance incentive factor, energy conservation cost recovery clause, purchased gas adjustment (PGA) true-up, and environmental cost recovery clause, and Order No. PSC-07-00333-PAA-EI, issued April 16, 2007, in Docket No. 070001-EI.

⁹ Our reasoning for allowing the deferral of half of the under-recovery is nearly identical in both instances. Except where otherwise noted, our analysis will cite to Order No. PSC-08-0495-PCO-EI, the PEF mid-course correction order. The one difference between the two orders is that "At [the] Agenda Conference, FPL stated that it agreed that recovery of 50% of its under-recovery in 2008 and 50% in 2009 was acceptable." See FPL mid-course order at 7. PEF's mid-course correction order is silent on whether PEF agreed or disagreed that 50 percent recovery in 2008 and 50 percent in 2009 was acceptable.

shock consumers would experience in 2008. See Order No. PSC-08-0495-PCO-EI at 6. We stated that “[w]hile the utility is permitted to recover its fuel costs, the Commission retains the discretion to evaluate the rate impact of a mid-course correction upon customers and set rates appropriately.” Id. at 11. We specifically considered the “stability of the fuel factor” and “rate effects and bill impacts” of deferrals when making its decision.¹⁰ Id. at 11. In discussing the stability of the fuel factor, we stated:

If fuel costs vary significantly from original projections, then fuel factors will be less representative of costs and customers will not receive accurate price signals regarding the cost of electricity. In the case of actual and projected fuel costs being higher than original projections, an under-recovery will result and, if not corrected, will affect the calculation of subsequent year fuel factors. In times of rising fuel prices, such an under-recovery can compound the rate impact in that the subsequent year’s fuel factors would reflect higher fuel prices and the under-recovery. In addition, interest would accrue on the under-recovery. Another aspect of deferred under-recoveries is the concept of intergenerational inequity. If a cost is deferred, even a year or portion of a year, a slightly different set of customers will be charged for collection of the costs incurred.

Id. at 11. We also noted that it was “balancing the goals of achieving a stable annual fuel factor with the goal of sending accurate price signals to customers.” Id. at 11.

In considering the rate effects and bill impacts, we requested that PEF provide four estimated bill impacts and associated rates/factors options.¹¹ Id. at 12. In evaluating the four options, we considered whether to approve the entire requested under-recovery in 2008, defer the entire under-recovery until 2009, allow 50 percent in 2008 and defer 50 percent to 2009 (50-50 option), or spread the under-recovery evenly over 17 months (17-month option). Id. at 12. We stated that the four options provided a “reasonable range of alternatives from which to consider possible rate adjustments and bill impacts.” Id. at 12.

After weighing its various options, and by a 3-2 vote in both the FPL and PEF mid-course correction orders, we selected the 50-50 option, stating that “because of the unique economic conditions facing Florida, [it] is in the best interest of ratepayers and the utility alike. The utility will still be permitted to recover its fuel costs and consumers will have additional time to adjust their budgets for the increased rates.” Id. at 12-13. In approving 50 percent recovery in 2008, we were cognizant that it could result in a higher 2009 bill for PEF’s customers than if the entire amount was recovered in 2008. Id. at 13. However, we found that a “stepped increase” would give PEF’s customers a better opportunity to adjust budgets for an expected increase the following year. Id. at 13.

¹⁰ For a discussion of rate stability, see Order No. PSC-98-0691-FOF-PU, page 4. For a discussion of the impacts of deferrals and mid-course corrections, see Order No. PSC-03-0382-PCO-EI, pages 8 and 9.

¹¹ The Commission asked FPL to supply four estimated bill impacts and associated rates/factors options. See Order Nos. PSC-08-0494-PCO-EI at 11.

Two Commissioners dissented from the majority's decision in FPL and PEF mid-course correction orders; one dissented with opinion.¹² The dissent opined that deferring a significant portion of an enormous under-recovery could pose substantial risks to ratepayers in the subsequent year if fuel costs continued to escalate. *Id.* at 15 (Commissioner McMurrian, *dissent*). The dissent also noted that deferring a portion of the under-recovery, while mitigating immediate rate impact, could increase the severity of the rate impact in the near future. *Id.* at 16 (Commissioner McMurrian, *dissent*).

Conclusion Regarding Commission Discretion

Based upon a review of the orders discussed above, we determine that we have the following three options before us for consideration as it relates to PEF's request for recovery of the replacement power costs associated with the CR3 outage: 1) Allow PEF to recover all replacement power costs, subject to refund, prior to the determination of prudence; 2) Defer recovery of the replacement power costs until after prudence has been determined; or 3) Allow a partial recovery of the replacement power costs prior to the prudence determination. The exercise of our discretion is a matter of regulatory policy and not law. For the reasons set forth below, we select the first option and determine that PEF shall be allowed to recovery all replacement power costs, subject to refund, prior to the determination of prudence.

Pursuant to Order Nos. 12645 and PSC-07-0816-FOF-EI, we have the inherent authority to approve, subject to refund, the recovery prior to a prudence determination. Since the determination of prudence associated with the CR3 outage has been "spun-off" to a separate proceeding, we determine that prudence is not ripe for consideration at this time. However, the issue of whether we should allow recovery of the outage costs is ripe for determination.

We disagree with PEF's argument that we cannot defer a portion of the requested replacement power costs. In agreement with the Intervenors and PCS, we have the discretion to defer all or a portion of the requested recovery amount prior to the determination of prudence. As noted in Order Nos. PSC-08-0494-PCO-EI and PSC-08-0495-PCO-EI, we considered fuel factor stability, ratepayer impact, and price signal accuracy when it considered four options for the under-recovery. In two of the options, the 50-50 option and the 17-month option, we expressly considered apportioning the under-recovery amount over two different time periods. Thus, it is clear from Order Nos. PSC-08-0494-PCO-EI and PSC-08-0495-PCO-EI that we have the discretion to apportion and defer some or all of the requested under-recovery to a later period prior to the determination of prudence. We note that if we approved a partial or full deferral of the requested recovery amount, PEF's customers would bear the burden of paying the carrying charges on the deferred amount if PEF is later deemed prudent.

We disagree with the Intervenors and PCS' arguments that we cannot permit PEF to recover the CR3 outage costs subject to refund. We find that Order Nos. PSC-97-0359-FOF-EI, PSC-97-0608-FOF-EI, and PSC-98-0049-FOF-EI must be read together *in pari materia*. While

¹² In both the FPL and PEF mid-course orders, Commissioner McMurrian dissented with opinion and Commissioner Argenziano dissented without opinion; it is unknown whether Commissioner Argenziano concurred with Commissioner McMurrian's dissent.

we did not define the additional filings requirement in Order No. PSC-97-0359-FOF-EI, we subsequently clarified our intent for the filing requirement by Order Nos. PSC-97-0608-FOF-EI and PSC-98-0049-FOF-EI. As discussed above, the additional filing requirements in Order No. PSC-97-0359-FOF-EI are triggered when the outage costs exceed the five percent threshold established by Order No. PSC-98-0049-FOF-EI. Since none of the parties dispute whether the CR3 outage costs exceed the five percent threshold, we will analyze the additional filing requirements and determine whether PEF satisfied them.

When there is a significant event affecting the fuel factor by more than five percent, Order No. PSC-97-0359-FOF-EI requires that the utility must affirmatively demonstrate two things to permit recovery of costs in the fuel factor: 1) that the “actions or events” that gave rise to the need for the recovery are reasonable, and 2) that the underlying costs are reasonable. Order No. PSC-97-0359-FOF-EI, however, does not define how the utility must demonstrate the reasonableness of those things. In Order No. PSC-97-0608-FOF-EI, which described what evidence is necessary to show that the underlying costs associated with an outage are reasonable, we did not discuss the two additional filing requirements. In Order No. PSC-98-0049-FOF-EI, which clarified the five percent threshold requirement, we mentioned the second of the two additional filing requirements but was silent as to the first. While Order No. PSC-98-0049-FOF-EI affirmatively requires that the utility demonstrate the reasonableness of the underlying costs in pre-filed testimony, it does not affirmatively require that the utility demonstrate reasonableness of “actions or events” in pre-filed testimony. Other than quoting the additional filing requirements, Order No. PSC-98-0049-FOF-EI is silent as to how and when a utility must demonstrate the reasonableness of “actions or events” requirement. Because we were silent on the first requirement, it does not mean that we receded from it, as implied by PEF, nor does it mean that it must be demonstrated in pre-filed testimony as argued by the Intervenors and PCS. We disagree with these interpretations for the following reasons.

We determine that the reasonableness of “actions or events” requirement is something a utility must demonstrate, but only when the utility is seeking a determination of prudence on the cause of the costs. The requirement for demonstrating the reasonableness of “actions or events” giving rise to an outage is akin to the evidentiary requirement for a prudence determination. As noted by Order Nos. 12645 and PSC-07-0816-FOF-EI, we do not conduct a prudence review of costs in the fuel clause proceeding unless it is specifically raised as an issue. While none of the three CR3 outage orders explain what was required for the first requirement, we find that it logically applies in the annual fuel clause hearing only when the utility is seeking *both* recovery for costs and a determination of prudence. If it was our intent to require that the utility provide pre-filed testimony as to the reasonableness of “actions or events,” then logically we could make a determination of prudence on the cause of the costs. If we are not satisfied with the explanation of a utility seeking recovery of significant costs in the fuel factor, we can always order a separate proceeding to determine the reasonableness and prudence of the “actions or events” giving rise to the costs. See Order No. PSC-97-0359-FOF-EI. For these reasons, we interpret these orders to require that reasonableness of “actions or events” be demonstrated in pre-filed testimony only in instances where the issue of prudence is being determined.

Here, PEF has requested recovery subject to refund and, instead of waiting for this Commission to order a separate proceeding to determine prudence, PEF specifically petitioned us to establish a separate proceeding to determine the prudence of PEF's actions related to the cause of the outage as well as the costs associated with the outage.¹³ Based on our reasoning above, the reasonableness of the "actions or events" must be demonstrated in pre-filed testimony but only in instances where prudence is being determined. Therefore, since a determination of prudence is not being made at this time, we determine that the first additional filing requirement does not apply.

We determine, however, that the second additional filing requirement to demonstrate, that the underlying costs are reasonable, does apply to PEF's request for recovery and that Order No. PSC-97-0608-FOF-EI describes how a utility should demonstrate that its underlying costs are reasonable. In rejecting OPC's motion for reconsideration of Order No. PSC-97-0359-FOF-EI, we had determined there was competent substantial evidence in the record to support the reasonableness of the costs being requested. We articulated that to establish the preliminary proof of reasonableness of the projected costs, the utility should include projected costs in its prefiled testimony and E1-B schedule. This explanation of reasonableness helps describe what is necessary to satisfy the second additional filing requirement. Thus the second additional filing requirement could be satisfied if projected costs are included in the utility's prefiled testimony and E1-B schedule.

In the instant case, PEF provided the parties and this Commission its E1-B schedule and referenced the CR3 outage in prefiled testimony by Witness Olivier in its September 2010 filing. PEF's estimated CR3 replacement power costs were embedded within its September filing and through the process of discovery provided additional schedules showing its fuel factor with and without the CR3 outage costs. On November 1, 2010, during the fuel clause hearing, PEF provided a hearing exhibit (Exhibit 71) reflecting lower natural gas prices and the resulting lower fuel factor with and without the CR3 outage costs.¹⁴ The parties stipulated to Exhibit 71. During the hearing, no evidence was presented by the parties which questioned the reasonableness of PEF's requested 2011 fuel factor nor the reasonableness of the costs associated with the CR3 outage.

Our staff reviewed Exhibit 71, including the revised positions and supporting "E-Schedules" that reflect lower natural gas prices and revised estimates for replacement power costs. This exhibit presents the original September positions for the Generic Fuel Adjustment Issues, as well as sets of schedules that include or exclude the most current forecasted information for replacement power costs. After reviewing Exhibit 71, we find that it contains the evidence necessary to demonstrate that PEF has supported the reasonableness of its system costs as required by Order Nos. PSC-97-0359-FOF-EI, PSC-97-0608-FOF-EI, and PSC-98-0049-FOF-EI.

¹³ See Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, in Docket No. 100001-EI.

¹⁴ PEF filed a petition for mid-course correction on November 10, 2010, and included schedules that show the 2011 fuel factor recovering all, fifty percent, and none of the CR3 outage costs.

When these three orders are read together and applied to the matter before us, we find that PEF has satisfied the additional filing requirements. We determine that we have discretion to approve the recovery of a portion of the replacement power costs for the CR3 outage. In prior proceedings regarding mid-course corrections, we weighed several policies to determine whether to require a mid-course correction to extend longer than the current year. We have the discretion to consider and apply regulatory policy to the recovery of the costs of the CR3 outage.

Decision allowing the recovery of CR3 outage costs

Our practice in fuel clause proceedings has been to allow recovery of projected costs, which are then subject to true-up adjustments based on actual costs incurred. Subsequently, we may disallow costs based on a determination of prudence. This practice allows cost recovery in a timely manner while protecting ratepayers by conducting a separate review for potential disallowance, as demonstrated in the recent PEF coal refund case. See Order No. PSC-07-0816-FOF-EI. This practice allows the utilities relatively quick recovery of costs and allows them the cash flow to pay volatile fuel expenses. In exchange, we can conduct a prudence review of fuel costs going back a number of years without having established interim rates or holding money subject to refund.

We determine that it was reasonable for PEF to incur replacement power costs due to the CR3 outage. PEF has supported the reasonableness of its request in its initial (September) filing of testimony and exhibits, and in subsequent filings. We have reviewed these filings and believes PEF has demonstrated reasonableness for cost recovery purposes.

While we have the discretion to defer recovery of a portion of the costs, such deferral has been generally done to relieve rate shock associated with large increases in fuel factors. The appropriate goal in setting fuel factors, however, is to minimize over-recoveries or under-recoveries (i.e., true-up amounts), by matching rates to costs as closely as possible, and to do so as the costs are being incurred. Otherwise, an under-recovery or deferral of costs coupled with rising fuel prices could exacerbate a future increase in fuel factors. Further, deferring fuel costs, while perhaps appropriate to relieve rate shock, causes additional interest expense. Therefore, we determine that our existing practice of allowing recovery of costs subject to a subsequent determination of prudence is appropriate in this case. We note that the recovery of the CR3 replacement power costs will occur during a time of decreasing fuel rates, and will therefore not create a situation of rate shock, as was the case with the previously discussed 2008 mid-course orders for FPL and PEF. With or without the CR3 replacement power costs, the 2011 fuel factor will be lower than the 2010 fuel factor.

We determine that PEF shall be permitted to collect, subject to refund, replacement power costs due to the extended outage at CR3 prior to our determination of the prudence of such costs in Docket No. 100437-EI. We determined that these costs should be incorporated into the calculation of the 2011 fuel factor.

B. Florida Public Utilities Company

FPUC presented evidence regarding whether the bankruptcy filing of the Jefferson Smurfit Company had any effect on Florida Public Utilities Company's northeast division fuel factors. Based on the testimony and exhibits in the record and the stipulation, the Jefferson Smurfit (Smurfit-Stone) bankruptcy has no effect on northeast division fuel factors. Because Jefferson Smurfit is a GSLD-1 customer, the revenue and expense in its fuel charge are the same. Therefore, the Jefferson Smurfit fuel charge does not affect the calculation of the fuel over-recovery or under-recovery.

C. Gulf Power Company

Hedging Activities for 2009 and for January through July 2010

Having reviewed the testimony, exhibits, and discovery responses of Gulf for its hedging activities, we approve as prudent Gulf's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices for the 12-month period ending July 31, 2010. Gulf entered into its hedging positions at market prices. Our staff audited the company's hedging activity and results for this period and found that the company has followed its Risk Management Plan when entering into hedging positions. Therefore, we find the company's hedging results for this period are prudent.

The appropriate overall objective of a utility hedging program is to mitigate fuel price volatility. With a prudently managed hedging program, the utility will incur hedging gains, or savings, in some periods and will incur hedging losses, or costs, in other periods. The appropriate determinants of prudent hedging activities do not lie within hedging gains or losses, but rather in whether the utility entered into hedging positions at market prices, followed its Risk Management Plan and did not speculate on future market conditions.

Risk Management Plan for 2011

Having reviewed the testimony, exhibits, and discovery responses of Gulf, we find that 2011 Risk Management Plan complies with our guidelines. We established guidelines for a utility's Risk Management Plan by Order No. PSC-08-0667-PAA-EI. These guidelines specify the utility must file a minimum quantity of volumes of fuel to be hedged, ensure separation of duties when carrying out hedging activities and ensure the utility is dealing with credit-worthy counter-parties. By following its 2011 Risk Management Plan, Gulf would accomplish the commission goal of utility hedging by reducing fuel price volatility, and would not engage in speculative hedging activities. We note that Gulf's Risk Management Plan has not changed significantly from the company's previously approved Risk Management Plan.

Perdido Landfill Gas

Gulf presented evidence regarding whether we should approve Gulf's fuel clause recovery of the projected costs of landfill gas associated with the Perdido Landfill Gas to Energy Facility for the years 2010 and 2011. Based on the testimony and exhibits in the record and the stipulation, the cost of landfill gas is appropriate for recovery through the fuel clause. Gulf Power Company may recover the projected costs it will incur for landfill gas associated with the Perdido Landfill Gas to Energy Facility for the years 2010 and 2011. This approval does not address the appropriateness of project costs that would be recovered in base rates.

Coalsales Litigation Expense

The issue of whether Gulf was prudent in commencing and continuing litigation against Coalsales II, LLC (Coalsales) for breach of contract was raised. Based on the testimony and exhibits in the record and the stipulation, we note that Gulf is currently involved in litigation with Coalsales concerning Coalsales' default under a coal supply agreement with Gulf. Gulf filed suit against Coalsales in the U.S. District Court for the Northern District of Florida in June 2006. On September 30, 2009, the Court entered an order granting Gulf's motion for partial summary judgment on the issue of liability. The Court ruled that Coalsales breached its coal supply agreement with Gulf. The Court held a bench trial on the sole issue of damages in February 2010.

Our Commission audit staff conducted its financial audit of the litigation costs reported by Gulf and confirmed that Gulf properly recorded the costs. For 2006 through 2008, Gulf recovered \$519,000 in litigation costs for this suit. For 2009 Gulf recovered \$287,000 in litigation costs. These dollar amounts have been included in prior and current year fuel factors. For 2010, Gulf's costs through February 2010 are \$112,631. Our staff's audit and testimony are filed in this docket.

On September 30, 2010, the Court awarded no damages to Gulf. As of the November fuel hearing, the order finding that Gulf is not entitled to any damages is not final. We determine that this issue shall be considered in a future proceeding, once the Court's order, and any subsequent Court review has been finalized and once our staff has conducted additional discovery. The litigation costs shall be collected subject to refund based on a later determination by this Commission of this issue.

D. Tampa Electric Company

Hedging Activities for 2009 and for January through July 2010

Having reviewed the testimony, exhibits, and discovery responses of TECO for its hedging activities, we approve as prudent TECO's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices for the 12-month period ending July 31, 2010. TECO entered into its hedging positions at market prices. Our staff audited the company's

hedging activity and results for this period and found that the company has followed its Risk Management Plan when entering into hedging positions. Therefore, we find the company's hedging results for this period are prudent.

The appropriate overall objective of a utility hedging program is to mitigate fuel price volatility. With a prudently managed hedging program, the utility will incur hedging gains, or savings, in some periods and will incur hedging losses, or costs, in other periods. The appropriate determinants of prudent hedging activities do not lie within hedging gains or losses, but rather in whether the utility entered into hedging positions at market prices, followed its Risk Management Plan and did not speculate on future market conditions.

Risk Management Plan for 2011

Having reviewed the testimony, exhibits, and discovery responses of TECO, we find that 2011 Risk Management Plan complies with our guidelines. We established guidelines for a utility's Risk Management Plan by Order No. PSC-08-0667-PAA-EI. These guidelines specify the utility must file a minimum quantity of volumes of fuel to be hedged, ensure separation of duties when carrying out hedging activities and ensure the utility is dealing with credit-worthy counter-parties. By following its 2011 Risk Management Plan, TECO would accomplish the commission goal of utility hedging by reducing fuel price volatility, and would not engage in speculative hedging activities. We note that TECO's Risk Management Plan has not changed significantly from the company's previously approved Risk Management Plan.

II. GENERIC FUEL COST RECOVERY ISSUES

Shareholder Incentive Benchmarks

The actual benchmark levels for calendar year 2010 for gains on non-separated wholesale energy sales eligible for a shareholder incentive pursuant to Order No. PSC-00-1744-PAA-EI were uncontested by the parties. Our staff, after reviewing the testimony and exhibits, concurred with the utilities' positions. Accordingly, we approve the actual benchmark levels for calendar year 2010 as follows:

PEF: \$ 1,618,573
GULF: \$ 1,603,413
TECO: \$ 2,002,890

The estimated benchmark levels for the calendar year 2011 for gains on non-separated wholesale energy sales eligible for a shareholder incentive pursuant to Order No. PSC-00-1744-PAA-EI were uncontested by the parties. Our staff, after reviewing the testimony and exhibits, concurred with the utilities' positions. Accordingly, we approve the estimated benchmark levels for calendar year 2011 as follows:

PEF: \$ 1,053,364 subject to adjustments in the 2010 final true-up filing to include all actual data for the year 2010.
GULF: \$ 1,017,585 subject to adjustments in the 2010 final true-up filing to include all actual data for the year 2010.
TECO: \$ 2,325,363 subject to adjustments in the 2010 final true-up filing to include all actual data for the year 2010.

III. APPROPRIATE PROJECTIONS AND TRUE-UP AMOUNTS FOR FUEL COST RECOVERY FACTORS

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate final fuel adjustment true-up for their companies for 2009. For PEF, GULF, and TECO, the Intervenors FIPUG, FRF, and PCS disputed the utilities' hedging costs and all other Intervenors took no position. After much discussion at hearing about hedging, we approved the hedging related issues and agreed to address utility hedging at a future date. In addition for PEF, the Intervenors FIPUG, FRF, and PCS objected to CR3 replacement costs being included; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the testimony and exhibits in the record, we approve the following as the appropriate final fuel adjustment true-up amounts for the period of January 2009 through December 2009:

PEF:	\$ 8,064,647 over-recovery (including CR3 replacement fuels costs)
FPUC Marianna:	\$ 1,378,165 under-recovery
FPUC Fernandina Beach:	\$ 2,241,870 over-recovery
GULF:	\$ 9,959,388 over-recovery
TECO:	\$14,108,291 over-recovery

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate estimated/actual fuel adjustment true-up amounts for their company for 2010. For PEF, GULF, and TECO, the Intervenors FIPUG, FRF, and PCS disputed the utilities' hedging costs and all other Intervenors took no position. After much discussion at hearing about hedging, we approved the hedging plans of the utilities and agreed to address utility hedging at a future date. In addition for PEF, the Intervenors FIPUG, FRF, and PCS objected to CR3 replacement costs being included; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, we approve the following as the appropriate estimated/actual fuel adjustment true-up amounts for the period of January 2010 through December 2010:

PEF:	\$68,565,812 under-recovery (including CR3 replacement fuels costs)
FPUC Marianna:	\$84,888 under-recovery
FPUC Fernandina Beach:	\$494,751 under-recovery

GULF: \$23,786,207 under-recovery
TECO: \$52,979,582 over-recovery

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate fuel adjustment true-up amounts for their company for 2011. For PEF, the Intervenors FIPUG, FRF, and PCS objected to including the CR3 replacement costs and all other Intervenors took no position; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, we approve the following as the appropriate fuel adjustment true-up amounts to be collected/refunded from January 2011 through December 2011:

PEF: \$60,501,165 (under-recovery) to be collected (including CR3 replacement fuels costs)
FPUC Marianna: \$1,463,053 (Under-recovery) to be collected
FPUC Fernandina Beach: \$1,747,119 (Over-recovery) to be refunded
GULF: \$13,826,819 to be collected
TECO: \$67,087,873 (over-recovery) to be refunded

Our staff reviewed the testimony and exhibits in the record regarding the utilities' appropriate revenue tax factors to be applied in calculating each investor-owned electric utility's levelized fuel factor and our staff recommended approval of the tax factors. All other parties took no position. Based on the evidence in the record, we approve the following as the appropriate revenue tax factors to be applied in calculating each electric IOU's levelized fuel factor for the period January 2011 through December 2011:

1.00072 for each investor-owned electric utility

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate projected net fuel and purchased power cost recovery amounts to be included in the fuel cost recovery factors for the period January 2011 through December 2011. For PEF, only FIPUG objected to including the CR3 replacement costs and all other Intervenors took no position; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, we approve the following as the appropriate projected net fuel and purchased power cost recovery amounts to be included in the fuel cost recovery factors for the period January 2011 through December 2011:

PEF: \$1,735,029,216 (including CR3 replacement fuel costs)
FPUC Marianna: \$35,363,963
FPUC Fernandina Beach: \$40,892,517
GULF: \$570,992,471 including prior period true-up amounts and revenue taxes

TECO: The projected net fuel and purchased power cost recovery amount to be included in the recovery factor for the period January 2011 through December 2011, adjusted by the jurisdictional separation factor, is \$862,959,690. The total recoverable fuel and purchased power cost recovery amount to be collected, including the true-up and GPIF and adjusted for the revenue tax factor, is \$798,275,699.

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate levelized fuel cost recovery factors for the period January 2011 through December 2011. For PEF, the Intervenor FIPUG, FRF, and PCS objected to including the CR3 replacement costs and all other Intervenor took no position; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, and the resolution of the generic and company-specific fuel cost recovery issues discussed above, we approve the following as the appropriate levelized fuel cost recovery factors for the period January 2011 through December 2011:

PEF: 4.770 cents per kWh
 FPUC Marianna: 7.609 cents/kWh
 FPUC Fernandina Beach: 6.640 cents/kWh
 GULF: 5.104 cents/kWh.
 TECO: The appropriate factor is 4.218 cents per kWh before any application of time of use multipliers for on-peak or off-peak usage

Our staff and the utilities concurred regarding the appropriate fuel recovery line loss multipliers to be used in calculating the fuel cost recovery factors charged to each rate class/delivery voltage level class. All other parties took no position. Based on the evidence in the record, we approve the following as the appropriate fuel recovery line loss multipliers to be used in calculating the fuel cost recovery factors charged to each rate class/delivery voltage level class (tables appear on this and the following pages):

PEF:

GROUP	DELIVERY/VOLTAGE	LINE LOSS MULTIPLIER
A.	TRANSMISSION	0.9800
B.	DISTRIBUTION PRIMARY	0.9900
C.	DISTRIBUTION SECONDARY	1.0000
D.	LIGHTING SERVICES	1.0000

FPUC: Northwest Division (Marianna): 1.0000 (All rate schedules)
 Northeast Division (Fernandina): 1.0000 (All rate schedules)

GULF:

GROUP	RATE SCHEDULES*	LINE LOSS MULTIPLIERS
A	RS, RSVP, GS, GSD, GSdT, GSTOU, OSIII, SBS(1)	1.00525921
B	LP, LPT, SBS(2)	0.98890061
C	PX, PXT, RTP, SBS(3)	0.98062822
D	OSI/II	1.00529485

* The recovery factor applicable to customers taking service under Rate Schedule SBS is determined as follows: (1) customers with a contract demand in the range of 100 to 499 kW will use the recovery factor applicable to Rate Schedule GSD; (2) customers with a contract demand in the range of 500 to 7,499 kW will use the recovery factor applicable to Rate Schedule LP; and (3) customers with a contract demand over 7,499 kW will use the recovery factor applicable to Rate Schedule PX.

TECO:

METERING VOLTAGE SCHEDULE	LINE LOSS MULTIPLIER
DISTRIBUTION SECONDARY	1.0000
DISTRIBUTION PRIMARY	0.9900
TRANSMISSION	0.9800
LIGHTING SERVICE	1.0000

Our staff and the utilities concurred regarding the appropriate fuel recovery factors for each rate class/delivery voltage level class adjusted for line losses. All other parties took no position except for the City of Marianna. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, and the resolution of the generic and company-specific fuel cost recovery issues discussed above, we approve the following as the appropriate fuel recovery factors for each rate class/delivery voltage level class adjusted for line losses (tables appear on this and the following pages):

PEF: (including CR3 replacement fuel costs)

Fuel Cost Factors (cents/kWh)					Time of Use	
Group	Delivery Voltage Level	First Tier Factor	Second Tier Factors	Levelized Factors	On-Peak	Off-Peak
A	Transmission	--	--	4.680	6.112	4.001
B	Distribution Primary	--	--	4.728	6.175	4.042
C	Distribution Secondary	4.461	5.461	4.776	6.237	4.083
D	Lighting	--	--	4.486	--	--

FPUC: See table below:

Northwest Division (Marianna Division)

<i>Rate Schedule</i>	<i>Adjustment</i>
RS	\$0.11925
GS	\$0.11560
GSD	\$0.10977
GSLD	\$0.10586
OL,OI1	\$0.08619
SL1, SL2, and SL3	\$0.08566
Step rate for RS	
RS with less than 1,000 kWh/month	\$0.11553
RS with more than 1,000 kWh/month	\$0.12553

Northeast Division (Fernandina Division)

<i>Rate Schedule</i>	<i>Adjustment</i>
RS	\$0.10007
GS	\$0.09735
GSD	\$0.09327
GSLD	\$0.09500
OL	\$0.07158
SL	\$0.07179
Step rate for RS	
RS with less than 1,000 kWh/month	\$0.09630
RS with more than 1,000 kWh/month	\$0.10630

GULF: See table below:

Group	Rate Schedules*	Line Loss Multipliers	Fuel Cost Factors ¢/KWH		
			Standard	Time of Use	
				On-Peak	Off-Peak
A	RS, RSVP,GS, GSD, GS DT, GSTOU, OSIII, SBS(1)	1.00525921	5.131	6.013	4.762
B	LP, LPT, SBS(2)	0.98890061	5.047	5.916	4.684
C	PX, PXT, RTP, SBS(3)	0.98062822	5.005	5.866	4.645
D	OSI/II	1.00529485	5.081	N/A	N/A

*The recovery factor applicable to customers taking service under Rate Schedule SBS is determined as follows: (1) customers with a contract demand in the range of 100 to 499 KW will use the recovery factor applicable to Rate Schedule GSD; (2) customers with a contract demand in the range of 500 to 7,499 KW will use the recovery factor applicable to Rate Schedule LP; and (3) customers with a contract demand over 7,499 KW will use the recovery factor applicable to Rate Schedule PX.

TECO: The appropriate factors are as follows:

<u>Metering Voltage Level</u>	<u>Fuel Charge Factor (cents per kWh)</u>	
Secondary	4.225	
Tier I (Up to 1,000 kWh)	3.875	
Tier II (Over 1,000 kWh)	4.875	
Distribution Primary	4.183	
Transmission	4.141	
Lighting Service	4.134	
Distribution Secondary	4.817	(on-peak)
	3.994	(off-peak)
Distribution Primary	4.769	(on-peak)
	3.954	(off-peak)
Transmission	4.721	(on-peak)
	3.914	(off-peak)

IV. GENERATING PERFORMANCE INCENTIVE FACTOR (GPIF) ISSUES

Our staff and the utilities concurred as to the rewards or penalties achieved during 2009 pursuant to the Generating Performance Incentive Factor (GPIF). All other parties took no position. Based on the evidence in the record, we approve the following GPIF rewards/penalties for performance achieved during the period January 2009 through December 2009:

PEF: \$676,296 penalty
GULF: \$82,250 reward
TECO: A reward in the amount of \$1,830,855

Our staff and the utilities concurred as to the GPIF targets/ranges for 2011. All other parties took no position. Based on the evidence in the record, we approve the following GPIF targets/ranges for the period January 2011 through December 2011:

PEF: The appropriate targets and ranges are shown on Page 4 of Exhibit RMO-1P filed on September 1, 2010 with the Direct Testimony of Robert M. Oliver, as shown in the tables below:

GPIF TARGET AND RANGE SUMMARY

Progress Energy Florida
 Period of: January 2011 - December 2011

Plant/Unit	Weighting Factor (%)	EAF Target (%)	EAF RANGE		Max Fuel Savings (\$000)	Max Fuel Loss (\$000)
			Max. (%)	Min. (%)		
Crystal River 1	2.09	85.47	86.69	78.97	1,240	(4,993)
Crystal River 2	6.01	94.40	97.03	89.01	3,573	(3,221)
Crystal River 3	4.36	97.41	98.63	94.86	2,589	(7,775)
Crystal River 4	5.41	84.15	87.84	76.75	3,216	(9,328)
Crystal River 5	5.71	86.01	88.97	80.00	3,396	(7,084)
Hines 1	2.05	76.23	78.11	72.48	1,218	(2,202)
Hines 2	1.58	83.89	85.42	80.75	940	(2,484)
Hines 3	1.16	87.85	89.44	84.60	691	(3,256)
Hines 4	1.86	83.71	85.89	79.27	958	(3,332)
Tiger Bay	1.34	81.38	87.98	69.19	799	(2,853)
GPIF System	31.38				18,649	(46,528)

Plant/Unit	Weighting Factor (%)	ANQHR Target (BTU/KWH)	NOF	ANQHR RANGE		Max. Fuel Savings (\$000)	Max. Fuel Loss (\$000)
				Min. (BTU/KWH)	Max. (BTU/KWH)		
Crystal River 1	3.34	10,708	49.1	10,297	11,119	1,983	(1,983)
Crystal River 2	3.82	10,524	46.5	10,214	10,833	2,271	(2,271)
Crystal River 3	4.34	10,297	98.7	10,176	10,417	2,560	(2,560)
Crystal River 4	11.92	10,326	81.9	9,804	10,848	7,084	(7,084)
Crystal River 5	9.28	10,084	87.0	9,707	10,461	5,517	(5,517)
Hines 1	8.68	7,897	69.9	7,083	8,301	5,157	(5,157)
Hines 2	7.03	7,088	76.6	6,760	7,412	4,176	(4,176)
Hines 3	9.14	7,310	78.8	6,930	7,890	5,431	(5,431)
Hines 4	8.86	7,060	76.5	6,702	7,419	5,264	(5,264)
Tiger Bay	2.23	7,975	75.3	7,502	8,447	1,323	(1,323)
GPIF System	68.62					40,787	(40,787)

GULF: See table below:

Unit	EAF	POF	EUOF	Heat Rate
Crist 4	97.5	0.0	2.5	11,038
Crist 5	81.2	15.9	2.9	11,135
Crist 6	71.8	23.6	4.7	11,121
Crist 7	82.5	8.2	9.3	10,650
Smith 1	88.5	6.3	5.2	10,457
Smith 2	95.4	0.0	4.7	10,426
Daniel 1	94.0	0.0	6.0	10,518
Daniel 2	77.0	17.3	5.8	10,417
EAF = Equivalent Availability Factor (%) POF = Planned Outage Factor (%) EUOF = Equivalent Unplanned Outage Factor (%)				

TECO: The appropriate targets and ranges are shown in Hearing Exhibit No. 27 (BSB-2) attached to the prefiled testimony of Mr. Brian S. Buckley. Targets and ranges should be set according to the prescribed GPIF methodology established in 1981 by Commission Order No. 9558 in Docket No. 800400-CI and later modified in 2006 after meeting with Staff and intervening parties at the request of the Commission, as shown in the tables below:

**TAMPA ELECTRIC COMPANY
 GPIF TARGET AND RANGE SUMMARY
 JANUARY 2011 - DECEMBER 2011**

EQUIVALENT AVAILABILITY

PLANT / UNIT	WEIGHTING FACTOR (%)	EAF TARGET (%)	EAF RANGE		MAX. FUEL SAVINGS (\$000)	MAX. FUEL LOSS (\$000)
			MAX. (%)	MIN. (%)		
BIG BEND 1	4.58%	67.9	73.5	56.8	1,359.3	(5,657.4)
BIG BEND 2	5.95%	62.4	66.3	54.5	1,765.3	(1,467.8)
BIG BEND 3	6.18%	62.1	64.7	76.9	1,633.9	(1,379.9)
BIG BEND 4	7.68%	77.9	81.3	71.0	2,339.2	(2,364.1)
POLK 1	0.67%	66.6	90.0	65.9	198.3	(455.9)
BAYSIDE 1	1.34%	78.2	79.4	75.9	397.4	(621.4)
BAYSIDE 2	0.32%	94.4	95.0	93.3	93.8	(260.8)
GPIF SYSTEM	26.92%					

AVERAGE NET OPERATING HEAT RATE

PLANT / UNIT	WEIGHTING FACTOR (%)	ANOHR Btu/kwh	TARGET NOF	ANOHR RANGE		MAX. FUEL SAVINGS (\$000)	MAX. FUEL LOSS (\$000)
				MIN.	MAX.		
BIG BEND 1	11.38%	10,676	91.3	10,245	11,107	3,376.5	(3,376.5)
BIG BEND 2	9.63%	10,350	91.2	9,940	10,759	2,858.3	(2,858.3)
BIG BEND 3	11.60%	10,582	86.9	10,179	10,986	3,442.7	(3,442.7)
BIG BEND 4	12.48%	10,536	90.8	10,153	10,922	3,703.5	(3,703.5)
POLK 1	15.59%	9,820	97.5	9,117	10,522	4,624.5	(4,624.5)
BAYSIDE 1	4.92%	7,212	86.6	7,120	7,305	1,459.8	(1,459.8)
BAYSIDE 2	7.46%	7,311	84.7	7,222	7,400	2,218.6	(2,218.6)
GPIF SYSTEM	73.88%						

V. COMPANY-SPECIFIC CAPACITY COST RECOVERY ISSUES

Progress Energy Florida, Inc.

Based on the testimony and evidence in the record, we find that pursuant to our decision in Docket No. 100009-EI, including the stipulations of the parties in that docket, PEF has included in the Capacity Clause the nuclear cost recovery amount of \$163,580,660 nuclear cost (or \$163,698,438 with revenue tax included), as we ordered.

VI. APPROPRIATE PROJECTED EXPENDITURES AND TRUE-UP AMOUNTS FOR CAPACITY COST RECOVERY FACTORS

Our staff and the utilities concurred as to the final capacity cost recovery true-up amounts for 2009. All other parties took no position. Based on the evidence in the record, we approve the following final capacity cost recovery true-up amounts for the period January 2009 through December 2009:

PEF: \$14,181,129 over-recovery

GULF:\$ 2,618,214 over-recovery

TECO:\$ 21,184 over-recovery

Our staff and the utilities concurred as to the estimated/actual capacity cost recovery true-up amounts for 2010. All other parties took no position. Based on the evidence in the record, we approve the following estimated/actual capacity cost recovery true-up amounts for the period January 2010 through December 2010:

PEF: \$38,129,941 over-recovery

GULF:\$ 545,466 over-recovery

TECO:\$ 74,275 under-recovery

Our staff concurred with GULF and TECO as to the total capacity cost recovery true-up amounts to be collected/refunded during 2011. All other parties took no position as to Gulf and TECO. For PEF, the Intervenor FIPUG, FRF, and PCS objected to including the CR3 replacement costs; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. Having considered the testimony and exhibits in the record, we approve the following total capacity cost recovery true-up amounts to be collected/refunded during the period January 2011 through December 2011:

PEF: \$ 52,311,070 over-recovery (to be refunded)

GULF:\$ 3,163,680 over-recovery (to be refunded)

TECO:\$ 53,091 under-recovery (to be collected)

Our staff concurred with GULF and TECO regarding those utilities' projected net purchased power and cost recovery amounts to be included in the recovery factor for the period January 2011 through December 2011. All other parties took no position as to Gulf and TECO. For PEF, the Intervenor FIPUG, FRF, and PCS objected to including the CR3 replacement costs; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. Having considered the testimony and exhibits in the record, we approve the following projected net purchased power and cost recovery amounts to be included in the recovery factor for the period January 2011 through December 2011:

PEF: \$451,867,504 is an appropriate projected net amount for setting the 2011 factors. PEF has used \$3.6 million of the NEIL reimbursement to offset its estimated incremental capacity cost due to the CR-3 extended outage. PEF shall continue this practice so that the incremental capacity cost due to the CR-3 extended outage, to be decided by this Commission, will be offset entirely by NEIL reimbursement.

GULF:\$ 45,129,549

TECO:\$ 54,906,841

Our staff concurred with PEF, GULF, and TECO regarding their jurisdictional separation factors to be applied to determine the capacity costs to be recovered during the period January 2011 through December 2011. All other parties took no position. Based on the evidence in the record and agreement of the parties, we approve the following jurisdictional separation factors to be applied to determine the capacity costs to be recovered during the period January 2011 through December 2011:

PEF: BASE: 91.089%
INTERMEDIATE: 58.962%
PEAKING: 91.248%
GULF:96.44582%
TECO:96.74819%

Our staff concurred with GULF and TECO regarding those utilities' projected capacity cost recovery factors for each rate class/delivery class for the period January 2011 through December 2011. All parties took no position as to Gulf and TECO. For PEF, the Intervenor FIPUG, FRF, and PCS objected to including the CR3 replacement costs; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. Having considered the testimony and exhibits in the record, we approve the following projected capacity cost recovery factors for each rate class/delivery class for the period January 2011 through December 2011:

PEF:	<u>Rate Class</u>	<u>CCR Factor</u>
	Residential	1.527 cents/kWh
	General Service Non-Demand	1.113 cents/kWh
	@ Primary Voltage	1.102 cents/kWh
	@ Transmission Voltage	1.091 cents/kWh
	General Service 100% Load Factor	0.803 cents/kWh
	General Service Demand	0.992 cents/kWh
	@ Primary Voltage	0.982 cents/kWh
	@ Transmission Voltage	0.972 cents/kWh
	Curtable	0.845 cents/kWh
	@ Primary Voltage	0.837 cents/kWh
	@ Transmission Voltage	0.828 cents/kWh
	Interruptible	0.798 cents/kWh
	@ Primary Voltage	0.790 cents/kWh
	@ Transmission Voltage	0.782 cents/kWh
	Lighting	0.233 cents/kWh

GULF: See table below:

RATE CLASS	CAPACITY COST RECOVERY FACTORS ¢/KWH
RS, RSVP	0.476
GS	0.434
GSD, GSDT, GSTOU	0.376
LP, LPT	0.328
PX, PXT, RTP, SBS	0.292
OS-I/II	0.174
OSIII	0.282

TECO: The appropriate factors for January 2011 through December 2011 are as follows:

<u>Rate Class and Metering Voltage</u>	<u>Capacity Cost Recovery Factor</u>	
	<u>Dollars per kWh</u>	<u>Dollars per kW</u>
RS Secondary	0.336	
GS and TS Secondary	0.294	
GSD, SBF Standard Secondary		1.07
Primary		1.06
Transmission		1.05
GSD Optional Secondary	0.255	
Primary	0.253	
IS, SBI Primary		0.87
Transmission		0.86
LS1 Secondary	0.078	

VII. OTHER MATTERS

For PEF, FPUC, Gulf, and TECO, we find that the new fuel and capacity charges shall be effective beginning with the first billing cycle for January 2011 through the last billing cycle for December 2011. The first billing cycle may start before January 1, 2011, and the last cycle may end after December 31, 2011, so long as each customer is billed for twelve months regardless of when the charge became effective.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the findings set forth in the body of this Order are hereby approved. It is further

ORDERED that Progress Energy Florida, Inc., shall be permitted to collect, subject to refund, replacement power costs due to the extended outage at CR3 prior to this Commission's determination of the prudence of such costs in Docket No. 100437-EI, and that these costs shall be incorporated into the calculation of Progress Energy Florida, Inc.'s 2011 fuel factor. It is further

ORDERED that Progress Energy Florida, Inc., Florida Public Utilities Company, Gulf Power Company, and Tampa Electric Company are hereby authorized to apply the fuel cost recovery factors set forth herein during the period January 2011 through December 2011. It is further

ORDERED the estimated true-up amounts contained in the fuel cost recovery factors approved herein are hereby authorized subject to final true-up and further subject to proof of the reasonableness and prudence of the expenditures upon which the amounts are based. It is further

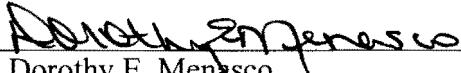
ORDERED that Progress Energy Florida, Inc., Gulf Power Company, and Tampa Electric Company are hereby authorized to apply the capacity cost recovery factors as set forth herein during the period January 2011 through December 2011. It is further

ORDERED that the estimated true-up amounts contained in the capacity cost recovery factors approved herein are hereby authorized subject to final true-up and further subject to proof of the reasonableness and prudence of the expenditures upon which the amounts are based. It is further

ORDERED that the Fuel and Purchased Power Cost Recovery Clause docket is an ongoing docket and shall remain open.

By ORDER of the Florida Public Service Commission this 20th day of December, 2010.

ANN COLE
Commission Clerk

By: 
Dorothy E. Menasco
Chief Deputy Commission Clerk

(S E A L)

ELS

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.