BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Environmental Cost Recovery Clause	) DOCKET NO. 940042-EI) ORDER NO. PSC-94-1207-FOF-EI) ISSUED: October 3, 1994

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK

ORDER APPROVING PROJECTED EXPENDITURES AND TRUE-UP AMOUNTS FOR ENVIRONMENTAL COST RECOVERY FACTORS

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, JEFFREY A. STONE, Esquire, and TERESA E. LILES, Esquire, Beggs & Lane, 700 Blount Building, 3 West Garden Street, Post Office Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company.

JOSEPH A. MCGLOTHLIN, 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 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

MARTHA CARTER BROWN, Esquire, Florida Public Service Commission, 101 East 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.

BY THE COMMISSION:

In accordance with the provisions of Section 366.8255, Florida Statutes, the Commission has established an environmental cost recovery clause to be administered in conjunction with its continuing fuel cost recovery, oil backout cost recovery, and capacity cost recovery proceedings. After notice, a hearing was held in this docket on August 11, 1994.

The hearing addressed the issues set out in the body of Prehearing Order No.-- ,issued --, 1994. The participating parties stipulated to a resolution of all but two issues presented, and we hereby approve the stipulations of the parties as described below. Our decision on the remaining issues, which involved the timing of Gulf Power Company's recovery of costs for two different environmental programs, is also described below.

The following final environmental cost recovery true-up amounts are appropriate for the period ending March, 1994:

FPL: $ 474,109 overrecovery.
GULF:$2,501,486 underrecovery.

The following estimated environmental cost recovery true-up amounts are appropriate for the period April, 1994 through September, 1994:

FPL: $ 619,962 overrecovery.
GULF:$2,756,286 overrecovery.

The following estimated total environmental cost recovery true-up amounts to be collected during the period October, 1994 through March, 1995 are appropriate:

FPL: $1,094,072 overrecovery.
GULF: $ 254,800 overrecovery.

The following projected environmental cost recovery amounts are appropriate for recovery for the period October, 1994 through March, 1995.

FPL: $3,028,634.
GULF: $5,332,000.

For billing purposes the new factors shall be effective beginning with the specified environmental cost recovery cycle and thereafter for the period October, 1994 through March, 1995. Billing cycles may start before October 1, 1994, and the last cycle

may be read after March 31, 1995, so that each customer is billed for six months regardless of when the adjustment factor became effective.

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. Investment tax credit (ITC) amortization shall not be reflected in the income tax expense recovered through the clause at this time. Any allocation of ITC's and the related amortization should be reviewed in the companies' next base rate proceedings.

FPL shall allocate the costs of the Scherer discharge pipeline using the 12 CP and 1/13th demand allocation method. The costs for the new CEM activities at St. Johns River Power Park and Plant Scherer shall be allocated on an energy basis.

GULF shall allocate the costs of the Fuel Emission Evaluation on an energy basis. The costs of the Plant Smith Stormwater Collection System shall be allocated using the 12 CP and 1/13th demand allocation method.

We approve the following Environmental Cost Recovery Factors as appropriate for recovery for the period October, 1994 through March, 1995 for each rate group:

FPL:

Rate Class	Environmental Recovery Factor ($/KWH)
RS1	0.00010
GS1	0.00009
GSD1	0.00009
OS2	0.00008
GSLD1/CS1	0.00009
GSLD2/CS2	0.00009
GSLD3/CS3	0.00008
ISST1D	0.00009

Rate Class	Environmental Recovery Factor ($/KWH)
SST1T	0.00008
SST1D	0.00008
CILC D/CILC G	0.00009
CILC T	0.00008
MET	0.00009
OL1/SL1	0.00008
SL2	0.00009

GULF: See table below:

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RST	0.154
GS, GST	0.153
GSD, GSDT	0.139
LP, LPT	0.130
PX, PXT	0.120
OSI, OSII	0.095
OSIII	0.128
OSIV	0.095
SS	0.189

Company-Specific Environmental Cost Recovery Issues

Gulf Power Company

At the hearing Gulf requested approval of the costs associated with two environmental projects not previously approved by the Commission. Gulf requested recovery of the costs of one of those projects, the Smith Stormwater Collection System (capital project PE 1446) in its projected costs for October, 1994 through March, 1995, and in its final true-up for the June, 1993 through March, 1994 cost recovery period. It also requested recovery of one-time costs associated with environmental emission testing of blends of high and low sulfur coal (operation and maintenance expense activity 4a, Fuel Emission Evaluation) in its final true-up for the June, 1993 through March, 1994 period. Gulf's witnesses testified that they overlooked the costs of the Smith Stormwater Project when they requested recovery of their environmental compliance costs in earlier cost recovery filings. Gulf's witnesses testified that they did not anticipate the costs that they would incur when they conducted test burns of low sulfur coal in February of 1994.

The issue is not with the request for recovery of the projected costs. We approve the request to recover the costs of the Smith Stormwater Collection System through the Environmental

Cost Recovery Clause on a prospective basis. The issue is whether Gulf should be permitted to recover the costs of these two projects retrospectively. That is, should Gulf recover the costs of the Smith Stormwater project and the costs of fuel emission evaluation through its final true-up of the June, 1993 through March, 1994 cost recovery period, when it had not requested our prior approval of those projects?

Environmental compliance cost recovery, like cost recovery through other cost recovery clauses, should be prospective. Section 366.8255(2), Florida Statutes, is clear: a utility's petition for cost recovery must describe proposed activities and projected costs, not costs that have already been incurred. Utilities may recover the costs of environmental compliance projects after the Commission has had the opportunity to review and approve cost recovery for the projects. Utilities may not recover costs incurred in past periods for activities not yet approved. This is the general rule for environmental compliance cost recovery that we wish to make clear here.

We recognize that we may wish to permit exceptions to this general rule and allow recovery of costs incurred prior to our approval, under certain extraordinary circumstances, depending on the facts of a particular case. Section 366.8255, Florida Statutes, provides a mechanism for reasonably expeditious recovery of the costs utilities prudently expend to comply with environmental laws and regulations. Those laws and regulations may change with some frequency, and a utility may not be able to anticipate the changes, or the costs it would incur to comply with them, in every instance. We can also envision a situation where an environmental emergency would require a utility to incur costs that it did not anticipate before it could ask for our approval. Further, as Gulf did in its fuel emission evaluations, a utility might encounter additional expenses in the operation of a project that it could not have expected in advance. Also, a utility might have the opportunity to achieve a more cost-effective method of compliance associated with an approved project by changing that project. We do not want to discourage utilities from such prudent changes to a previously approved course of action.

We will have to review such extraordinary circumstances as they arise. Some changes to environmental laws and regulations can be anticipated well in advance of the change. Some emergencies can be avoided by prudent management and maintenance of facilities. The same is true of the operation of environmental projects. The key will be whether the utility could reasonably have anticipated the changes and the costs, or not. The utility will have the burden to show that it could not.

With respect to the particular costs that Gulf incurred prior to our approval of the recovery of those costs, we deny recovery of the Smith Stormwater Collection System costs, and we approve recovery of the Fuel Emission Evaluation costs. Gulf could have requested our approval of the Smith Stormwater Collection costs prospectively. Nothing extraordinary prevented it from doing so. It simply overlooked them in its projections. Inadvertence does not merit an exception to our rule that environmental compliance costs must be approved prospectively. On the other hand, we find that Gulf could not have reasonably anticipated the additional costs that it would incur before it conducted its emission evaluation of blends of high and low sulfur coal in February of 1994. Those costs are appropriate for recovery.

At the hearing, Gulf indicated that it believed it should only bring additional environmental compliance projects or costs to us for approval during our semi-annual cost recovery clause proceedings. That is not so. A utility may petition for our approval of a new project between cost recovery proceedings. We regularly approve new conservation programs or changes to existing programs outside of the conservation cost recovery proceedings. We also have a process for mid-course correction of fuel adjustment factors when utilities determine that their fuel costs for the period are significantly out of line with their projections. We do not wish to burden the utilities, or ourselves, with a myriad of petitions for recovery of every little expense that arises in the interim; but we do think these processes are appropriate for environmental cost recovery where significant changes have been experienced, and they may avoid the problems that Gulf has encountered with its request for recovery of costs in its true-up filing.

Florida Power & Light Company

We approve FPL's request to recover the costs for the Scherer Discharge Pipeline project through the Environmental Cost Recovery Clause. The expenses are required to comply with the Georgia Department of Natural Resources rules for control of toxic pollutants as revised in January, 1991, and as required by Administrative Order No. EPD-WQ-1855 from the Georgia Department of Natural Resources to Plant Scherer before reissuance of a new NPDES Permit. The construction of the pipeline 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.

FPL should not modify its determination of the rate of return for the recovery of capital investment costs at this time. FPL calculated the rate of return for the recovery of capital investment costs consistent with Commission Order PSC-93-1580-FOF-EI issued October 29, 1993. The calculation methodology should be reviewed at the conclusion of FPL's MMFR Docket that will be heard in 1995.

We approve FPL's request to include in the Continuous Emission Monitoring System (CEMS) project FPL's ownership portion of the CEMS costs for Scherer Unit No. 4 and St. Johns River Power Park Units Nos. 1 and 2. These units must meet the same Federal Requirements under the clean Air Act Amendments of 1990 as FPL's other units. 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.

It is therefore,

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

ORDERED that investor-owned electric utilities subject to our jurisdiction are hereby authorized to apply the environmental cost recovery factors set forth herein during the period of October 1994 through March, 1995, and until such factors are modified by subsequent Order. It is further

ORDERED that the estimated true-up amounts contained in the above environmental cost recovery factors 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.

By ORDER of the Florida Public Service Commission, this 3rd day of October, 1994.

Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)
MCB:bmi

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 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 Director, Division of Records and Reporting 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 or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.