

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 150007-EI
ORDER NO. PSC-15-0511-PHO-EI
ISSUED: October 29, 2015

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 19, 2015, in Tallahassee, Florida, before Commissioner Art Graham, as Prehearing Officer.

APPEARANCES:

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On behalf of Florida Power & Light Company (FPL)

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On behalf of Duke Energy Florida, LLC. (DEF)

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On behalf of Tampa Electric Company (TECO)

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On behalf of Gulf Power Company (Gulf)

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On behalf of the Florida Industrial Power Users Group (FIPUG)

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On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate –
White Springs (PCS PHOSPHATE or PCS)

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On behalf of the Florida Public Service Commission (Staff).

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Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Commission's continuing Environmental Cost Recovery Clause proceedings, the Commission has set a hearing in this docket for November 2-5, 2015.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing 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 Section 366.8255, Florida Statutes (F.S.). This hearing will be governed by Chapters 366 and 120, F.S., and Chapters 25-6, 25-22 and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., 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, F.S. 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, F.S., 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, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, 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), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

All witnesses are excused from the hearing in this docket. The testimony of excused witnesses shall 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 shall be admitted into the record.

VI. ORDER OF WITNESSES

Each witness whose name is followed by an asterisk (*) is excused from the hearing.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Randall R. LaBauve*	FPL	3, 4, 9A, 9B
Terry J. Keith*	FPL	1-8, 9A, 9B, 13
Thomas G. Foster*	DEF	1-8, 10A,10B,13
Michael Delowery*	DEF	1-3
Garry Miller*	DEF	2,3, 10A
Jeffrey Swartz*	DEF	1-3
Patricia Q. West*	DEF	1-3
Corey Zeigler*	DEF	1
Penelope A. Rusk*	TECO	1, 2, 3, 4, 5, 6, 7, 8, 13
Paul L. Carpinone*	TECO	3
J. O. Vick*	GULF	1, 2, 3, 11A, 12A
C. S. Boyett*	GULF	1, 2, 3, 4, 5, 6, 7, 8, 11B, 12B, 13

VII. BASIC POSITIONS

FPL: FPL's 2016 Environmental Cost Recovery factors, including the prior period true-ups reflected therein, are reasonable and should be approved. The Commission also should approve FPL's proposed Coal Combustion Residuals Disposal Project ("the CCR Disposal Project") for recovery through the ECRC.

DEF: None necessary

TECO: The Commission should approve the compliance programs described in the testimony and exhibits of Tampa Electric Witnesses Rusk and Carpinone for environmental cost recovery. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period January 2014 through December 2014, the actual/estimated environmental cost recovery true-up for the current period January 2015 through December 2015, and the company's projected ECRC revenue requirement and the

company's proposed ECRC factors for the period January 2016 through December 2016.

GULF: It is the basic position of Gulf Power Company that the environmental cost recovery factors proposed by the Company present the best estimate of Gulf's environmental compliance costs recoverable through the Environmental Cost Recovery Clause (ECRC) for the period January 2016 through December 2016, including the true-up calculations and other adjustments allowed by the Commission.

OPC: The utilities have the burden of proof to justify and support the recovery of costs and their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought, regardless of whether the Intervenor provide evidence to the contrary. Regardless of whether the Commission has previously approved a program as meeting the requirements of Section 366.8255, Fla. Stat., the utilities must still meet their burden of demonstrating that the costs submitted for final recovery meet the statutory test(s) and are reasonable in amount and prudently incurred.

FIPUG: Only costs legally authorized should be recovered through the environmental cost recovery clause. FIPUG maintains that the respective utilities must satisfy their burden of proof for any and all monies or other relief sought in this proceeding.

PCS: PCS Phosphate generally accepts and adopts the positions taken by the Florida Office of Public Counsel ("OPC").

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

VIII. ISSUES AND POSITIONS

ISSUE 1: **What are the final environmental cost recovery true-up amounts for the period January 2014 through December 2014?**

POSITIONS

FPL: \$3,164,408 under-recovery. (Keith)

DEF: \$1,419,043 over-recovery. (Foster, Delowery, Swartz, West, Zeigler)

TECO: The appropriate final environmental cost recovery true-up amount for this period is an under-recovery of \$3,915,636. (Witness: Rusk)

GULF: Under recovery of \$912,783. (Vick, Boyett)

OPC: No position.

FIPUG: FIPUG takes no position on this issue other than that the respective utilities must meet their burden of proof at the hearing in this matter, pursuant to applicable statutes and regulations, to demonstrate entitlement to the monies and other relief that the utilities request in this proceeding.

PCS: PCS agrees with the Office of Public Counsel.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 2: **What are the estimated/actual environmental cost recovery true-up amounts for the period January 2015 through December 2015?**

POSITIONS

FPL: \$ 37,619,712 under-recovery. (Keith)

DEF: \$779,602 under-recovery. (Foster, Delowery, Miller, Swartz, West)

TECO: The estimated environmental cost recovery true-up amount for the period is an over-recovery of \$4,535,273. (Witness: Rusk)

GULF: Under recovery of \$1,699,128. (Vick, Boyett)

OPC: For FPL and DEF, the OPC takes no position to the extent a utility seeks recovery of CCR-related costs in 2015. For Gulf the OPC takes no position on programs and costs in 2015 that Gulf asserts are required by the federal CCR Rule for Plants Crist, Smith and Daniel. For costs in 2015 that Gulf asserts are required at the Plant Scholz CCR Unit pursuant to the terms of a draft NPDES permit, the OPC's position is that those costs do not qualify for recovery pursuant to Section 366.8255, Florida Statutes. Furthermore, the OPC does not agree that Gulf has demonstrated that such Plant Scholz costs are not also partially recovered through base rates in the form of the dismantlement accrual.

FIPUG: FIPUG takes no position on this issue other than that the respective utilities must meet their burden of proof at the hearing in this matter, pursuant to applicable statutes and regulations, to demonstrate entitlement to the monies and other relief that the utilities request in this proceeding.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2016 through December 2016?

POSITIONS

FPL: \$ 229,580,392. (Keith)

DEF: \$69,394,937. (Foster, Delowery, Miller, Swartz, West)

TECO: The appropriate amount of environmental costs projected to be recovered for the period January 2016 through December 2016 is \$81,255,576. (Witnesses: Rusk; Carpinone)

GULF: \$197,765,402. (Vick, Boyett)

OPC: For FPL and DEF, the OPC takes no position. For Gulf the OPC takes no position on programs and costs that Gulf asserts are required by the federal CCR Rule for Plants Crist, Smith and Daniel. For 2016 costs that Gulf asserts are required at the Plant Scholz CCR Unit pursuant to the terms of a draft NPDES permit, the OPC's position is that those costs do not qualify for recovery pursuant to Section 366.8255, Florida Statutes. Furthermore, the OPC does not agree that that Gulf has demonstrated that such Plant Scholz costs are not also partially recovered through base rates in the form of the dismantlement accrual.

FIPUG: FIPUG takes no position on this issue other than that the respective utilities must meet their burden of proof at the hearing in this matter, pursuant to applicable statutes and regulations, to demonstrate entitlement to the monies and other relief that the utilities request in this proceeding.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 4: What are the environmental cost recovery amounts, including true-up amounts, for the period January 2016 through December 2016?

POSITIONS

FPL: The total environmental cost recovery amount, including true-up amounts and adjusted for revenue taxes, is \$270,559,175. (Keith)

DEF: \$68,805,000. (Foster)

TECO: The total environmental cost recovery amount, including true-up amounts, for the period January 2016 through December 2016 is \$80,693,997 after the adjustment for taxes. (Witness: Rusk)

GULF: \$200,521,584. (Boyett)

OPC: For FPL and DEF, the OPC takes no position to the extent a utility seeks recovery of CCR-related costs in 2015. For Gulf the OPC takes no position on programs and costs in 2015 that Gulf asserts are required by the federal CCR Rule for Plants Crist, Smith and Daniel. For costs in 2015 that Gulf asserts are required at the Plant Scholz CCR Unit pursuant to the terms of a draft NPDES permit, the OPC's position is that those costs do not qualify for recovery pursuant to Section 366.8255, Florida Statutes. Furthermore, the OPC does not agree that Gulf has demonstrated that such Plant Scholz costs are not also partially recovered through base rates in the form of the dismantlement accrual.

FIPUG: FIPUG takes no position on this issue other than that the respective utilities must meet their burden of proof at the hearing in this matter, pursuant to applicable statutes and regulations, to demonstrate entitlement to the monies and other relief that the utilities request in this proceeding.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2016 through December 2016?

POSITIONS

FPL: The depreciation rates used to calculate the depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service. (Keith)

DEF: The depreciation rates used to calculate depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service. (Foster)

TECO: The depreciation rates used to calculate the depreciation expense shall be the rates that are in effect during the period the allowed capital investment is in service. (Witness: Rusk)

GULF: The depreciation rates used to calculate the depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service. (Boyett)

OPC: No position.

FIPUG: FIPUG takes no position on this issue other than that the respective utilities must meet their burden of proof at the hearing in this matter, pursuant to applicable statutes and regulations, to demonstrate entitlement to the monies and other relief that the utilities request in this proceeding.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 6: **What are the appropriate jurisdictional separation factors for the projected period January 2016 through December 2016?**

POSITIONS

<u>FPL:</u>	Retail Energy Jurisdictional Factor	94.88715%
	Retail CP Demand Jurisdictional Factor	94.67506%
	Retail GCP Demand Jurisdictional Factor	100.00000% (Keith)

DEF: The Energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total kWh sales. The remaining separation

factors are below, consistent with the Revised Stipulation and Settlement Agreement approved in Order No. PSC-13-0598-FOF-EI, at p. 54.

Transmission Average 12 CP Demand – 70.203%

Distribution Primary Demand – 99.561%

Production Demand:

Production Demand (2012) – 91.683%

Production Base – 92.885%

Production Intermediate – 72.703%

Production Peaking – 95.924%

Production A&G – 93.221%

(Foster)

TECO: The appropriate jurisdictional separation factors are 1.0000000. (Witness: Rusk)

GULF: The demand jurisdictional separation factor is 97.07146%. Energy jurisdictional separation factors are calculated each month based on retail KWH sales as a percentage of projected total territorial KWH sales. (Boyett)

OPC: No position.

FIPUG: FIPUG takes no position on this issue other than that the respective utilities must meet their burden of proof at the hearing in this matter, pursuant to applicable statutes and regulations, to demonstrate entitlement to the monies and other relief that the utilities request in this proceeding.

PCS: PCS agrees with the Office of Public Counsel.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 7: **What are the appropriate environmental cost recovery factors for the period January 2016 through December 2016 for each rate group?**

POSITIONS

FPL:

RATE CLASS	Environmental Cost Recovery Factor (cents/kWh)
RS1/RTR1	0.263
GS1/GST1	0.251
GSD1/GSDT1/HLFT1	0.233
OS2	0.210
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.232
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.205
GSLD3/GSLDT3/CS3/CST3	0.200
SST1T	0.186
SST1D1/SST1D2/SST1D3	0.217
CILC D/CILC G	0.205
CILC T	0.192
MET	0.228
OL1/SL1/PL1	0.100
SL2	0.192
Total	0.247

(Keith)

DEF: The appropriate recovery factors are as follows: (Foster)

Rate Class	ECRC Factors
Residential	0.184 cents/kWh
General Service Non-Demand	
@ Secondary Voltage	0.181 cents/kWh
@ Primary Voltage	0.179 cents/kWh
@ Transmission Voltage	0.177 cents/kWh
General Service 100% Load Factor	0.178 cents/kWh
General Service Demand	
@ Secondary Voltage	0.180 cents/kWh
@ Primary Voltage	0.178 cents/kWh
@ Transmission Voltage	0.176 cents/kWh
Curtable	
@ Secondary Voltage	0.173 cents/kWh
@ Primary Voltage	0.171 cents/kWh
@ Transmission Voltage	0.170 cents/kWh
Interruptible	
@ Secondary Voltage	0.175 cents/kWh
@ Primary Voltage	0.173 cents/kWh
@ Transmission Voltage	0.172 cents/kWh
Lighting	0.173 cents/kWh

<u>TECO:</u>	<u>Rate Class</u>	<u>Factor (¢/kWh)</u>
	RS	0.432
	GS, TS	0.431
	GSD, SBF	
	Secondary	0.429
	Primary	0.424
	Transmission	0.420
	IS	
	Secondary	0.423
	Primary	0.419
	Transmission	0.414
	LS1	0.427
	Average Factor	0.430
	(Witness: Rusk)	

GULF: See table below: (Boyett)

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RSVP, RSTOU	2.109
GS	1.895
GSD, GSDT, GSTOU	1.678
LP, LPT	1.488
PX, PXT, RTP, SBS	1.417
OS-I/II	0.503
OSIII	1.353

OPC: No position, except that for costs that Gulf asserts are required at the Plant Scholz CCR Unit pursuant to the terms of a draft NPDES permit, the OPC's position is that those costs do not qualify for recovery pursuant to Section 366.8255, Florida Statutes. Furthermore, the OPC does not agree that Gulf has demonstrated that such Plant Scholz costs are not also partially recovered through base rates in the form of the dismantlement accrual. Accordingly, the OPC objects to the Commission approving factors reflecting recovery of these amounts.

FIPUG: FIPUG takes no position on this issue other than that the respective utilities must meet their burden of proof at the hearing in this matter, pursuant to applicable

statutes and regulations, to demonstrate entitlement to the monies and other relief that the utilities request in this proceeding.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

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

POSITIONS

FPL: FPL is requesting that the environmental cost recovery factors become effective with customer bills for January 2016 (cycle day 1) through December 2016 (cycle day 21). This will provide for 12 months of billing for all customers. Thereafter, FPL's environmental cost recovery factors should remain in effect until modified by the Commission. (Keith)

DEF: The factors should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2016 through December 2016. Billing cycles may start before January 1, 2016 and the last cycle may read after December 31, 2016, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. These charges will continue in effect until modified by the Commission. (Foster)

TECO: The factors should be effective beginning with the specified environment cost recovery cycle for the period January 2016 through December 2016. Billing cycles may start before January 1, 2016, and the last cycle may be read after December 31, 2016, so that each customer is billed for 12 months regardless of when the adjustment factors became effective. (Witness: Rusk)

GULF: The new environmental cost recovery factors should be effective beginning with the first billing cycle for January 2016 and thereafter through the last billing cycle for December 2016. The first billing cycle may start before January 1, 2016, and the last cycle may be read after December 31, 2016, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. (Boyett)

OPC: No position.

FIPUG: FIPUG takes no position on this issue other than that the respective utilities must meet their burden of proof at the hearing in this matter, pursuant to applicable statutes and regulations, to demonstrate entitlement to the monies and other relief that the utilities request in this proceeding.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 9A: **Should FPL be allowed to recover, through the ECRC, prudently incurred costs associated with its proposed Coal Combustion Residuals (CCR) Disposal Project?**

POSITIONS

FPL: Yes. On April 17, 2015, The United States Environmental Protection Agency published in the Federal Register a final rule to regulate the disposal of coal combustion residuals ("CCR") as solid waste under subtitle D of the Resource Conservation and Recovery Act ("RCRA"). This rule establishes minimum criteria for the safe disposal of CCR in landfills and surface impoundments. The rule is self-implementing with an effective date of October 19, 2015. CCR is generated from the combustion of coal, including solid fuels classified as anthracite, bituminous, subbituminous, and lignite, for the purpose of generating steam to power a generator to produce electricity or electricity and other thermal energy by electric utilities and independent power producers. Based on the applicability criteria, the final rule will apply to Plant Scherer and St. John's River Power Park ("SJRPP"), in which FPL has an ownership interest. FPL, along with the operating agents for Plant Scherer and SJRPP, will initiate the necessary actions to meet the new design and performance requirements of the final rule. At both Plant Scherer and SJRPP a new groundwater monitoring and corrective action plan will be developed and additional groundwater monitoring wells will be installed over the next two years. Over the next three years both Plant Scherer and SJRPP must conduct a number of engineering evaluations to meet the demonstrations required for continued use of the impoundment and landfills. (LaBauve)

DEF: No position.

TECO: No position.

GULF: No position.

OPC: FPL has the burden of proof to justify and support the recovery of costs for the CCR, including whether the project meets the requirements of Section 366.8255 and that costs are prudently incurred and reasonable in amount, regardless of whether the Intervenor provide evidence to the contrary. The OPC takes no position on whether FPL has met its burden of proof on this issue or should be authorized to recover costs related to the CCR Disposal Project

FIPUG: No, unless FPL meets its burden of proof.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 9B: **How should the costs associated with FPL's proposed CCR Disposal Project be allocated to the rate classes?**

POSITIONS

FPL: At this time, only Capital costs are being projected. Capital costs associated with FPL's proposed CCR Project should be allocated to the rate classes on 100% energy basis. (Keith)

DEF: No position.

TECO: No position.

GULF: No position.

OPC: No position.

FIPUG: If recovery is permitted, costs should be allocated as set forth the Settlement Agreement approved by the Commission in FPL's most recent rate case.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 10A: Should DEF be allowed to recover, through the ECRC, prudently incurred costs associated with its Coal Combustion Residual (CCR) Rule Program?

POSITIONS

FPL: No position.

DEF: Yes. DEF's proposed CCR Rule Program meets the recovery criteria established in Order No. 94-044-FOF-EI in that:

- a) All expenditures will be prudently incurred after April 13, 1993;
- b) The activities are legally required to comply with a governmentally imposed environmental regulation enacted, became effective, or whose effect was triggered after the Company's last test year which rates are based; and
- c) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

(Foster, Miller, West)

TECO: No position.

GULF: No position.

OPC: DEF has the burden of proof to justify and support the recovery of costs for the CCR, including whether the project meets the requirements of Section 366.8255 and that costs are prudently incurred and reasonable in amount, regardless of whether the Intervenors provide evidence to the contrary. The OPC takes no position on whether DEF has met its burden of proof on this issue or should be authorized to recover costs related to the CCR Disposal Project.

FIPUG: No, unless DEF meets its burden of proof.

PCS: PCS agrees with the Office of Public Counsel.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 10B: How should costs associated with DEF's proposed CCR Rule Program be allocated to rate classes?

POSITIONS

FPL: No position.

DEF: Capital costs associated with the CCR Rule Program should be allocated to rate classes on a demand basis (12 CP and 1/13th AD) and O&M costs associated with the CCR Rule Program should be allocated to rate classes on an energy basis. This allocation represents a minimal change to DEF's projection filings, and therefore DEF should not be required to amend its filings but should account for the minimal difference in the 2016 true-up filings and continue with this allocation going forward. (Foster)

TECO: No position.

GULF: No position.

OPC: No position.

FIPUG: If recovery is permitted, costs should be allocated as set forth the settlement agreement approved by the Commission in DEF's most recent rate case.

PCS: PCS agrees with FIPUG.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 11A: Should Gulf be allowed to recover, through the ECRC, prudently incurred costs associated with its Coal Combustion Residual (CCR) program?

POSITIONS

FPL: No position.

DEF: No position.

TECO: No position.

GULF: Yes. Gulf is subject to new requirements governing the disposal of Coal Combustion Residuals at its generating plants. These new regulatory compliance obligations are pursuant to either the new CCR rule adopted earlier this year by the United States Environmental Protection Agency (EPA) or in new National

Pollutant Discharge Elimination System (NPDES) permits issued by the Florida Department of Environmental Protection (FDEP) pursuant to authority granted under the Clean Water Act. The EPA's newly promulgated CCR rule includes minimum criteria for active and inactive surface impoundments containing CCR and liquids, lateral expansions of existing units, and active landfills (collectively referred to as "CCR Units"). The new CCR rule will require Gulf to design, operate, and maintain stormwater run-on and run-off systems for Gulf Power's CCR landfill facilities. To meet this new requirement, Gulf will install additional wastewater injection well capacity at Plant Crist, dewater bottom ash and store the dry material in an onsite landfill at Plant Crist, and add wastewater treatment measures at Plant Smith. Gulf expects to spend approximately \$9.4 million in capital cost in 2016. Gulf will conduct hydrologic and hydraulic capacity studies of the CCR ponds, compile a history of the structural integrity reports and design information for the CCR Units, prepare stormwater management plans, and conduct annual dust control and engineering inspections as well as groundwater monitoring. Gulf expects to spend approximately \$80,000 in 2015 and \$360,000 in 2016 in O&M costs. On August 24, 2015, the FDEP issued a draft renewal NPDES permit for Plant Scholz. This permit has new conditions requiring the closure of the Plant Scholz CCR unit. Gulf expects to spend \$600,000 in 2015 and \$12.2 million in 2016 for the closure activities. The total cost of closure is estimated to be \$30 million and the estimated completion date is 2018.

The Coal Combustion Residuals program meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI. Gulf should be allowed to recover its incurred costs associated with the project. (Vick)

OPC: Gulf has the burden of proof to justify and support the recovery of costs for the CCR, including whether the project meets the requirements of Section 366.8255 and that costs are prudently incurred and reasonable in amount, regardless of whether the Intervenors provide evidence to the contrary. The OPC takes no position on whether Gulf has met its burden of proof on this issue or should be authorized to recover costs related to the CCR Disposal Project at Plants Crist, Daniel and Smith. For costs that Gulf asserts are required at the Plant Scholz CCR Unit pursuant to the terms of a draft NPDES permit, the OPC's position is that those costs do not qualify for recovery pursuant to Section 366.8255, Florida Statutes. Furthermore, the OPC does not agree that Gulf has demonstrated that such Plant Scholz costs are not also partially recovered through base rates in the form of the dismantlement accrual.

FIPUG: No, unless Gulf meets its burden of proof.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 11B: How should costs associated with Gulf's proposed CCR program be allocated to rate classes?

POSITIONS

FPL: No position

DEF: No position

TECO: No position.

GULF: Capital costs for the CCR program should be allocated to the rate classes on an average 12-MCP demand and 1/13th energy basis. O&M cost for the program should be allocated to the rate classes on a demand basis. (Boyett)

OPC: No position.

FIPUG: If recovery is permitted, costs should be allocated as set forth the settlement agreement approved by the Commission in Gulf's most recent rate case.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 12A: Should Gulf be allowed to recover, through the ECRC, prudently incurred costs associated with its Steam Electric Power Effluent Limitations Guidelines (ELG) program?

POSITIONS

FPL: No position.

DEF: No position

TECO: No position.

GULF: Yes. Title 40 Code of Federal Regulations Part 423, which was promulgated under the authority of the Clean Water Act, limits the discharge of pollutants into navigable waters and into publicly owned treatment works by existing and new

sources of steam electric power plants. These limits are found in the Steam Electric Power Effluent Limitations Guidelines, which were signed by the EPA Administrator on September 30, 2015. The EPA issued a copy of the ELG rule on September 30, 2015, and has submitted the rule for publication in the Federal Register. These new rules require the installation of additional controls such as wastewater treatment systems and/or dry ash handling systems at Gulf's generating facilities. In 2016, Gulf expects to spend approximately \$175,000 for the preliminary engineering studies to evaluate ways to minimize discharges from wastewater units that are subject to the ELG rule.

The proposed Effluent Limitations Guidelines program meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI. Gulf should be allowed to recover its incurred costs associated with the project. (Vick)

OPC: Gulf has the burden of proof to justify and support the recovery of costs for the ELG, including whether the project meets the requirements of Section 366.8255 and that costs are prudently incurred and reasonable in amount, regardless of whether the Intervenor provide evidence to the contrary. The OPC takes no position on whether Gulf has met its burden of proof on this issue or should be authorized to recover costs related to the ELG program.

FIPUG: No, unless DEF meets its burden of proof.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 12B: **How should costs associated with Gulf's proposed ELG program be allocated to rate classes?**

POSITIONS

FPL: No position.

DEF: No position.

TECO: No position.

GULF: Capital cost for the ELG program should be allocated to the rate classes on an average 12-MCP demand and 1/13th energy basis. O&M cost for the program should be allocated to the rate classes on demand basis. (Boyett)

OPC: No position.

FIPUG: If recovery is permitted, costs should be allocated as set forth the settlement agreement approved by the Commission in Gulf's most recent rate case.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

ISSUE 13: **Should the Commission approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding?**

POSITIONS

FPL: Yes. The Commission should approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision. (Keith)

DEF: Yes. The Commission should approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision. (Foster)

TECO: Yes. The Commission should approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision. (Witness: Rusk)

GULF: Yes. The Commission should approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision. (Boyett)

OPC: No position, except that for costs that Gulf asserts are required at the Plant Scholz CCR Unit pursuant to the terms of a draft NPDES permit, the OPC's position is that those costs do not qualify for recovery pursuant to Section 366.8255, Florida Statutes. Furthermore, the OPC does not agree that Gulf has demonstrated that such Plant Scholz costs are not also partially recovered through base rates in the

form of the dismantlement accrual. Accordingly, the OPC objects to the Commission approving tariffs authorizing recovery of these amounts.

FIPUG: No, unless the respective utilities meet their burden of proof.

PCS: No position.

STAFF: Staff's positions are reflected in the stipulations proposed under Section X of this Order.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
		<u>Direct</u>
Randall R. LaBauve	FPL	RRL-1 FPL Supplemental CAIR/MATS/CAVR Filing
Randall R. LaBauve	FPL	RRL-2 Summary of Coal Combustion Residuals Rule
Randall R. LaBauve	FPL	RRL-3 Letter from United States Fish and Wildlife Service ("USFWS") requiring action for manatee protection at the CCEC
R.R. LaBauve	FPL	RRL-4 Proposed conceptual changes to the manatee heating system at the CCEC
Terry J. Keith	FPL	TJK-1 Appendix I Environmental Cost Recovery Final True-up January 2014 - December 2014 Commission Forms 42-1A through 42-9A

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Terry J. Keith	FPL	TJK-2	Appendix I Environmental Cost Recovery Actual/Estimated Period January 2015 -December 2015 Commission Forms 42-1E through 42-9E
Terry J. Keith	FPL	TJK-3	Appendix I Environmental Cost Recovery Projections January 2016 - December 2016 Commission Forms 42-1P through 42-8P
Michael Delowery	DEF	TGF-5	Form 42-5P, page 20 of 22
Thomas G. Foster	DEF	TGF-1	Forms 42-1A - 42-9A January 2014 – December 2014
Thomas G. Foster	DEF	TGF-2	Capital Program Detail January 2014 – December 2014
Thomas G. Foster	DEF	TGF-3	Forms 42-1E – 42-9E January 2015 – December 2015
Thomas G. Foster	DEF	TGF-4	Capital Program Detail January 2015 – December 2015
Thomas G. Foster	DEF	TGF-5	Forms 42-1P – 42-8P January 2016 – December 2016
Thomas G. Foster	DEF	TGF-6	Capital Program Detail January 2016 – December 2016
Garry Miller	DEF	TGF-5	Form 42-5P, page 22 of 22
Jeffrey Swartz	DEF	JS-1	Crystal River Clean Air Projects Organizational Chart

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Jeffrey Swartz	DEF	TGF-5	Form 42-5P, pages 7 and 21 of 22
Patricia Q. West	DEF	PQW-1	Review of Integrated Clean Air Compliance Plan
Patricia Q. West	DEF	TGF-5	Form 42-5P, pages 1-4, 6-7 and 8-19 of 22
Penelope A. Rusk	TECO	PAR-1	Final Environmental Cost Recovery Commission Forms 42-1A through 42-9A for the period January 2014 through December 2014
Penelope A. Rusk	TECO	PAR-2	Environmental Cost Recovery Commission Forms 42-1E through 42-9E for the Period January 2015 through December 2015
Penelope A. Rusk	TECO	PAR-3	Forms 42-1P through 42-8P Forms for the January 2016 through December 2016
J. O. Vick	GULF	JOV-1	CCR regulation; Draft Plant Scholz NPDES industrial wastewater permit; Proposed ELG regulation
C. S. Boyett	GULF	CSB-1	Calculation of Final True-up 1/14 – 12/14
C. S. Boyett	GULF	CSB-2	Calculation of Estimated True-up 1/15 – 12/15
C. S. Boyett	GULF	CSB-3	Calculation of Projection 1/16 – 12/16

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

X. PROPOSED STIPULATIONS

STAFF Staff has proposed its positions on the issues in this case as stipulations as set forth below. DEF, FPL, Gulf and TECO support the stipulations.

OPC is agreeable to “Type 2” stipulations on all issues except recovery of costs addressed in Issue 11A that are related to the Plant Scholz CCR Unit pursuant to the terms of the NPDES permit. OPC and Gulf have separately agreed to carve out and defer the Scholz CCR closure cost issue to a future proceeding either in the ongoing ECRC docket or in a separate limited scope proceeding as set forth under the proposed stipulation of Issue 11A.

PCS Phosphate and FIPUG are agreeable to Type 2 stipulation of all issues.

All witnesses are excused. Testimony and hearing exhibits, including Staff’s proposed exhibits are included in the record.

ISSUE 1: What are the final environmental cost recovery true-up amounts for the period January 2014 through December 2014?

FPL	\$3,164,408	Under Recovery
DEF	\$1,419,043	Over Recovery
GULF	\$912,783	Under Recovery
TECO	\$3,915,636	Under Recovery

ISSUE 2: What are the estimated/actual environmental cost recovery true-up amounts for the period January 2015 through December 2015?

FPL	\$37,619,712	Under Recovery
DEF	\$779,602	Under Recovery
GULF	\$1,699,128	Under Recovery
TECO	\$4,535,273	Over Recovery

ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2016 through December 2016?

FPL	\$229,580,392
DEF	\$69,394,937
GULF	\$197,765,402
TECO	\$81,255,576

ISSUE 4: What are the environmental cost recovery amounts, including true-up amounts, for the period January 2016 through December 2016?

FPL	\$270,559,175
DEF	\$68,805,000
GULF	\$200,521,584
TECO	\$80,693,997

ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2016 through December 2016?

The depreciation rates used to calculate the depreciation expense shall be the rates that are in effect during the period the allowed capital investment is in service.

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2016 through December 2016?

FPL

Retail Energy Jurisdictional Factor	94.88715%
Retail CP Demand Jurisdictional Factor	94.67506%
Retail GCP Demand Jurisdictional Factor	100.00000%

DEF

The Energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total kWh sales. The remaining separation factors are below, consistent with the Revised Stipulation and Settlement Agreement approved in Order No. PSC-13-0598-FOF-EI, at p. 54.

Transmission Average 12 CP Demand	– 70.203%
Distribution Primary Demand	– 99.561%

Production Demand:
 Production Demand (2012) – 91.683%
 Production Base – 92.885%
 Production Intermediate – 72.703%
 Production Peaking – 95.924%
 Production A&G – 93.221%

TECO

The appropriate jurisdictional separation factors are 1.0000000.

GULF

The demand jurisdictional separation factor is 97.07146%. Energy jurisdictional separation factors are calculated each month based on retail KWH sales as a percentage of projected total territorial KWH sales.

ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2016 through December 2016 for each rate group?

FPL

RATE CLASS	Environmental Cost Recovery Factor (cents/kWh)
RS1/RTR1	0.263
GS1/GST1	0.251
GSD1/GSDT1/HLFT1	0.233
OS2	0.210
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.232
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.205
GSLD3/GSLDT3/CS3/CST3	0.200
SST1T	0.186
SST1D1/SST1D2/SST1D3	0.217
CILC D/CILC G	0.205
CILC T	0.192
MET	0.228
OL1/SL1/PL1	0.100
SL2	0.192
Total	0.247

DEF

Rate Class	ECRC Factors
Residential	0.184 cents/kWh
General Service Non-Demand	
@ Secondary Voltage	0.181 cents/kWh
@ Primary Voltage	0.179 cents/kWh
@ Transmission Voltage	0.177 cents/kWh
General Service 100% Load Factor	0.178 cents/kWh
General Service Demand	
@ Secondary Voltage	0.180 cents/kWh
@ Primary Voltage	0.178 cents/kWh
@ Transmission Voltage	0.176 cents/kWh
Curtable	
@ Secondary Voltage	0.173 cents/kWh
@ Primary Voltage	0.171 cents/kWh
@ Transmission Voltage	0.170 cents/kWh
Interruptible	
@ Secondary Voltage	0.175 cents/kWh
@ Primary Voltage	0.173 cents/kWh
@ Transmission Voltage	0.172 cents/kWh
Lighting	0.173 cents/kWh

TECO

<u>Rate Class</u>	<u>Factor (¢/kWh)</u>
RS	0.432
GS, TS	0.431
GSD, SBF	
Secondary	0.429
Primary	0.424
Transmission	0.420
IS	
Secondary	0.423
Primary	0.419
Transmission	0.414
LS1	0.427
Average Factor	0.430

GULF

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RSVP, RSTOU	2.109
GS	1.895
GSD, GSDT, GSTOU	1.678
LP, LPT	1.488
PX, PXT, RTP, SBS	1.417
OS-I/II	0.503
OSIII	1.353

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

The factors shall be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2016 through December 2016. Billing cycles may start before January 1, 2016 and the last cycle may be read after December 31, 2016, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. These charges shall continue in effect until modified by subsequent order of this Commission.

ISSUE 9A: Should FPL be allowed to recover, through the ECRC, prudently incurred costs associated with its proposed Coal Combustion Residuals (CCR) Disposal Project?

Yes. Pursuant to Section 366.8255(2), F.S., electric utilities may petition the Commission to recover projected environmental compliance costs that are required by environmental laws or regulations. The Commission has interpreted the statute to prescribe two criteria, relevant to this docket, for recovery of environmental compliance costs through the clause. Pursuant to Order No. PSC-94-0044-FOF-EI, these criteria are:

- (1) The activities are legally required to comply with a governmentally imposed environmental regulation that was created, became effective, or whose effect was triggered after the company's last test year upon which rates are based.
- (2) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

On April 17, 2015, The United States Environmental Protection Agency published in the Federal Register a final rule to regulate the disposal of coal combustion residuals (CCR). The rule is self-implementing with an effective date of October 19, 2015. The CCR rule establishes minimum criteria for the safe disposal of CCR in landfills and surface impoundments. The CCR rule will apply to Plant Scherer and St. John's River Power Park, in which FPL has an ownership interest.

Although FPL has not included any costs associated with its proposed CCR project in its projected ECRC factors, FPL has identified several activities necessary to meet the requirements of the CCR rule. There is no indication that any costs associated with CCR rule compliance are currently being recovered through base rates or any other cost recovery mechanism. Therefore, FPL's proposed project satisfies the criteria established in Order No. PSC-94-0044-FOF-EI, and the Company shall be allowed to recover prudently incurred costs associated with the project through the ECRC. The reasonableness and prudence of individual expenditures related to the CCR project will continue to be subject to the Commission's review in future ECRC proceedings.

ISSUE 9B: How should the costs associated with FPL's proposed CCR Disposal Project be allocated to the rate classes?

At this time, only Capital costs are being projected. Consistent with the Settlement Agreement approved by the Commission in FPL's most recent rate case, Capital costs associated with FPL's proposed CCR Project shall be allocated to the rate classes on the basis of the 12CP and 1/13th average demand allocator.

ISSUE 10A: Should DEF be allowed to recover, through the ECRC, prudently incurred costs associated with its Coal Combustion Residual (CCR) Rule Program?

Yes. Pursuant to Section 366.8255(2), F.S., electric utilities may petition the Commission to recover projected environmental compliance costs that are required by environmental laws or regulations. The Commission has interpreted the statute to prescribe two criteria, relevant to this docket, for recovery of environmental compliance costs through the clause. Pursuant to Order No. PSC-94-0044-FOF-EI, these criteria are:

- (1) The activities are legally required to comply with a governmentally imposed environmental regulation that was created, became effective, or whose effect was triggered after the company's last test year upon which rates are based.
- (2) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

On April 17, 2015, The United States Environmental Protection Agency published in the Federal Register a final rule to regulate the disposal of coal combustion residuals (CCR). The rule is self-implementing with an effective date of October 19, 2015. The CCR rule establishes minimum criteria for the safe disposal of CCR in landfills and surface impoundments. The CCR rule will apply to DEF's Crystal River site.

DEF's 2016 ECRC factors reflect approximately \$1.9 million in costs associated with CCR related activities. There is no indication that any costs associated with CCR rule compliance are currently being recovered through base rates or any other cost recovery mechanism. Therefore, DEF's proposed project satisfies the criteria established in Order No. PSC-94-0044-FOF-EI, and the Company shall be allowed to recover prudently incurred costs associated with the project through the ECRC. The reasonableness and prudence of individual expenditures related to the CCR project will continue to be subject to the Commission's review in future ECRC proceedings.

ISSUE 10B: How should costs associated with DEF's proposed CCR Rule Program be allocated to rate classes?

Capital costs associated with the CCR Rule Program should be allocated to rate classes on a demand basis (12 CP and 1/13th AD) and O&M costs associated with the CCR Rule Program should be allocated to rate classes on an energy basis. This allocation represents a minimal change to DEF's projection filings, and therefore DEF should not be required to amend its filings but should account for the minimal difference in the 2016 true-up filings and continue with this allocation going forward. (Foster)

ISSUE 11A: Should Gulf be allowed to recover, through the ECRC, prudently incurred costs associated with its Coal Combustion Residual (CCR) program?

Yes, subject to the carve out and deferral of CCR closure cost associated with Plant Scholz set forth below.

Pursuant to Section 366.8255(2), F.S., electric utilities may petition the Commission to recover projected environmental compliance costs that are required by environmental laws or regulations. The Commission has interpreted the statute to prescribe two criteria, relevant to this docket, for recovery of environmental compliance costs through the clause. Pursuant to Order No. PSC-94-0044-FOF-EI, these criteria are:

- (1) The activities are legally required to comply with a governmentally imposed environmental regulation that was created, became effective, or whose effect was triggered after the company's last test year upon which rates are based.
- (2) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

On April 17, 2015, The United States Environmental Protection Agency published in the Federal Register a final rule to regulate the disposal of CCR. The rule is self-implementing with an effective date of October 19, 2015. The CCR rule establishes minimum criteria for the safe disposal of CCR in landfills and surface impoundments.

There is no indication that any costs associated with CCR rule compliance are currently being recovered through base rates or any other cost recovery mechanism. Therefore, Gulf's proposed project satisfies the criteria established in Order No. PSC-94-0044-FOF-EI, and the Company shall be allowed to recover prudently incurred costs associated with the project through the ECRC. The reasonableness and prudence of individual expenditures related to the CCR project will continue to be subject to the Commission's review in future ECRC proceedings.

Carve out and deferral of Plant Scholz CCR closure cost

All aspects of Issue 11A are approved with the exception of the Scholz CCR closure costs which are deferred to a future proceeding either in the ongoing ECRC docket or in a separate limited scope proceeding. In the event the issue being deferred is addressed in a separate docket, the hearing shall not occur until after Gulf submits an actual closure plan to the FDEP for its review and approval under the applicable NPDES permit. Whether or not the hearing on the deferred issue occurs in the ongoing ECRC docket or in a separate docket, OPC will be allowed to litigate its concerns in such hearing over (1) eligibility of the Scholz CCR closure costs for ECRC recovery, (2) prudence of such costs, and/or (3) assurances that there is no duplication of cost recovery already provided for in mechanisms other than ECRC. In order to preserve the relative positions of the parties pending such future proceeding, and to minimize the total costs ultimately recovered from Gulf's customers in the event that Gulf ultimately prevails on the deferred issue regarding ECRC recovery, the projections of costs for Scholz CCR closure included in Gulf's proposed cost recovery rates for 2016 shall remain in the total amount on which the proposed 2016 cost recovery rates are based pending the ultimate resolution of the issue hereby deferred. Such amounts collected through the 2016 cost recovery rates will be subject to refund and trued up with interest upon final resolution of the deferred issue. If necessary, such true up will occur through the true up processes provided in the ECRC mechanism. The testimony and exhibits of Gulf witnesses Vick and Boyett shall be inserted into the record without objection as a basis for recovery pending ultimate resolution of the issue hereby deferred. Although the testimony and exhibits of Gulf witness Vick are included in the record, there shall be no presumption of correctness applied to evidence regarding Scholz CCR closure costs when the carved out and deferred issue is addressed in a future proceeding by virtue of this stipulation.

ISSUE 11B: How should costs associated with Gulf's proposed CCR program be allocated to rate classes?

Capital costs for the CCR program shall be allocated to the rate classes on an average 12-MCP demand and 1/13th energy basis. O&M cost for the program shall be allocated to the rate classes on a demand basis.

ISSUE 12A: Should Gulf be allowed to recover, through the ECRC, prudently incurred costs associated with its Steam Electric Power Effluent Limitations Guidelines (ELG) program?

Yes. Gulf's proposed Effluent Limitations Guidelines program meets the criteria for ECRC cost recovery established by Order No. PSC-94-0044-FOF-EI, therefore Gulf shall be allowed to recover prudently incurred costs associated with the project through the ECRC. Title 40 Code of Federal Regulations Part 423, which was promulgated under the authority of the Clean Water Act, limits the discharge of pollutants into navigable waters and into publicly owned treatment works by existing and new sources of steam electric power plants.

These limits are found in the Steam Electric Power Effluent Limitations Guidelines, which were signed by the EPA Administrator on September 30, 2015. The EPA issued a copy of the ELG rule on September 30, 2015, and has submitted the rule for publication in the Federal Register. These new rules require the installation of additional controls such as wastewater treatment systems and/or dry ash handling systems at Gulf's generating facilities. In 2016, Gulf expects to spend approximately \$175,000 for the preliminary engineering studies to evaluate ways to minimize discharges from wastewater units that are subject to the ELG rule.

ISSUE 12B: How should costs associated with Gulf's proposed ELG program be allocated to rate classes?

Capital cost for the ELG program shall be allocated to the rate classes on an average 12-MCP demand and 1/13th energy basis. O&M cost for the program shall be allocated to the rate classes on demand basis.

ISSUE 13: Should the Commission approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding?

Yes. The Commission approves the revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding. Staff is directed to verify that the revised tariffs are consistent with the Commission's decision.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There is one pending request for confidentiality.

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 this 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.

XIV. RULINGS

Opening statements, if any, shall not exceed five minutes per party. Post hearing filings shall be limited to 30 pages.

It is therefore,

ORDERED by Commissioner Art Graham, 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 Chairman Art Graham, as Prehearing Officer, this 29th day of October, 2015.



ART GRAHAM
Chairman and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CWM

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 25-22.0376, 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.