

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Environmental Cost) DOCKET NO. 940042-EI
Recovery Clause) ORDER NO. PSC-94-0267-PHO-EI
_____) ISSUED: 03/08/94

Pursuant to Notice, a Prehearing Conference was held on March 4, 1994, in Tallahassee, Florida, before Chairman J. Terry Deason, as Prehearing Officer.

APPEARANCES:

MATTHEW M. CHILDS, Esquire, Steel Hector & Davis, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301-1804
On behalf of Florida Power & Light Company.

G. EDISON HOLLAND, JR., Esquire, and JEFFREY A. STONE, Esquire, Beggs & Lane, 700 Blount Building, 3 West Garden Street, P.O. Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company.

VICKI GORDON KAUFMAN, Esquire, McWhirter, Grandoff and Reeves, 315 South Calhoun Street, Suite 716, Tallahassee, Florida 32301
On behalf of the Florida Industrial Power Users Group.

JOHN ROGER HOWE, Esquire, Deputy Public Counsel, Office of Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

MARTHA CARTER BROWN, Esquire, MIKE PALECKI, Esquire, and DONNA L. CANZANO, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

PRENTICE P. PRUITT, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862
On behalf of the Commissioners.

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FPCO-REGISTRATION UNIT

PREHEARING ORDER

I. CASE BACKGROUND

Pursuant to the provisions of Section 366.8255, Florida Statutes, the Commission has established an environmental cost recovery clause. A formal administrative hearing for this docket is set for March 9 and 10, 1994. The hearing will address the issues set out in the body of this order.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to

assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) 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 Commission Clerk's confidential files.

III. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the

opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

IV. ORDER OF WITNESSES

The witness schedule is set forth below in order of appearance by the witness' name, subject matter, and the issues that will be covered by that witness' testimony.

Witnesses whose names are preceded by an asterisk (*) have been excused. The parties have stipulated that the testimony of those witnesses will be inserted into the record as though read, and cross-examination will be waived.

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>FPL</u>		
*B. T. Birkett	FPL	1,2,3,4,5,6,7,
B.T. Birkett	FPL	8,9
*W. M. Reichel	FPL	10-12

FIPUG

**J. Pollock	FIPUG	8,9
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**The testimony and cross-examination of this witness will be on the first day of the hearing, March 9, 1994.

V. BASIC POSITIONS

FLORIDA POWER & LIGHT COMPANY (FPL): None necessary.

GULF POWER COMPANY (GULF): Gulf Power Company's basic position is that there are no matters at issue for this party during the hearings scheduled for March 9-10, 1994.

FLORIDA INDUSTRIAL POWERS USERS GROUP (FIPUG): In Docket No. 930661-EI, the Commission approved FPL's recovery of certain environmental compliance costs through the environmental compliance cost recovery factor. However, the Commission ordered that two issues relating to the allocation of such costs to rate classes and the recovery of such costs from rate classes be deferred and considered in this docket.

Environmental compliance costs are directly related to production plant. Environmental compliance must occur or the utility will not be able to operate its plants. Pursuant to statute, the Commission should follow the same method of allocation that was approved for similar costs in the company's last rate case. In the case of FPL that is the 12 CP and 1/13th method and this method should continue to be used to allocate all production capital costs and fixed operating expenses recovered through the environmental compliance cost recovery factor.

OFFICE OF PUBLIC COUNSEL: None necessary.

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.

VI. ISSUES AND POSITIONS

Generic Environmental Cost Recovery Issues

STIPULATED

ISSUE 1: What are the appropriate final environmental cost recovery true-up amounts for the period April 13, 1993 through September, 1993?

POSITION: FPL: \$278,250 total recoverable cost for the period including interest.

GULF: Not at issue for this party during the hearings scheduled for March 9-10, 1994. Gulf's initial environmental cost recovery factors, pursuant to Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, were

implemented beginning with the February 1994 billing cycle. Pursuant to that order, the initial factors are to be effective for the period February 1994 through September 1994, and will be reviewed and adjusted as necessary for the six month period beginning October 1994 during hearings to be held in August 1994. Gulf will submit its initial true-up filing with regard to the environmental cost recovery clause in May 1994 at the same time as the Company's true-up filing in Docket No. 940001-EI.

STIPULATED

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period October, 1993 through March, 1994?

POSITION: FPL: \$2,077,890 total recoverable cost for the period including interest.

GULF: Not at issue for this party during the hearings scheduled for March 9-10, 1994. Gulf will submit its initial true-up filing with regard to the environmental cost recovery clause in May 1994 at the same time as the Company's true-up filing in Docket No. 940001-EI. See statement of position for Issues 1 above.

STIPULATED

ISSUE 3: What are the total environmental cost recovery true-up amounts to be collected during the period April, 1994 through September, 1994?

POSITION: FPL: \$2,356,140 identified in Issues 1 and 2.

GULF: Not at issue for this party during the hearings scheduled for March 9-10, 1994. Gulf will submit its initial true-up filing with regard to the environmental cost recovery clause in May 1994 at the same time as the Company's true-up filing in Docket No. 940001-EI. See statements of position for Issues 1-2 above.

STIPULATED

ISSUE 4: What are the appropriate projected environmental cost recovery amounts to be included in the recovery factors for the period April 1994 through September 1994?

FPL: \$2,024,817 of projected environmental compliance cost for the period April 1994 through September 1994, total costs to be recovered during the period are \$4,380,957.

GULF: Not at issue for this party during the hearings scheduled for March 9-10, 1994. See statements of position on Issues 1-3 above.

STIPULATED

ISSUE 5: What depreciation rates should be used to develop the depreciation expense?

POSITION: FPL: The depreciation rates should be those currently prescribed by the Commission for the given investment at the time the filing is prepared.

GULF: Not at issue for this party during the hearings scheduled for March 9-10, 1994.

ISSUE 6: What are the appropriate Environmental Cost Recovery Factors for the period April, 1994 through September, 1994 for each rate group?

<u>FPL:</u> <u>RATE</u> <u>CLASS</u>	<u>ENVIRONMENTAL</u> <u>RECOVERY FACTOR</u> <u>(\$/KW)</u>	<u>ENVIRONMENTAL</u> <u>RECOVERY FACTOR</u> <u>(\$/KWH)</u>
RS1	-	0.00013
GS1	-	0.00012
GSD1	0.04	-
OS2	-	0.00010
GSLD1/CS1	0.04	-
GSLD2/CS2	0.05	-

RATE CLASS	ENVIRONMENTAL RECOVERY FACTOR (\$/KW)	ENVIRONMENTAL RECOVERY FACTOR (\$/KWH)
GSLD3/CS3	0.05	-
ISST1D	0.01	-
SST1T	0.01	-
SST1D	0.02	-
CILC D/CILC G	0.04	-
CILC T	0.04	-
MET	0.04	-
OL1/SL1	-	0.00006
SL2	-	0.00008

GULF: Not at issue for this party during the hearings scheduled for March 9-10, 1994.

STIPULATED

ISSUE 7: What should be the effective date of the new environmental cost recovery factors for billing purposes?

POSITION: FPL: The factor should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period April, 1994 through September, 1994. Billing cycles may start before April 1, 1994, and the last cycle may be read after September 30, 1994, so that each customer is billed for six months regardless of when the adjustment factor becomes effective.

GULF: Not at issue for this party during the hearings scheduled for March 9-10, 1994. Gulf's initial environmental cost recovery factors, pursuant to Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, were implemented beginning with the February 1994 billing cycle. Pursuant to that order, the initial factors are to be effective for the period February 1994 through September 1994 and will be reviewed and adjusted as necessary for the six month period beginning October 1994 during hearings to be held in August 1994. See statements of position on Issues 1-6 above.

ISSUE 8: How should environmental costs be allocated to the rate classes?

FPL: Costs recovered through the Environmental Cost Recovery Clause (ECRC) should be classified and allocated to rate classes in a manner consistent with that which would be used for these costs were they being recovered through base rates. FPL is proposing to classify and allocate ECRC costs on a project-by-project basis using the same method of classification and allocation used for similar costs in the last cost of service study, the "Commission approved methodology" study as filed in Docket No. 900038-EI.

GULF: Not at issue for this party during the hearings scheduled for March 9-10, 1994.

FIPUG: FPL: Environmental costs should be allocated to the rate classes on the basis of the cost of service study used in Florida Power & Light Company's last rate case--12 CP and 1/13th. This method has been approved for allocating all non-nuclear production plant costs and should be used to allocate environmental compliance costs. (Pollock)

OPC: FPL: No position.

STAFF: Those costs necessary to insure compliance with the Clean Air Act Amendments of 1990 should be allocated to the rate cases on an energy (per kilowatt hour) basis. All other costs for which FPL is seeking recovery at this time should be allocated as proposed by FPL.

ISSUE 9: How should the environmental costs be recovered from the rate classes?

FPL: For customers in rate classes which are not billed for demand, FPL proposes to recover ECRC costs through a factor applied to each customer's monthly kwh sales. For customers in rate classes which are billed a demand charge, FPL proposes to recover ECRC costs through a kw billing factor.

GULF: Not at issue for this party during the hearings scheduled for March 9-10, 1994.

FIPUG: FPL: For demand metered rate classes, environmental compliance costs should be recovered on a KW basis. This is consistent with the fact that there is a significant demand (KW) component of environmental compliance costs. (Pollock)

OPC: FPL : No position.

STAFF: The environmental costs should be recovered from all rate classes on an energy (per Kwh) basis.

Company-Specific Environmental Issues

Florida Power & Light Company

STIPULATED

ISSUE 10: What ratemaking treatment should be accorded costs associated with emission allowances for Florida Power & Light Company?

POSITION: The cost of emission allowances should be recorded in Account 158.1, Allowances Inventory. Any gains or losses associated with the disposition of allowances should be recorded in Account 254, Other Regulatory Liabilities, or Account 182.3, Other Regulatory Assets, respectively. The above items are properly included in working capital until the applicable allowances are expensed.

STIPULATED

ISSUE 11: Should the Commission approve FPL's request to recover the cost of relocation of stormwater runoff project through the Environmental Cost Recovery Clause?

POSITION: FPL: Yes. The expenses are required to comply with the effluent discharge limitations in FPL's new National Pollutant Discharge Elimination System Permit, Permit No. FL0002208, for the St. Lucie Plant, issued September 30, 1993, by the United States Environmental Protection Agency. The rerouting of the stormwater is the most cost-effective alternative available. All expenses were incurred after April 13, 1993 are not being recovered in any other cost recovery mechanism; and were not considered at the time of FPL's last rate case.

STIPULATED

ISSUE 12: Should the Commission approve FPL's request to credit the revenues, net of direct and indirect cost, for the rental of Oil Spill Cleanup Equipment to the Environmental Cost Recovery Clause?

POSITION: FPL: Yes. These revenues relate to the rental of equipment, the cost of which is being recovered through the Environmental Cost Recovery Clause.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Birkett	FPL	<u>BTB-1</u>	Document 1 Environmental Compliance Cost Projections April 1994 - September 1994
Birkett	FPL	<u>BTB-2</u>	Document 2/calculation of allocation by rate class
Birkett	FPL	<u>BTB-3</u>	Document 3/calculation of factors
Birkett	FPL	<u>BTB-4</u>	Document 4/schedule of capital investment depreciation and return april 1994 - September 1994
Birkett	FPL	<u>BTB-5</u>	Document 5/estimated/ actual environmental compliance costs October 1993 - March 1994
Birkett	FPL	<u>BTB-6</u>	Document 6/calculation of over/under recovery October 1993 - April 1994

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Birkett	FPL	<u>BTB-7</u>	Document 7/schedule of capital investment depreciation and return October 1993 - March 1994
Birkett	FPL	<u>BTB-8</u>	Document 8/actual environmental compliance cost April 1993 - September 1993
Birkett	FPL	<u>BTB-9</u>	Document 9/calculation of over/under recovery April 1993 - September 1993
Birkett	FPL	<u>BTB-10</u>	Document 10/schedule of capital investment depreciation and return April 1993 - September 1993
Reichel	FPL	<u>WMR-1</u>	Document 1/National pollutant discharge elimination system permit, Permit No. FL0002208
Reichel	FPL	<u>WMR-2</u>	Document 2/excerpt of public law 101-549, clean air act amendments of 1990
Reichel	FPL	<u>WMR-3</u>	Document 3/calculation of variances
Reichel	FPL	<u>WMR-4</u>	Document 4/project description and progress reports

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

VIII. PROPOSED STIPULATIONS

None at this time.

IX. PENDING MOTIONS

None.

X. RULINGS

None.

It is therefore,

ORDERED by Chairman J. Terry Deason, 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 J. Terry Deason, as Prehearing Officer, this 8TH day of MARCH, 1994.



J. TERRY DEASON, Chairman
and Prehearing Officer

(S E A L)
MCB/DLC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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

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administrative hearing or judicial review will be granted or result in the relief sought.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer;
- 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or
- 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility.

A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.