

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

 In the Matter of : DOCKET NO. 960002-EG
 Conservation Cost :
 Recovery Clause :

VOLUME 1

Pages 1 through 156



10 PROCEEDINGS: HEARING
 11
 12 BEFORE: COMMISSIONER J. TERRY DEASON
 COMMISSIONER JULIA L. JOHNSON
 COMMISSIONER DIANE K. KIESLING
 13
 14 DATE: Wednesday, February 21, 1996
 15 TIME: Commenced at 10:47 a.m.
 16 PLACE: Betty Easley Conference Center
 Room 148
 17 4075 Esplanade Way
 Tallahassee, Florida
 18
 19 REPORTED BY: ROWENA NASH HACKNEY
 Official Commission Reporter
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FLORIDA PUBLIC SERVICE COMMISSION 96-0002-EG FEB 28 1996

FPSC-RECORDS/REPORTING

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23 Telephone No. (904) 413-6199, appearing on behalf of
24 **the Commission Staff.**

25

1 ALSO PRESENT:

2 CHERYL BULECKZA-BANKS, Florida Public
3 Service Commission, Division of Electric & Gas

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P R O C E E D I N G S

(Hearing convened at 10:47 a.m.)

COMMISSIONER DEASON: We'll go ahead and call the hearing to order. We'll begin with having the notice read, please.

MS. ERSTLING: This time and place was noticed for a hearing in Dockets 960001-EI, Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor; Docket No. 960002-EG, Conservation Cost Recovery Clause; Docket No. 960003-GU, Purchased Gas Adjustment; and Docket No. 960007-EI, Environmental Cost Recovery Clause on January 18, 1996.

COMMISSIONER DEASON: Thank you. We'll take appearances.

MR. STONE: Commissioners, I'm Jeffrey A. Stone, of the law firm Beggs & Lane, P.O. Box 12950, Pensacola, Florida 32576, representing Gulf Power Company in Docket No. 960001, 960002, and 960007.

MR. HOWE: Commissioners, I'm Roger Howe with the Office of Public Counsel, appearing on behalf of the Citizens of the State of Florida in the 01, 02, 03, and 07 dockets.

MS. KAUFMAN: Vicki Gordon Kaufman of the law firm McWhirter, Reeves, McGlothlin, Davidson, Rief

1 and Bakas, 117 South Gadsen Street, Tallahassee 32301.

2 I am appearing on behalf of the Florida Industrial
3 Power Users Group in the 01, 02, and 07 dockets.

4 MS. ERSTLING: Sheila Erstling appearing for
5 Staff in 960002 docket, and Sheila L. Erstling and
6 Beth Culpepper appearing for Staff in 960003 docket.

7 * * * * *

8 COMMISSIONER DEASON: We will now proceed
9 then into the 02 docket. I understand that there's
10 some discussions perhaps still proceeding in the 01
11 docket, and it may be preferable to proceed with 02;
12 is that correct?

13 MS. ERSTLING: That's correct, sir.

14 COMMISSIONER DEASON: All right. We are now
15 in the 02 docket. Staff, we have a number of issues
16 that have been stipulated, and there are a number of
17 witnesses who have been excused from this proceeding
18 and whose prefiled testimony and exhibits we need to
19 insert into the record; is that correct?

20 MS. ERSTLING: Yes, sir. Since the last
21 time that we had met for the prehearing conference,
22 there have been stipulated issues for Florida Power
23 Corporation, Issues 3, 4, and 5. And since then,
24 their witness has been excused. And there have been
25 stipulated Issues 7 and 8 for Gulf Power, and their

1 witness has been excused.

2 So at the present time, the only issues that
3 we have to go forward with are Issues 9 and 11 for
4 Peoples Gas Company. And the only witness to appear
5 would be Mr. Krutsinger for Peoples Gas.

6 COMMISSIONER DEASON: Okay. Well, I propose
7 then what we do is we go ahead and move into the
8 record all of the stipulated testimony, including that
9 of Witness Neyman for Gulf because that has been
10 stipulated.

11 MS. ERSTLING: That is correct.

12 COMMISSIONER DEASON: So do you so move then
13 that the --

14 MS. ERSTLING: It would also be Neyman for
15 Gulf, and as I noted before, it would be the witness
16 for Florida Power Corp, Wieland.

17 COMMISSIONER DEASON: Okay. So it would be
18 all witnesses except for Witness Krutsinger.

19 MS. ERSTLING: That would be correct, sir.

20 COMMISSIONER DEASON: And those are listed
21 on Page 5 of the Prehearing Order. So Staff so moves
22 that at this point?

23 MS. ERSTLING: I do want to make one -- on
24 Issue No. 5 in the stipulation before it is moved in,
25 there is a Scribner's error on next to the last line;

1 it says "Environmental Cost Recovery factor," and it
2 should be "Energy Conservation cost recovery factor."

3 COMMISSIONER DEASON: As far as the
4 testimony, Staff if moving the insertion of all of the
5 prefiled testimony with the exception of that of
6 Witness Krutsinger?

7 MS. ERSTLING: Yes, that is correct.

8 COMMISSIONER DEASON: Okay. Show then that
9 consistent with the stipulation and as discussed at
10 the Prehearing Conference, the prefiled testimony of
11 all witnesses, except that for Witness Krutsinger,
12 will be admitted into the record as though read.

13 We likewise need to identify the exhibits.
14 Those exhibits appear on Pages 19 through 21; is that
15 correct?

16 MS. ERSTLING: That is correct, and it would
17 be Exhibits 1 through 19 with the exclusion of
18 Exhibits 14 and 15.

19 COMMISSIONER DEASON: Okay. 14 and 15 are
20 the prefiled exhibits of Witness Krutsinger.

21 MS. ERSTLING: That's right.

22 COMMISSIONER DEASON: So Staff then moves
23 Exhibits 1 through 19, with the exception of Exhibits
24 14 and 15.

25 MS. ERSTLING: Yes.

1 COMMISSIONER DEASON: Without objection,
2 show that those exhibits are admitted into the record.

3 And I believe we are at the point then where
4 we need to call to the stand Mr. Krutsinger; is that
5 correct?

6 (Exhibit Nos. 1 through 13 and 16 through 19
7 marked for identification and received in evidence.)

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 In Re: Conservation Cost Recovery Clause

3 DIRECT TESTIMONY OF WILLIAM M. NETTLES

4 On Behalf of5 Chesapeake Utilities Corporation6 The Florida Division

7 Docket No. 950002-EG

- 8 Q. Please state your name, business address, by whom
9 you are employed, and in what capacity.
- 10 A. My name is William M. Nettles, and my business
11 address is 1015 6th Street N. W., Winter Haven,
12 Florida 33881. I am employed by Chesapeake
13 Utilities Corporation as Assistant Transportation &
14 Exchange Coordinator/Conservation Services Analyst
15 for the Florida Division.
- 16 Q. Are you familiar with the energy conservation
17 programs of Chesapeake and the costs which have
18 been incurred in their implementation?
- 19 A. Yes.
- 20 Q. What is the purpose of your testimony in this
21 docket?
- 22 A. The purpose of my testimony is to present data and
23 summaries concerning the planned and actual
24 accomplishments of Chesapeake's energy conservation
25 programs during the period October 1, 1994 through

1 September 30, 1995. Data related to calculation of
2 the true-up for this period is also included.

3 Q. Have you prepared summaries of Chesapeake's
4 conservation programs and the costs associated with
5 these programs?

6 A. Yes. Summaries of the five programs in connection
7 with which Chesapeake incurred recoverable costs
8 during the period October 1, 1994 through September
9 30, 1995 are contained in Schedule CT-6 of Exhibit
10 WMN-1. Included are our Single and Multi-Family
11 Home Builder Program, our Water Heater Replacement
12 Program, our Replacement of Electric Strip and Oil
13 Heating Program, our Natural Gas Space Conditioning
14 Program, and our Conservation Education Program.

15 Q. Have you prepared a schedule which shows the actual
16 expenditures associated with its energy
17 conservation program for this period?

18 A. Yes. Schedule CT-2, page 2, of Exhibit WMN-1 shows
19 actual expenses for the period. Schedule CT-2,
20 page 1, shows a comparison of the actual program
21 costs and true-up with the estimated costs and
22 true-up submitted at the March 1995 hearing in this
23 docket.

24 Q. What was the total cost incurred by Chesapeake in
25 connection with the five programs during the twelve

- 1 months ended September 30, 1995?
- 2 A. As shown in Exhibit WMN-1, Schedule CT-2, page 2,
3 total program costs were \$233,363. This total is
4 \$8,215 less than our projection of the program
5 costs for the twelve-month period.
- 6 Q. Have you prepared, for the twelve-month period
7 involved, a schedule which shows the variance of
8 actual from projected program costs by categories
9 of expenses?
- 10 A. Yes. Schedule CT-2, page 3, of Exhibit WMN-1 shows
11 these variances. Reasons for the variances are
12 included in Schedule CT-6 of Exhibit WMN-1.
- 13 Q. What is Chesapeake's adjusted net true-up for the
14 twelve months ended September 30, 1995?
- 15 A. We originally estimated an underrecovery, including
16 interest, of \$192,188. This projected true-up
17 amount was based on conservation revenues of
18 \$54,563 for the period October 1994 through
19 September 1995. However, sales during this period
20 actually yielded conservation revenues of \$181,039,
21 over projections by \$126,476. Adding expenses of
22 \$8,215 less than projected results in a total
23 difference, including interest, of \$137,120, as
24 shown on Schedule CT-1 of Exhibit WMN-1.
- 25 Q. Is this adjusted net true-up of \$137,120 an

1 overrecovery or underrecovery?

2 A. An overrecovery, as shown on Schedule CT-1 of
3 Exhibit WMN-1.

4 Q. Does this conclude your testimony?

5 A. Yes.

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 In. Re: Conservation Cost Recovery Clause

15

3 DIRECT TESTIMONY OF WILLIAM M. NETTLES

4 On Behalf of

5 Chesapeake Utilities Corporation

6 DOCKET NO. 960002-EG

7 Q. Please state your name, business address, by whom you are employed, and in
8 what capacity.

9 A. My name is William M. Nettles, and my business address is 1015 6th Street N.
10 W., Winter Haven, Florida, 33881. I am employed by Chesapeake Utilities
11 Corporation ("Chesapeake") as Assistant Transportation & Exchange Coordinator
12 / Conservation Services Analyst.

13 Q. Are you familiar with the energy conservation programs of Chesapeake and costs
14 which have been, and are projected to be, incurred in their implementation?

15 A. Yes.

16 Q. What is the purpose of your testimony in this docket?

17 A. To describe generally the expenditures made and projected to be made in
18 implementing, promoting, and operating Chesapeake's energy conservation
19 programs. This will include recoverable costs incurred in October and
20 November, 1995 and projections of program costs to be incurred from
21 December, 1995 through September, 1996. It will also include projected
22 conservation costs for the period October 1, 1996 through March 31, 1997, with
23 a calculation of the conservation adjustment factors to be applied to the
24 customers' bills during the collection period of April 1, 1996 through March 31,
25 1997.

- 1 Q. Have you prepared summaries of Chesapeake's conservation programs and the
2 costs associated with these programs?
- 3 A. Yes. Summaries of the five programs are contained in Schedule C-4 of Exhibit
4 WMN-2. Included are our Single and Multi-Family Home Builder Program, our
5 Water Heater Replacement Program, our Replacement of Electric Strip and Oil
6 Heating Program, our Natural Gas Space Conditioning Program, and our
7 Conservation Education Program.
- 8 Q. Have you prepared schedules which show the expenditures associated with
9 Chesapeake's energy conservation programs for the periods you have mentioned?
- 10 A. Yes. Schedule C-3 of Exhibit WMN-2 shows actual expenses for the months
11 October and November, 1995. Projections for December, 1995 through
12 September, 1996, are also shown on Schedule C-3. Projected expenses for the
13 October, 1996 through March, 1997 period are shown on Schedule C-2 of
14 Exhibit WMN-2.
- 15 Q. Have you prepared schedules which show revenues for the period October, 1995
16 through March, 1996?
- 17 A. Yes. Schedule C-3 (Page 6 of 7, Line 4) shows actual revenues for the months
18 October and November, 1995. Projections for December, 1995 through
19 September, 1996, are also shown on Schedule C-3 (Page 6 of 7, Line 4).
- 20 Q. Have you prepared a schedule which shows the calculation of Chesapeake's
21 proposed conservation adjustment factors to be applied during billing periods
22 from April 1, 1996 through March, 31, 1997?
- 23 A. Yes. Schedule C-1 of Exhibit WMN-2 shows this calculation. Net program cost
24 estimates for the period October 1, 1996, through March 31, 1997, are used.
25 The estimated true-up amount from Schedule C-3 (Page 6 of 7, Line 12) of Exhibit

1 WMN-2, being an underrecovery, was added to the total of the projected costs
2 for the six-month period. The total amount was then divided among
3 Chesapeake's firm rate classes, based on total projected contribution. The results
4 were then divided by the projected retail firm therm sales for each rate class for
5 the twelve-month period ending March 31, 1997. The resulting factors are
6 shown on Schedule C-1 of Exhibit WMN-2.

7 Q. Does this conclude your testimony?

8 A. Yes, it does.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

PREPARED DIRECT TESTIMONY

OF

CARL SMITH

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5 Q. Please state your name, business address, by whom you are employed, and in
6 what capacity.

7
8 A. My name is Carl Smith and my business address is 955 East 25 Street, Hialeah,
9 Florida 33013-3498. I am employed by NUI Corporation as Vice President of
10 Marketing for its Southern Division, comprising the Florida, North Carolina,
11 Maryland, Pennsylvania and New York utility operations of NUI Corporation.

12
13 Q. Are you familiar with the energy conservation programs of City Gas Company of
14 Florida (City Gas)?

15
16 A. Yes, I am. City Gas is NUI Corporation's Florida utility operation.

17
18 Q. Are you familiar with the costs which have been projected to be incurred and
19 which were made by City Gas in implementing its energy conservation programs?

20
21 A. Yes, I am.

22
23 Q. What is the purpose of your testimony in this docket?
24
25

1 A. To describe generally the expenditures made and projected to be made in
2 promoting and operating City Gas' energy conservation programs. This will
3 include recoverable costs incurred in October and November 1995, and revised
4 projections of programs costs to be incurred from December 1995 through
5 September 1996. It will also included projected conservation costs for the period
6 October 1996 through March 1997, with a calculation of the conservation
7 adjustment factor to be applied to customers' bills during the April 1996 through
8 March 1997 period.

9

10 Q. Has City Gas prepared summaries of its conservation programs and the costs
11 associated with these programs?

12

13 A. Yes. Summaries of the Company's programs are contained in Schedule C-5 of my
14 Exhibit (CS-1).

15

16 Q. Has City Gas prepared schedules which show the expenditures associated with its
17 energy conservation programs for the periods you have mentioned?

18

19 A. Yes. Schedule C-3, of Exhibit CS-1 show actual expenses for the months of
20 October and November 1995, revised projections for December 1995 through
21 March 1996, and original projections for April 1996 through September 1996.
22 Projected expenses for the October 1996 through March 1997 period are shown
23 on Schedule C-2, of Exhibit (CS-1).

24

25

1 Q. Has City Gas prepared a schedule which shows the calculation of City Gas'
2 proposed conservation adjustment factor to be applied during billing periods from
3 April 1996 through and including March 1997?
4

5 A. Yes. Schedule C-1, of Exhibit (CS-1) shows this calculation. The estimated true-
6 up amount through September 1996 (Schedule C-3, of Exhibit (CS-1)), is an
7 underrecovery and it was added to the total of the incremental costs through
8 March 1996 (Schedule C-2, of Exhibit (CS-1)). The resulting amount was then
9 allocated by the Company's projected retail revenues by rate class for the twelve-
10 month period ending March 31, 1997. As shown on Schedule C-1, the resulting
11 conservation adjustment factor is a charge of \$0.03225 per therm for the
12 Residential rate classes (RS and GL), and \$0.00881 for the Commercial rate
13 classes (CS and CTS).
14

15 Q. Does this conclude your testimony?
16

17 A. Yes, it does.
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FLORIDA POWER CORPORATION
DOCKET No. 950002-EG

DIRECT TESTIMONY OF
M. F. JACOB

1 Q. Will you state your name and address?

2 A. M. F. Jacob, my business address is 3201 - 34th Street South, St.
3 Petersburg, Florida 33711.

4

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by Florida Power Corporation in the capacity of Manager
7 - Regulatory Evaluation and Planning.

8

9 Q. What are the responsibilities of your present position?

10 A. I am responsible for managing the evaluation and planning of Energy
11 Conservation programs as approved by the Public Service Commission.

12

13 Q. What is the purpose of your testimony?

14 A. The purpose of my testimony is to compare the actual costs for
15 implementing programs during the time period October, 1994 through
16 September, 1995 with the revenues collected pursuant to the
17 conservation cost recovery factor for that same time period.

1 Q. What programs do you wish to include in this testimony?

2 A. I would like to include the following programs:

3		
4	<u>Full FPC Program Name</u>	<u>Program Name as Filed (FPSC)</u>
5	Hone Energy Analysis	Home Energy Checkup
6	Home Energy Check	Home Inspection Audit
7	Business Energy Analysis	Business Energy Analysis
8	Business Energy Check	Business Energy Inspection
9	Residential Comfort Cash	Comfort Cash for Res. Customers
10	Residential A/C Duct Test & Repair	Residential Blower Door
11	Residential Insulation	Residential Insulation
12	Residential A/C Replacement	Residential HVAC Allowance
13	Residential A/C Service	Residential Air Conditioning Tuneup
14	Standby Generation	Standby Generation
15	Qualifying Facility	Qualifying Facility
16	Trade Efficiency A/C Test	Trade Ally Program
17	Home Energy Fixup	Home Energy Fixup
18	C/1 A/C Duct Test and Repair	C/1 Blower Door
19	C/1 Interior Lighting	Indoor Lighting Incentive
20	C/1 HVAC Service	C/1 HVAC Tuneup
21	C/1 Energy Fixup	C/1 Fixup
22	C/1 HVAC Replacement	C/1 HVAC Allowance
23	Motor Replacement	C/1 Motor Efficiency
24	Innovative Incentive	Demand Reduction Capital Offset
25	Efficiency Program Development	New Program Development

1	Heat Pipe	C/1 Heat Pipe Development
2	Interruptible Service Program	Interruptible Service Program
3	Curtable Service Program	Curtable Service Program
4	Load Management	Load Management
5	C/1 Comfort Cash	Comfort Cash for C/1 Customers

6

7 **Q. Have you prepared any exhibits to assist in your discussion?**

8 **A. Yes.**

9

10 **Q. What is the title of your Exhibit?**

11 **A. My Exhibit No. ___ (MFJ-1) consists of two parts entitled, "Florida**
12 **Power Corporation Energy Conservation Adjusted Net True-Up for The**
13 **Period October, 1994 through March, 1995" and "Florida Power**
14 **Corporation Energy Conservation Adjusted Net True-Up for The Period**
15 **April, 1995 through September, 1995." There are nine (9) schedules**
16 **to this exhibit.**

17

18 **Q. Would you please explain your exhibit.**

19 **A. The aforementioned programs are specifically set out in Exhibit No. ___**
20 **(MFJ-1), Schedules CT-1 through CT-4, for the two six month periods.**
21 **These pages specifically set out the actual costs incurred for all**
22 **programs during the time period October, 1994 through March, 1995**
23 **and the time period April, 1995 through September, 1995. These**
24 **pages also describe the variance from the estimate based on two**
25 **months actual and four months projected to the actual costs for the**

1 same time period. Schedule CT-5 consisting of 26 pages, is a brief
2 program description that outlines the accomplishments, provides
3 information for the fiscal expenditures and summarizes by giving a
4 program-by-program progress report.

5
6 **Q. Would you please discuss Schedule CT-1?**

7 **A. Yes, I will. Schedule CT-1 for the six months ending September, 1995**
8 **depicts that during the time period October, 1994 through September,**
9 **1995, Florida Power Corporation over-collected \$9,044,353 including**
10 **principal and interest, in its Conservation Cost Recovery Clause. This**
11 **amount is \$6,401,629 more than that previously projected.**

12
13 **Q. Does this conclude your prepared testimony?**

14 **A. Yes, it does.**

**FLORIDA POWER CORPORATION
DOCKET NO. 960002-EG**

**DIRECT TESTIMONY OF
MICHAEL F. JACOB**

1 **Q. State your name and business address.**

2 A. My name is Michael F. Jacob. My business address is Florida Power
3 Corporation, 3201 34th Street South, St. Petersburg, Florida, 33711.
4

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by Florida Power Corporation (FPC) as Manager of
7 Regulatory Evaluation and Planning.
8

9 **Q. Describe your responsibilities as Manager of Regulatory Evaluation and
10 Planning.**

11 A. I am responsible for managing the evaluation and planning of FPC's
12 Energy Conservation programs as approved by the Florida Public Service
13 Commission.
14

15 **Q. Please summarize your educational background and professional
16 experience.**

17 A. I have a Bachelor of Science Degree in Business Administration with a
18 major in Economics, and a Master of Arts Degree in Economics from the
19 University of Florida. Prior to joining Florida Power Corporation I worked
20 in the area of public utility forecasting and economics at Georgia Power
21 Company and the Public Utility Research Center at the University of
22 Florida. I have been employed by Florida Power Corporation since 1981

1 in the areas of Load Forecasting and DSM Program Evaluation and
2 Planning.

3
4 **Q. What is the purpose of your testimony?**

5 **A.** The purpose of my testimony is to describe the components of the
6 Company's Conservation Plan as approved by the Florida Public Service
7 Commission. I will detail the costs for implementation for each program
8 in that plan. I will explain the derivation of projected costs for the
9 period April, 1996, through March, 1997, and explain how these costs
10 are presented in the attached exhibit.

11
12 **Q. Do you have any exhibits to your testimony?**

13 **A.** Yes, my exhibit is entitled, "Summary of Cost Recovery Clause
14 Calculations for the Period April 1996 through March 1997."

15
16 **Q. For what programs does Florida Power Corporation seek recovery?**

17 **A.** Florida Power seeks recovery pursuant to the Conservation Cost
18 Recovery Clause for the following programs:

- 19 • Home Energy Check
- 20 • Home Energy Improvement
- 21 • Residential New Construction
- 22 • Energy Management (Residential and Commercial)
- 23 • Business Energy Check
- 24 • Better Business
- 25 • Commercial/Industrial New Construction

- 1 • Energy Monitor
- 2 • Innovation Incentive
- 3 • Standby Generation
- 4 • Interruptible Service
- 5 • Curtailable Service
- 6 • Technology Development
- 7 • Gas Demonstration
- 8 • Qualifying Facility

9
10 For each program listed, Florida Power Corporation is seeking to recover
11 those costs allowed pursuant to Rule 25-17.15 of the Florida
12 Administrative Code as adopted by the Florida Public Service
13 Commission.

14
15 **Q. Are these all of the programs for which FPC seeks recovery through the**
16 **Conservation Recovery Clause?**

17 **A.** These are all of the programs for which costs have been included in the
18 April 1996 through March 1997 projection period. They are primarily
19 new programs recently approved by the Commission as part of FPC's
20 DSM Plan. It is important to note, however, that implementing these
21 new programs also involves phasing out many old program offerings.
22 While we expect these old programs to be phased out (and therefore
23 incur no costs) by the beginning of the projection period, there may be
24 some old program costs incurred after April 1, 1996. These

1 unanticipated costs associated with old DSM programs will be identified
2 and included in FPC's next True-up filing.

3
4 Since these old programs were still operational during the
5 actual/estimated period of October 1995 through March 1996, their
6 costs over that actual/estimated period are accounted for in Exhibit 1,
7 Schedule C-3.

8
9 **Q. Will you please identify these old programs?**

10 **A.** While many of these programs for which FPC sought cost recovery
11 during the last Projection Filing are being phased-out, others have been
12 modified, and still others will continue unchanged. The following list
13 presents all FPC Commission approved programs from last years
14 Projection filing:

<u>Full FPC Program Name</u>	<u>Program Name as Filed with FPSC</u>
Home Energy Analysis	Home Energy Checkup
Home Energy Check	Home Inspection Audit
Business Energy Analysis	Business Energy Analysis
Business Energy Check	Business Energy Inspection
Residential Comfort Cash	Residential Comfort Cash Loan
Residential A/C Duct Test/Repair	Residential Blower Door
Residential Insulation	Residential Insulation
Residential A/C Replacement	Residential HVAC Allowance
Residential A/C Service	Residential Air Conditioning Tuneup

1	Standby Generation	Standby Generation
2	Qualifying Facility	Qualifying Facility
3	Trade Efficiency A/C Test	Trade Ally
4	C/I A/C Duct Test/Repair	C/I Blower Door
5	C/I Comfort Cash	C/I Comfort Cash Loan
6	C/I Interior Lighting	Indoor Lighting Incentive
7	C/I HVAC Service	C/I HVAC Tuneup
8	Home Energy Fixup	Home Energy Fixup
9	C/I Energy Fixup	C/I Fixup
10	C/I HVAC Replacement	C/I HVAC Allowance
11	Motor Replacement	C/I Motor Efficiency
12	Innovation Incentive	Demand Reduction Capital Offset
13	Efficiency Program Development	New Program Development
14	Heat Pipe	C/I Heat Pipe Development
15	Interruptible Services Program	Interruptible Services Program
16	Curtable Services Program	Curtable Services Program
17	Load Management	Load Management

18

19 **Q. Will you please explain your exhibit?**

20 **A. Yes. My exhibit consists of Schedules C-1 through C-5. Schedule C-1**
 21 **provides a summary of cost recovery clause information and calculations**
 22 **by retail rate schedule. Schedules C-2 and C-2a provide the monthly**
 23 **and total conservation program cost estimates for the time period April,**
 24 **1996 through March, 1997 for each conservation program as well as**
 25 **common administration expenses (those expenses not specifically linked**

1 to an individual program). Additionally, Schedules C-2 and C-2a present
2 the program costs by specific category (i.e. payroll, materials,
3 incentives, etc.) and include a schedule of estimated capital
4 investments, depreciation and return for the period April, 1996, through
5 March, 1997.

6
7 Schedule C-3 contains a detailed listing of actual/estimated conservation
8 program costs (pages 1-5) and a schedule of capital investments,
9 depreciation and return (pages 5-9) for the period October and
10 November, 1995 (actual) and December, 1995 through March, 1996
11 (estimated) for each of FPC's programs along with the associated
12 common administration costs. Schedule C-4 projects Energy
13 Conservation Cost Recovery (ECCR) revenues during the April 1996
14 through March 1997 time period. Schedule C-5 presents a brief
15 summary of progress and expenditures for each program for which FPC
16 seeks cost recovery as part of the Conservation Recovery Clause.

17
18 **Q. Would you please summarize the major results from your Exhibit?**

19 **A. Schedule C-2, Page 1 of 8, Line 39, shows a total incremental cost of**
20 **\$81,977,334 for the April 1996 through March 1997 projection period.**

21
22 The following table summarizes Schedule C-1, Page 1 of 4, Lines 16 -
23 18 showing the projected conservation cost recovery charge per 1,000
24 kilowatt-hours by retail rate class for the time period April, 1996
25 through March, 1997.

	<u>Secondary</u>	<u>Primary</u>	<u>Transmission</u>	
	<u>Voltage</u>	<u>Voltage</u>	<u>Voltage</u>	
1				
2	<u>Retail Rate Schedule</u>			
3	Residential	\$2.95	N/A	N/A
4	General Service Non-Demand	\$2.42	\$2.40	\$2.37
5	General Service 100% Load Factor	\$1.79	N/A	N/A
6	General Service Demand	\$2.09	\$2.07	\$2.05
7	Curtable	\$1.82	\$1.80	\$1.78
8	Interruptible	\$1.82	\$1.80	\$1.78
9	Lighting	\$0.91	N/A	N/A

10

11 Q. Does this conclude your direct testimony?

12 A. Yes.

**FLORIDA POWER CORPORATION
DOCKET No. 960002-EG**

**DIRECT TESTIMONY OF
KARL. H. WIELAND**

1 **Q. Will you state your name and address?**

2 **A. Karl H. Wieland, my business address is 3201 - 34th Street South, St.**
3 **Petersburg, Florida 33711.**

4
5 **Q. By whom are you employed and in what capacity?**

6 **A. I am employed by Florida Power Corporation as Director of Business**
7 **Planning.**

8
9 **Q. Please state your educational background and professional experience.**

10 **A. I received a Bachelor of Science degree in Electrical Engineering from the**
11 **University of South Florida in 1968 and a Master's Degree in**
12 **Engineering Administration, also from the University of South Florida, in**
13 **1975. I have also attended the Management Development Program at**
14 **Georgia State University and the Public Utility Financial Seminar**
15 **sponsored by the Irving Trust Company in New York. I am a registered**
16 **Professional Engineer in the state of Florida and I have been employed**
17 **by Florida Power Corporation on a full time basis since 1972. During**
18 **the first seven years of my career, I worked as a Transmission Planning**
19 **Engineer in the System Planning Department and as an Economic**
20 **Research Analyst in the Economic Research Department. I became**
21 **Manager of Generation Planning in 1979, Manager of Economic**

1 Research in 1983, and Director of Business Planning in 1990. My
2 current responsibilities include budgeting, financial planning and
3 forecasting, financial analysis of projects and proposals, cost benefit
4 analyses, fuel adjustment filings and the preparation of customer,
5 energy, and demand forecasts.

6
7 **Q. Would you briefly describe your duties and responsibilities as Director
8 of Business Planning as they relate to load forecasting?**

9 **A.** As Director of Business Planning, I am responsible for the corporate
10 customer, energy sales and demand forecast. This forecast is used
11 within Business Planning and by other Florida Power departments as the
12 basis for the Corporate Budget, the five-year Business Forecast, Facility
13 Planning, and other studies.

14
15 **Q. What is the purpose of your testimony?**

16 **A.** My testimony covers three topics. First, I present the calculation of the
17 true-up balance for residential revenue decoupling for 1995. Second, I
18 present an update of my Exhibit 6, entitled "Proposed Adjustment to
19 RPC for Changes in Economic Conditions" for 1995 through 1997,
20 based on actual 1994 results as required by Commission Order No. PSC-
21 95-0097-FOF-EI, issued January 18, 1995 in Docket No. 930444-EI.
22 Third, I present a proposal to defer amortization of the true-up balance
23 in order to allow the Company sufficient time to propose alternative
24 ways to return the balance to ratepayers which offers greater benefit
25 than a twelve month amortization

1 **Q. What is the Revenue Decoupling true-up balance as for 1995?**

2 **A. The true-up balance for 1995 is an over-recovery of \$17,746,531,**
3 **including interest of \$532,749.**

4
5 **Q. How was this amount calculated?**

6 **A. The amount was computed in accordance with Commission Order No.**
7 **PSC-95-0097-FOF-EI and is based on preliminary estimates of actual**
8 **1995 Personal Income for the first two quarters. Third quarter estimates**
9 **will become available late January or early February and can be used to**
10 **revise the computation of the true-up balance prior to the hearings.**
11 **Detailed monthly calculations are presented on Sheet 1 of the attached**
12 **Exhibit.**

13
14 **Q. What factors caused the over-recovery?**

15 **A. Unseasonably warm weather in May, June, and October appears to be**
16 **the major cause of the over-recovery.**

17
18 **Q. What effect would a 12-month amortization of this true-up balance have**
19 **on residential rates?**

20 **A. Amortizing the \$17.7 million balance over 12 months would reduce**
21 **residential rates by \$1.18 per 1,000 KWh.**

22
23 **Q. Did you prepare an update of Exhibit 6, entitled "Proposed Adjustment**
24 **to RPC for Changes in Economic Conditions" as specified in the**
25 **Commission order?**

1 A. Yes. The original and revised tables are presented on Sheet 2 of my
2 exhibit.

3
4 Q. How were the amounts on the exhibit determined?

5 A. The 1994 KWh/Customer value was determined by using actual
6 personal income for 1994 to compute an economically adjusted
7 KWh/Customer start-up value for 1994. This adjustment reduced usage
8 per customer from the originally submitted 12,767 Kwh to 12,708
9 KWh. 1995-1997 use per customer figures were calculated by
10 escalating the 1994 value by 1.5% annually. The \$/Customer figures
11 were calculated directly from the KWh/Customer value using residential
12 rates of \$8.85 per month plus 4.02 cents per Kwh. The Personal
13 Income variable for 1993 and 1994 represents actual data. Values for
14 1995 through 1997 were calculated by escalating the 1994 value by
15 3.26% annually which is the same Personal Income escalation for years
16 1994-1997 in the original Exhibit 6. The 3.26% escalation rate must be
17 used to remain consistent with the 1.5% customer use growth rate for
18 that period.

19
20 Q. Why is the Company proposing to defer amortization of the revenue
21 decoupling true-up balance?

22 A. Florida Power believes that by using the \$17.7 million over-recovery
23 balance to reduce capacity payments to Qualifying Facilities, customers
24 will ultimately benefit by more than \$17.7 million. Furthermore, since
25 capacity payments directly affect rates through the Capacity Cost

1 Recovery Clause, customers will see rate reductions whenever capacity
2 payments are reduced.

3
4 **Q. How does the Company plan to reduce capacity payments?**

5 **A.** The Company plans to conduct a "reverse auction" where Cfs will be
6 asked to bid reductions in capacity payments over time in exchange for
7 an up-front payment. To the extent that Qfs assign a higher value for
8 up-front payments than a reduction in payments over time (by use of
9 the discount rate they use to value cashflows), the \$17.7 million can be
10 leveraged to produce more value to customers.

11
12 **Q. Who will make the determination that the results of such an auction are
13 beneficial to customers?**

14 **A.** Florida Power plans to analyze bids received and accept those that
15 provide added benefit for customers. The selected proposals will be
16 submitted to the Commission for approval prior to any funds being
17 disbursed. The Commission will have final authority whether any or all
18 of the bids will be accepted. Should this process not produce the
19 expected results, the Commission can still choose to refund the balance.
20 Because of that, customers only have something to gain, and nothing
21 to lose by deferring the amortization.

22
23 **Q. How long do you expect this process to take?**

1 A. We believe that an RFP package for submission to the QFs, as well as
2 a timetable for completion of the process, can be ready within 60 days
3 of the Commission's decision.
4

5 Q. Does this conclude your prepared testimony?

A. Yes, it does.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FLORIDA POWER & LIGHT COMPANY

TESTIMONY OF FRANCISCO A. AVELLO

DOCKET NO. 950002-EG

November 17, 1995

1 Q. Please state your name and business address.

2 A. My name is Francisco A. Avello, and my business address is: 9250 West
3 Flagler Street, Miami, Florida 33174.

4

5 Q. Who is your employer and what position do you hold?

6 A. I am employed by Florida Power & Light Company (FPL) as Market Planning
7 Manager.

8

9 Q. Please describe your educational and professional background and
10 experience.

11 A. I received a Bachelor of Arts in Psychology and a Bachelor of Science in
12 Industrial Engineering Technology from Florida International University. Since
13 joining FPL in 1971, I have worked in positions of increasing responsibility in
14 the areas of distribution engineering, customer service, quality assurance, quality
15 improvement and marketing, where I have been a Market Planning Manager for
16 the last four years.

17

18 Q. What are your responsibilities and duties as Market Planning Manager?

- 1 A. I am responsible for the development of market plans and strategies to ensure
2 customers are provided programs, products and services of value. I am also
3 responsible for preparing the Energy Conservation Cost Recovery (ECCR)
4 Forecast, True-Up and Testimony.
5
- 6 Q. What is the purpose of your testimony?
- 7 A. The purpose of my testimony is to submit for Commission review and approval
8 (1) the net overrecovery from the period October 1994 through September 1995
9 to be carried forward in the April 1996 through March 1997 period and (2) the
10 conservation-related revenues and costs associated with our Energy Conservation
11 programs for the period October 1, 1994 through September 30, 1995.
12
- 13 Q. Are you sponsoring an exhibit in connection with your testimony?
- 14 A. Yes. I am sponsoring Exhibit FAA-1 which consists of Schedules CT-1 through
15 CT-6. While I am sponsoring all of Exhibit FAA-1, parts of the exhibit were
16 prepared under the direct supervision of Mr. Donald L. Babka, Manager of
17 Regulatory and Tax Accounting, who is available to respond to any questions
18 which the parties or the Commission may have regarding those parts. Exhibit
19 FAA-1, Table of Contents, Page 1 of 1, identifies the portions prepared by Mr.
20 Babka and me.
21
- 22 Q. What is the adjusted net true-up amount which FPL is requesting for the
23 October 1994 through September 1995 period?
- 24 A. FPL has calculated and is requesting approval of an overrecovery of
25 \$5,400,404 as the adjusted net true-up amount for the October 1994 through

1 September 1995 period. FPL seeks to carry forward this overrecovery to the
2 calculation of its Conservation Cost Recovery factor for the April 1996 through
3 March 1997 period.

4

5 **Q. How was this adjusted net true-up for the October 1994 through September**
6 **1995 period calculated?**

7 **A. Consistent with the Commission's directive in Order No. PSC-93-0709-FOF-EG,**
8 **FPL calculated a "final" true-up for the October 1994 through September 1995**
9 **period. The calculation is shown on Schedule CT-1, Pages 1 through 3.**

10

11 Page 1 of 3 of Schedule CT-1 shows the calculation of the final true-up for the
12 first six months of the period. Page 2 of 3 of Schedule CT-1 shows the
13 calculation of the final true-up for the second six months of the period. Please
14 note that for the second six month period, unlike the first six month period,
15 there is no previously approved Estimated/Actual true-up; consequently, the final
16 true-up for the second six month period is the actual variance between expenses
17 and revenues plus the applicable interest.

18

19 To calculate the adjusted net true-up for the entire period October 1994 through
20 September 1995, the final true-up for the first six months, an overrecovery of
21 \$1,045,866, was added to the final true-up for the second six months, an
22 overrecovery of \$4,354,538, resulting in a net overrecovery of \$5,400,404. This
23 calculation is shown on Page 3 of 3 Schedule CT-1.

24

25 **Q. As of the end of September 1995 you show on Schedule CT-3, Page 5 of 6,**

1 line 11 an end of period overrecovery of \$6,620,408. Why is FPL
2 recommending that an overrecovery of \$5,400,404 rather than \$6,620,408
3 be carried forward to be refunded to customers during the April 1996
4 through March 1997 period?

5 A. Although FPL had an end of period overrecovery as of September 1995 of
6 \$6,620,408, the Commission has already authorized the refund of \$1,220,004 of
7 that overrecovery through the current Conservation Cost Recovery factor. In
8 calculating FPL's current factor, the Commission approved an overrecovery of
9 \$2,440,007. FPL's current factor is refunding that overrecovery during the
10 current twelve month recovery period. As of September 30, 1995, half of that
11 \$2,440,007 had been refunded, and the other half is being refunded over the
12 remaining six months. Thus, FPL's overrecovery as of September 1995 of
13 \$6,620,408 includes \$1,220,004 (half of \$2,440,007) that FPL is refunding
14 from October 1995 through March 1996.

15

16 To make sure that customers receive the remaining \$5,400,404 of the end of
17 period overrecovery, FPL is proposing that \$5,400,404 be carried forward as the
18 adjusted net true-up to be recovered in the factor to be approved for April 1996
19 through March 1997. As I previously noted, the calculation of this is shown on
20 Schedule CT-1 Page 3 of 3.

21

22 Q. Are all costs listed in Schedule CT-2 attributable to approved programs or
23 Commission conservation proceeding?

24 A. Yes they are.

- 1 Q. How did your actual program expenditures for October 1994 through
2 September 1995 compare to the estimated/actual and original estimated
3 projections for that period presented at the March 1995 Hearing?
- 4 A. At the March 1995 Hearing, total expenditures for October 1994 through March
5 1995 were projected to be \$78,628,532 and total expenditures for April 1995
6 through September 1995 were projected to be \$86,991,021, for a period total of
7 \$165,619,553. The actual expenditures for October 1994 through March 1995
8 were \$78,155,219 and for April 1995 through September 1995 were
9 \$90,406,665, for a period total of \$168,561,884. This represents a period
10 variance of \$2,942,331 more than projected. This variance is shown on
11 Schedule CT-2, Page 4 of 4, line 29 and is explained in Schedule CT-6.
12
- 13 Q. Was the calculation of the adjusted net true-up amount for the period
14 October 1994 through September 1995 period performed consistently with
15 the prior true-up calculations in this and the predecessor conservation cost
16 recovery dockets?
- 17 A. FPL's adjusted net true-up was calculated consistent with the methodology set
18 forth in Schedule 1, page 2 of 2 attached to Order No. 10093, dated June 19,
19 1981 but was adapted to reflect that there was no estimated/actual true-up for
20 part of the final true-up period. The schedules prepared under the direct
21 supervision of Mr. Babka detail this calculation.
22
- 23 Q. What was the source of the data used in calculating the actual net true-up
24 amount?
- 25 A. Unless otherwise indicated, the data used in calculating the adjusted net true-up

1 amount is taken from the books and records of the Company. The books and
2 records are kept in the regular course of our business in accordance with
3 generally accepted accounting principles and practices, and provisions of the
4 Uniform System of Accounts as prescribed by this Commission.

5

6 Q. Does that conclude your testimony?

7 A. Yes, it does.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**FLORIDA POWER & LIGHT COMPANY****TESTIMONY OF FRANCISCO A. AVELLO****DOCKET NO. 960002-EG****JANUARY 16, 1996**

1 Q. Please state your name and business address.

2 A. My name is Francisco A. Avello, and my business address is: 9250 West
3 Flagler Street, Miami, Florida 33174.

4

5 Q. Who is your employer, and what position do you hold?

6 A. I am employed by Florida Power & Light Company (FPL) as Market Planning
7 Manager.

8

9 Q. Are you the same Francisco A. Avello who testified in Docket 950002-EG?

10 A. Yes, I am.

11

12 Q. What are your responsibilities and duties as Market Planning Manager?

13 A. I am responsible for the development of market plans and strategies to ensure
14 customers are provided programs, products and services of value. I am also
15 responsible for preparing the Energy Conservation Cost Recovery (ECCR)
16 Forecast, True-Up and Testimony.

17

18 Q. What is the purpose of your testimony?

19 A. The purpose is to submit for Commission review and approval the projected

1 unreimbursed ECCR costs to be incurred by FPL during the months of April
2 1996 through March 1997, as well as the actual/estimated ECCR costs for
3 October 1995 through March 1996, for our demand side management programs.
4 I also present the total level of costs FPL seeks to recover through its
5 Conservation Factors during the period April 1996 through March 1997, as well
6 as the Conservation Factors which, when applied to our customers' bills during
7 the period April 1996 through March 1997, will permit the recovery of total
8 ECCR costs.

9

10 Q. Are you sponsoring an exhibit in connection with your testimony?

11 A. Yes, I am sponsoring Exhibit FAA-2, which consists of Schedules C-1 through
12 C-5. While I am sponsoring all of Exhibit FAA-2, parts of the exhibit were
13 prepared under the direct supervision of Mr. Donald L. Babka, Manager of
14 Regulatory and Tax Accounting, and Mr. Barry T. Birkett, Manager of Rates
15 and Tariff Administration, who are available to respond to any questions which
16 the parties or the Commission may have regarding those parts. Exhibit FAA-2,
17 Table of Contents, Page 1 of 1, identifies the portions prepared by Mr. Babka,
18 Mr. Birkett and me. The information shown on Exhibit FAA-2 is true and
19 correct, to the best of my knowledge and belief.

20

21 Q. Are all the costs listed in these schedules reasonable, prudent and
22 attributable to programs approved by the Commission ?

23 A. Yes they are.

24

25 Q. Please describe the methods used to derive the program costs for which

1 **FPL seeks recovery.**

2 A. The actual expenditures for the months October and November 1995 are taken
3 from the books and records of FPL. Expenditures for the months of December
4 1995 through March 1996 and April 1996 through March 1997 are projections
5 based upon a detailed month-by-month analysis of the expenditures expected for
6 each program at each location within FPL where such charges are made. These
7 projections are developed for each FPL location where charges are made and
8 take into consideration not only cost levels but also market penetrations. They
9 have been subjected to FPL's budgeting process and an on-going cost-
10 justification process.

11

12 **Q. Are you filing any attachments to Schedule C-5?**

13 A. Yes. FPL is including as Pages 22A through Z of 37, of Schedule C-5, cost-
14 effectiveness data for the Coulter Corporation and 550 Biltmore Way projects
15 of the Business Customer Incentive (BCI) Program, which were paid incentives
16 in November 1995. Per Order No. PSC-93-0472-FOF-EG in Docket No.
17 921100-EG, FPL is obliged to file cost-effectiveness data per project in the
18 normal filing for recovery of costs for conservation programs.

19

20 **Q. Does that conclude your testimony?**

21 A. Yes, it does.

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 950002-EG
DETERMINATION OF FINAL CONSERVATION TRUE-UP AMOUNTS

Direct Testimony of
Michael A. Peacock
On Behalf of
Florida Public Utilities Company

- 1 Q. Please state your name and business address.
- 2 A. Michael A. Peacock; my business address is P.O. Box 610, Marianna,
3 Florida, 32446.
- 4 Q. By whom are you employed and in what capacity?
- 5 A. I am employed by Florida Public Utilities Company as Manager of
6 Customer Relations.
- 7 Q. What is the purpose of your testimony at this time?
- 8 A. To advise the Commission of the actual over/under recovery of the
9 Conservation Program costs for the period October 1, 1994 through
10 September 30, 1995 as compared to the true-up amounts previously
11 reported for that period which were based on two months actual and
12 ten months estimated data.
- 13 Q. Please state the actual amounts of over/under recovery of
14 Conservation Program costs for both divisions of Florida Public
15 Utilities Company for October 1, 1994 through September 30, 1995.
- 16 A. The Company under-recovered \$6,312 in the Marianna Division during
17 that period. In the Fernandina Beach Division we over-recovered
18 \$1,656. These amounts are substantiated on Schedule CT-3, page 2
19 of 3, Energy Conservation Adjustment.
- 20 Q. How do these amounts compare with the estimated true-up amounts
21 which were allowed by the Commission during the February 1995
22 hearing?

-2-

1 A. We had estimated that we would under-recover \$23,058 in Marianna. In
2 Fernandina Beach we had estimated an under-recovery of \$17,606 as of
3 September 30, 1995.

4 Q. Have you prepared any exhibits at this time?

5 A. We have prepared and pre-filed Schedules CT-1, CT-2, CT-3, CT-4,
6 CT-5 and CT-6 (Composite Exhibit MAP-4.)

7 Q. Does this conclude your testimony?

8 A. Yes.

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 960002-EG
DETERMINATION OF CONSERVATION COST RECOVERY FACTOR

Direct Testimony of
MICHAEL A. PEACOCK
On Behalf of
FLORIDA PUBLIC UTILITIES COMPANY

- 1 Q. Please state your name and business address.
- 2 A. Michael A. Peacock: my business address is P. O. Box 610,
3 Marianna, Florida 32446.
- 4 Q. By whom are you employed and in what capacity?
- 5 A. I am employed by Florida Public Utilities Company as Manager of
6 Customer Relations.
- 7 Q. What is the purpose of your testimony at this time?
- 8 A. To advise the Commission as to the Conservation Cost Recovery
9 Clause Calculation for the period April, 1996 through March,
10 1997.
- 11 Q. What respectively are the total projected costs for the period
12 April, 1996 through March, 1997 in the Marianna Division and
13 the Fernandina Beach Division?
- 14 A. For the Marianna Division, the total projected Conservation
15 Program Costs are \$21,800. For the Fernandina Beach Division,
16 the total projected Conservation Program Costs are \$15,300.
17 For each Division, please see its respective Schedule C-2, page
18 2, for the programmatic and functional breakdown of these total
19 costs.
- 20 Q. For each division, what is the true-up amount to be applied to
21 determine the projected net total costs for the period October,

DOCUMENT NUMBER-DATE

00737 JAN 22 88

FPSC-RECORDS/REPORTING

- 1 1995 through September, 1996.
- 2 A. As reflected in the respective "C" Schedules, the true-up
3 amount for the Marianna Division is \$27,905. In the Fernandina
4 Beach Division the true-up is \$12,927. These amounts are based
5 upon two months actual and ten months estimated data.
- 6 Q. For each division, what are the resulting net total projected
7 conservation costs to be recovered during this period?
- 8 A. For the Marianna Division the net total costs to be recovered
9 are \$49,705. For the Fernandina Beach Division the net total
10 costs to be recovered are \$28,227.
- 11 Q. For each division, what is the Conservation Adjustment Factor
12 necessary to recover these projected net total costs?
- 13 A. For the Marianna Division, the Conservation Adjustment Factor
14 is \$.00019 per KWH. For the Fernandina Beach Division, the
15 factor is \$.00009 per KWH.
- 16 Q. Are there any exhibits that you wish to sponsor in this
17 proceeding?
- 18 A. Yes. I wish to sponsor as exhibits for each division Schedules
19 C-1, C-2, C-3, C-4, and C-5 (Composite Prehearing
20 Identification Number MAP-1), which have been filed with this
21 testimony.
- 22 Q. Does this conclude your testimony?
- 23 A. Yes
- 24 Disk 19 (peactest.196)

1 Gulf Power Company

2 Before the Florida Public Service Commission
3 Prepared Direct Testimony of
4 Margaret D. Neyman
5 Docket No. 950002-EG
6 December 19, 1995

7 Q. Will you please state your name, business address,
8 employer and position?

9 A. My name is Margaret D. Neyman and my business address is
10 500 Bayfront Parkway, Pensacola, Florida 32501. I am
11 employed by Gulf Power Company as the Marketing Services
12 Manager.

13
14 Q. Ms. Neyman, for what purpose are you appearing before
15 this Commission today?

16 A. I am testifying before this Commission on behalf of Gulf
17 Power Company regarding matters related to the Energy
18 Conservation Cost Recovery Clause, specifically the
19 approved programs for October, 1994, through September,
20 1995.

21
22 Q. Are you familiar with the documents concerning the
23 Energy Conservation Cost Recovery Clause and its related
24 true-up and interest provisions?

25 A. Yes, I am.

1 Q. Have you verified, that to the best of your knowledge
2 and belief, this information is correct?

3 A. Yes, I have.

4 Counsel: We ask that Ms. Neyman's exhibit consisting of
5 6 Schedules be marked for identification as:
6 Exhibit No. 10 (MDN-1)
7
8

9 Q. Would you summarize for this Commission the deviations
10 resulting from the actual expenditures for this recovery
11 period and the original estimates of expenses?

12 A. The budgeted expenses for the entire recovery period
13 October, 1994, through September, 1995, were \$2,172,677,
14 while the actual costs were \$2,368,956 resulting in a
15 variance of \$196,279 or 9 percent over budget.
16
17

18 Q. Ms. Neyman, would you explain this variance during the
19 October, 1994, through September, 1995 time-frame?

20 A. Yes, the major reasons for this variance are increased
21 expenses in EA/TAA, over \$206,094; Gulf Express, over
22 \$17,152; Transtext, over \$6,857; and HVAC Tune-up, over
23 \$4,829. Two additional programs were approved for this
24 period in Gulf's Conservation Plan but the two programs
25 were not included in the January, 1995, projection.

1 These two programs are In Concert With The Environment
2 and the Good Cents Environmental Home. Because these
3 programs were not approved at the time of the January,
4 1995, projection filing, they reflect over budget
5 amounts of \$138,933 and \$39,316 respectively. However,
6 decreased expenses in Research and Development, under
7 \$176,040; Energy Audits, under \$26,541; Blower Door,
8 under \$10,269; Good Cents Buildings, under \$3,999; and
9 Heat Pipe, under \$53, offset these expenses to some
10 degree, resulting in the previously referenced variance
11 of \$196,279 over budget. A more detailed description of
12 the deviations are contained in Schedule CT-6.

13
14
15 Q. Would you describe the results of your programs during
16 the October, 1994, through September, 1995, recovery
17 period?

18 A. A more detailed review of each of the programs is
19 included in my Schedule CT-6. The following is a
20 synopsis of the accomplishments during this recovery
21 period.

22 (1) Home Energy Audits - During this period, we
23 projected to audit 3,200 structures. We actually
24 completed 3,059. This program continues to be well
25

- 1 accepted and is essentially on goal for this
2 period.
- 3 (2) Energy Audits and Technical Assistance Audits -
4 During this recovery period, a total of 310 EA/TAA
5 were completed.
- 6 (3) Good Cents Building - During this recovery period a
7 total of 181 buildings were built or improved to
8 Good Cents standards, compared to a budget of 379
9 or 198 units below goal.
- 10 (4) Gulf Express Loan Program - During this recovery
11 period, a total of 305 loans were completed
12 compared to a budget of 295 or 10 loans above the
13 goal.
- 14 (5) Pilot Programs - HVAC Duct and Infiltration Program
15 (Blower Door), HVAC Tune-Up Program, Heat Pipe and
16 Transtext Programs were pilots for this period and
17 their status is detailed in Schedule CT-6.
- 18 (6) Conservation Demonstration and Development - Nine
19 research projects have been identified and are
20 detailed in Schedule CT-6.

21
22
23 Q. Have any new programs been implemented during the
24 recovery period, October, 1994 through September, 1995?
25

1 A. Yes. There were two program implemented in this true-up
2 period.

3 (1) In Concert With The Environment - Is an
4 environmental and energy awareness program that is
5 being implemented in the 8th and 9th grade science
6 classes. The program shows students how everyday
7 energy use impacts the environment and how using
8 energy wisely increases environmental quality.

9 (2) Good Cents Environmental Home - Provides
10 residential customers with guidance concerning
11 energy and environmental efficiency in new
12 construction. The program promotes energy-
13 efficient and environmentally sensitive home
14 construction techniques by evaluating over 500
15 components in six categories of design construction
16 practices.

17
18
19 Q. Ms. Neyman, what was Gulf's adjusted net true-up for the
20 period October, 1994, through September, 1995?

21 A. There was an under-recovery of \$166,846 as shown on
22 Schedule CT-1, page 1.

23

24 Q. Ms. Neyman, does this conclude your testimony?

25 A. Yes, it does.

1 Gulf Power Company

2 Before the Florida Public Service Commission
3 Prepared Direct Testimony of
4 Margaret D. Neyman
Docket No. 960002-EG
January 19, 1996

5 Q. Will you please state your name, business address,
6 employer and position?

7 A. My name is Margaret D. Neyman and my business address
8 is 500 Bayfront Parkway, Pensacola, Florida 32501. I
9 am employed by Gulf Power Company as the Marketing
10 Services Manager.

11
12 Q. Are you familiar with the documents concerning the
13 Energy Conservation Cost Recovery?

14 A. Yes, I am.

15

16 Q. Have you verified, that to the best of your knowledge
17 and belief, this information is correct?

18 A. Yes, I have.

19 Counsel: We ask that Ms. Neyman's exhibit consisting
20 of 5 Schedules be marked for identification as:
21 Exhibit No. 11 (MDN-2). We also ask that Ms. Neyman's
22 Schedule MDN-3 be identified as Exhibit No. and Ms.
23 Neyman's Schedule MDN-4 be identified as Exhibit
24 No. 12.

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Q. Ms. Neyman, for what purpose are you appearing before this Commission today?

A. I am testifying before this Commission on behalf of Gulf Power Company regarding matters related to the Energy Conservation Cost Recovery Clause and to answer any questions concerning the accounting treatment of conservation costs in this filing. Specifically, I address projections for approved programs during the April, 1996, through March, 1997, recovery period and the results of those programs during the recovery period, October, 1995 through March, 1996 (2 months actual, 4 months estimated).

Q. Would you summarize for this Commission the deviations resulting from the actual expenditures from October through November of the current recovery period?

A. Projected expenses for the period were \$ 354,713 compared to actual expenses of \$315,217 for a difference of \$39,496 or 11% below budget. A detailed summary of these expenses is contained in my Schedule C-3, pages 1 and 3 and my Schedule C-5, pages 1 through 18.

1

2 Q. Would you describe the results achieved by the programs
3 during the current period, October, 1995, through
4 November, 1995?

5 A. A detailed summary of results for each program is
6 contained in my Schedule C-5, pages 1 through 18. We
7 expect to achieve all goals over the full six month
8 period.

9

10 Q. Has Gulf Power Company established any new conservation
11 programs since the beginning of the current recovery
12 period?

13 A. Yes. Gulf has implemented new programs during this
14 period that are being recovered through ECCR as
15 described in Docket No. 941172-EI, Demand Side
16 Management Plan. New conservation programs approved
17 for recovery as a result of action taken in Docket No.
18 941172-EI are: In Concert With The Environment, The
19 Good Cents Environmental Home, Duct Leakage Repair,
20 Geothermal Heat Pump, Residential Advanced Energy
21 Management, and Solar for Schools Pilot.

22

23 In addition to the programs approved in Gulf's Demand
24 Side Management Plan, this filing also includes The
25 Business Edge, a commercial audit program. The

1 petition for approval of this new program is being
2 submitted with this filing. The program description
3 has been provided in Schedule MDN-3.

4
5 Gulf's Gas Research and Development projects are also
6 included in the ECCR filings in accordance with Docket
7 No. 950520-EG, Order No. PSC-95-1146-FOF-EG.

8
9 Q. Would you summarize the conservation program cost
10 projections for the April, 1996 through March, 1997
11 recovery period?

12 A. Program costs for the recovery period are projected to
13 be \$ 3,440,845. These costs are broken down as
14 follows: depreciation/amortization and return,
15 \$328,498; payroll/benefits, \$1,959,322;
16 materials/expenses, \$626,740; outside services,
17 \$164,905; advertising, \$401,245; incentives, 127,181;
18 vehicles, \$64,940; and other, \$43,639; all of which
19 are offset by program revenues, \$275,625. More detail
20 is contained in my Schedule C-2.

21
22 Q. Would you review the expected results for your programs
23 during the April, 1996, through March, 1997, recovery
24 period?

25 A. The following is a synopsis of each program goal.

- 1 (1) Residential Energy Audits - 3400 audits are
2 projected to be completed during the period.
3 These audits emphasize selling customers on making
4 conservation improvements and making them aware of
5 the financing options available through the Gulf
6 Express Loan Program.
- 7 (2) Gulf Express Loan Program - This program provides
8 below market interest rates to customers as an
9 incentive to install energy conservation features
10 in their homes. 300 loans are projected for the
11 period.
- 12 (3) In Concert With The Environment - This energy
13 awareness program is being presented to 8th and
14 9th grade students as a supplement to the
15 residential audit program. 5000 students are
16 projected to receive the presentation this period.
- 17 (4) Good Cents Environmental Home - This program
18 provides residential customers with guidance
19 concerning energy and environmental efficiency in
20 new construction. 75 homes are expected to be
21 completed during the projected period.
- 22 (5) Duct Leakage Repair - This program design results
23 from Gulf Power's 1992 HVAC Duct and Infiltration
24 (Blower Door) Pilot Program. The object of the
25 program is to provide the customer with a means to

1 identify house air duct leakage and recommend
2 repairs that can reduce customer kWh energy usage
3 and kW demand. 115 homes are projected to
4 participate in this program during the period.

5 (6) Geothermal Heat Pump - The objective of this
6 program is to reduce the demand and energy
7 requirements of new and existing residential
8 customers through the promotion and installation
9 of advanced geothermal systems. 105 customers are
10 expected to participate in the program during the
11 projection period.

12 (7) Residential Advanced Energy Management - This
13 program was field tested through the Transtext
14 Advanced Energy Management Pilot Program in Gulf
15 Breeze, Florida. The program is designed to
16 provide the customer with a means of conveniently
17 and automatically controlling and monitoring
18 his/her energy purchases in response to prices
19 that vary during the day and by season in relation
20 to the Company's cost of producing or purchasing
21 energy.

22
23 Consistent with our original expectations for this
24 program, 7,250 customers are projected to
25 participate in this program by the end of this

1 projection period. Unfortunately our startup of
2 the program was delayed pending a final order in
3 Docket No. 941172-EG. Despite the later start, we
4 are putting our reasonable best efforts into
5 trying to achieve this participation level by the
6 end of the projection period. If we are not
7 successful in achieving this level in that time
8 frame, our ability to meet the near term
9 residential conservation goal will be adversely
10 impacted. Nevertheless, we would fully expect to
11 catch up on a cumulative basis in subsequent
12 periods.

13 (8) Good Cents Building - This program includes both
14 new and existing commercial customers. 257
15 installations are projected for the period.
16 Implementation strategies will concentrate on
17 architects, engineers, developers and other
18 decision makers in the construction process.

19 (9) Energy Audits and Technical Assistance Audits -
20 365 audits are projected for the period. Emphasis
21 will be placed on audits for large, complex
22 commercial customers such as hospitals, hotels and
23 office buildings. These audits will focus on the
24 benefits of alternative technologies such as heat
25 pump water heaters and geothermal technologies.

1 (10) The Business Edge - This is a direct mail energy
2 and environmental auditing program. This program
3 builds on the success of Gulf's existing
4 Commercial/Industrial Energy Audit program and
5 will assist in the evaluation of the specific
6 energy and environmental requirements of a given
7 business type. Gulf expects 1,000 participants
8 during the projection period.

9 (11) Solar for Schools Pilot - Gulf Power is working
10 with the Florida Energy Extension Service on the
11 Solar for Schools Pilot Program design and
12 implementation. The program uses "green pricing"
13 to fund solar technologies in public schools. It
14 also incorporates a school-based energy education
15 component as well as enhanced security lighting
16 for schools. During the projection period, Gulf
17 will be evaluating various implementation options
18 and developing the "green pricing" billing
19 mechanism and promotion plan. No schools are
20 expected to begin participating in the program
21 during this projection period.

22 (12) Conservation Demonstration and Development - Nine
23 research projects have been identified. A
24 detailed description of each project is in
25 Schedule C-5.

1 (13) Gas Research and Development - Gulf Power is
2 conducting research in four individual research
3 and demonstration projects. Project details are
4 explained in Schedule C-5 in accordance with
5 Docket No. 950520-EG, Order No. PSC-95-1146-FOF-
6 EG.

7
8 Q. Are there any significant changes in Gulf's cost
9 allocation methods in this filing?

10 A. Yes. Gulf has proposed to allocate the costs for the
11 new Residential Advanced Energy Management (AEM)
12 Program using the 12 coincident peak and 1/13 average
13 demand method. This method was approved for use as a
14 demand allocation method by the Commission in Order No.
15 PSC-93-1845-FOF-EG. In this order, the Commission
16 stated it was appropriate for dispatchable conservation
17 program costs to be allocated on a demand basis. The
18 Commission defined dispatchable programs as those
19 programs which the utility, at its discretion, can call
20 upon to reduce load when that capacity is needed.

21
22 Q. Please explain how AEM is a dispatchable program?

23 A. The communication capabilities of Gulf's AEM system
24 allow the Company to send a critical price signal to
25 the customer's premises during extreme peak load

1 conditions. The signal results in a load reduction
2 attributable to predetermined thermostat and relay
3 settings chosen by the individual participating
4 customer. AEM is clearly a dispatchable program
5 oriented toward peak demand reduction, similar in load
6 shape impacts to direct load control.

7
8 Based on results gathered from the Residential AEM
9 (TranstexT) Pilot Program conducted by Gulf Power, this
10 type of program will reduce summer peak demand by
11 approximately 2 kW per household. A copy of the Weather
12 Normalized Load Response chart for the summer of 1993,
13 which was included in the Results of the Pilot
14 Residential AEM System report submitted to the
15 Commission in 1994, has also been provided in Schedule
16 MDN-4.

17
18 Q. Ms. Neyman, have you refiled any portion of your direct
19 testimony or exhibits dated November 17, 1995?

20 A. Yes. On December 20, 1995, corrected copies of
21 Schedules CT-1, CT-2 and CT-3, all pages, were filed
22 with the Commission.

23
24
25

1 Q. Please explain the revisions and the effect on the
2 adjusted net true-up?

3 A. Essentially two revisions were made:

4 1. The Company inadvertently provided projection data
5 on Schedule CT-3, pages 4 and 5 and did not
6 include actual data on these two schedules. The
7 correct schedules were used for the calculations,
8 but the wrong schedules were included at the time
9 of filing. These pages were replaced with the
10 pages containing actual data. This change did not
11 affect the net adjusted true-up.

12 2. A total of \$4,624.82 in expenses were not included
13 in the original filing. These expenses are: 1)
14 \$3,759.14 in advertising expense associated with a
15 new program and inadvertently omitted in the
16 original true-up filing and, 2) Materials expense
17 of \$820.26 from the EA/TAA program and \$45.42 from
18 the Good Cents Building program that were not
19 reported in the original filing. These revisions
20 increased the net adjusted true-up from
21 \$162,055.96 to \$166,846.

22

23

24

1 Q. Ms. Neyman, what amount does Gulf propose to bill for
2 the months April, 1996, through March, 1997, as Energy
3 Conservation Cost Recovery factors?

4 A. The factors for these months and how they were derived
5 are detailed on Schedule C-1, page 3 of 3.

6

7 Q. Ms. Neyman, does this conclude your testimony?

8 A. Yes, it does.

9

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1 BEFORE THE PUBLIC SERVICE COMMISSION

2 PREPARED DIRECT TESTIMONY

3 OF

4 HOWARD T. BRYANT

5
6 **Q.** Please state your name and address.

7
8 **A.** My name is Howard Bryant. My business address is 702 North
9 Franklin Street in Tampa, Florida 33602.

10
11 **Q.** Mr. Bryant, what is the purpose of your testimony?

12
13 **A.** The purpose of my testimony is to support the Company's
14 actual conservation costs incurred during the period
15 October 1, 1994 through and including September 30, 1995,
16 the actual and projected period of October 1, 1995 to March
17 31, 1996, and the twelve month projected period of April 1,
18 1996 through March 31, 1997. Also, I will support the
19 level of charges (benefits) for the interruptible Customers
20 allocated to the period April 1, 1996 through March 31,
21 1997. The balance of costs will be charged to the firm
22 Customers on a per kilowatt-hour basis in accordance with
23 Docket No. 930759-EG, Order No. PSC-93-1845-FOF-EG dated
24 December 29, 1993.

25

1 Q. What is the basis of this request for expenses to be based
2 on different charges for interruptible and firm Customers?

3
4 A. Tampa Electric Company believes that our conservation and
5 load management programs do not accrue capacity benefits to
6 interruptible Customers. This position has been supported
7 by this Commission in Dockets 900002-EG, 910002-EG, 920002-
8 EG, 930002-EG, 940002-EG and 950002-EG. The Company
9 estimates the cumulative effects of its conservation and
10 load management programs will allow the interruptible
11 Customers to have lower fuel costs (\$0.07/MWH) due to the
12 reductions in marginal fuel costs.

13
14 Q. How were those benefits calculated?

15
16 A. To determine fuel savings effects, we have calculated a
17 "what if there had been no conservation programs." The
18 results indicate that the avoided gigawatt-hours have
19 actually reduced average fuel costs due to the fact that
20 higher priced marginal fuels would be burned if the
21 gigawatt-hours had not been saved.

22
23 The attached analysis, Exhibit No. (HTB-2), Conservation
24 Costs Projected, portrays costs and benefits.

25

- 1 Q. Doesn't charging different amounts for firm and
2 interruptible Customers conflict with the Florida Energy
3 Efficiency and Conservation Act?
4
- 5 A. No. The act requires the utilities, through the guidance
6 of the Florida Public Service Commission, to cost
7 effectively reduce peak demand, energy consumption and the
8 use of scarce resources, particularly petroleum fuels. It
9 does not require all Customers to pay the utilities'
10 conservation costs no matter if they receive the same level
11 of benefits or not. The relationships between costs and
12 benefits received are specifically the determination of the
13 Commission.
14
- 15 Q. Please describe the conservation program costs projected by
16 Tampa Electric Company during the period October 1, 1994
17 through September 30, 1995.
18
- 19 A. For the period October 1, 1994 through September 30, 1995
20 Tampa Electric Company projected conservation program costs
21 to be \$17,450,773. The Commission authorized collections
22 to recover these expenses in Docket No. 940002-EG, Order
23 No. PSC-94-0389-FOF-EG, issued April 4, 1994 and Docket No.
24 950002-EG, Order No. PSC-95-0398-FOF-EG, issued March
25 23, 1995.

1 Q. Mr. Bryant, for the period October 1, 1994 through
2 September 30, 1995, what were Tampa Electric's conservation
3 costs and what was recovered through the Conservation Cost
4 Recovery Clause?

5
6 A. For the period October 1, 1994 through September 30, 1995
7 Tampa Electric Company incurred actual net conservation
8 costs of \$17,557,271, plus a beginning true-up under
9 recovery of \$466,563 for a total of \$17,090,708. The
10 amount collected in the Conservation Cost Recovery Clause
11 was \$18,605,500.

12
13 Q. What was the true-up amount?

14
15 A. The true-up amount for the period October 1, 1994 through
16 September 30, 1995 was an over recovery of \$1,580,551.
17 These calculations are detailed in Exhibit No. (HTB-1),
18 Conservation Cost Recovery True Up, Pages 1 through 10.

19
20 Q. Please describe the conservation program costs incurred and
21 projected to be incurred by Tampa Electric Company during
22 the period October 1, 1995 through March 31, 1996.

23
24 A. The actual costs incurred by Tampa Electric Company through
25 November 30, 1995 and estimated for December 1, 1995

1 through March 31, 1996 are \$9,807,569.

2
3 For the period, Tampa Electric anticipates an under
4 recovery in the conservation cost recovery of \$148,823
5 which includes the previous period true-up and interest.
6 A summary of these costs and estimates are fully detailed
7 in Exhibit No. (HTB-2), Conservation Costs Projected, Pages
8 1 through 31.

9
10 **Q.** Mr. Bryant, for the period April 1, 1996 through and
11 including March 31, 1997, what are Tampa Electric's
12 estimates of its conservation costs and cost recovery
13 factor?

14
15 **A.** The company has estimated that the total conservation costs
16 (less program revenues) during that period will be
17 \$18,656,058 plus true-up. Including true-up estimates and
18 the interruptible sales contribution at 0.007 cents/KWH,
19 the cost recovery factors for firm retail rate classes will
20 be 0.162 cents/KWH for Residential, 0.154 cents/KWH for
21 General Service Non-Demand, 0.127 cents/KWH for General
22 Service Demand-Secondary, 0.126 cents/KWH for General
23 Service Demand-Primary, 0.121 cents/KWH for General Service
24 Large Demand-Secondary, 0.119 cents/KWH for General Service
25 Large Demand-Primary, 0.118 cents/KWH for General Service

1 Large Demand - Subtransmission and 0.064 cents/KWH for
2 Lighting. Exhibit No. (HTB-2), Conservation Costs
3 Projected, pages 3 through 8 contain the Commission
4 prescribed forms which detail these estimates.
5

6 Q. Mr. Bryant, has Tampa Electric Company compiled with the
7 ECCR cost allocation methodology stated in Docket No.
8 930759-EG, Order No. PSC-93-1845-EG?
9

10 A. Yes, it has.
11

12 Q. Does this conclude your testimony?
13

14 A. Yes it does.
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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 960002-EG
DIRECT TESTIMONY OF
CINDY ARNOLD
ON BEHALF OF WEST FLORIDA NATURAL GAS COMPANY

Q. Please state your name, address and employment position.

A. My name is Cindy Arnold. My business address is 301 Maple Avenue, Panama City, Florida. I am employed as the conservation accountant for West Florida Natural Gas Company.

Q. What is the purpose of your testimony?

A. My testimony supports the Schedules C-1, C-2, C-3, and C-5, which I prepared, and the calculation of the conservation cost recovery factor to be applied to customer bills during the period of April 1, 1996 through March 31, 1997. The "C" Schedules filed with the Commission consist of Schedules C-1, C-2, C-3 and C-5 (composite pre-hearing identification number CA-2). The Schedules reflect assumptions concerning projected levels of program activity developed by Ronald C. Sott, who is Director, New Market Development and who maintains close contact with our customers. Tom Goodwin,

1 Coordinator - Gas Management, has also submitted
2 direct testimony in this docket to support
3 projected therm sales data.

4 Q. What is the total amount of program costs which the
5 Company expects to incur during the period October
6 1996 through March 1997?

7 A. That amount, which appears on Schedule C-2, page 1
8 of 3, is \$458,600.00.

9 Q. What is the amount of the estimated true-up for the
10 current period?

11 A. The Company expects to underrecover \$325,315.00
12 including interest. This amount appears on
13 Schedule C-3, page 4 of 5.

14 Q. What is the total amount to be recovered during the
15 period April 1996 through March 1997, and what is
16 the proposed cost recovery factor related to that
17 amount?

18 A. Based upon total incremental cost of \$458,600.00
19 and a true-up of \$325,315.00 underrecovery, the
20 total amount to be recovered during April 1996
21 through March 1997 is \$783,915.00. This amount is
22 allocated to the different customer classes in the
23 same proportion as they contribute to base rate
24 revenues. The amount attributed to each class is
25 then divided by the projected therm sales for that

1 class. This calculation results in a conservation
2 recovery factor for residential customers of 4.960 cents
3 per therm; for commercial customers of 1.676 cents per
4 therm; for commercial large and transportation commercial
5 large customers of 1.255; for industrial customers and
6 transportation customers of 0.287 cents per therm, as
7 adjusted for taxes.

8 Q. Does that complete your testimony?

9 A. Yes.

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 960002-EG
DIRECT TESTIMONY OF
RONALD C. SOTT
ON BEHALF OF WEST FLORIDA NATURAL GAS COMPANY

Q. Please state your name and address.

A. My name is Ronald C. Sott. My business address is 301 Maple Avenue, Panama City, Florida.

Q. In what capacity are you employed by West Florida Natural Gas Company?

A. My job title is Director, New Market Development. My position includes overall responsibility for administering the Company's conservation programs in both divisions.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to support the projected levels of conservation program expenses as incorporated into the "C Schedules" sponsored by Cindy Arnold.

Q. Please proceed.

A. In order to project expenses for the Home Builders Program, we contacted several of our major contractors and reviewed their schedules for the periods involved. These projections include several new developments which are ongoing during this period. The projections for our

1 replacement and ESP programs were developed based on
2 actual data in previous periods plus projected increases
3 due to extensive main line construction into previously
4 unserved areas of Marion County, Florida. Our gas
5 water heater load retention estimates were based on past
6 experience with our water heater lease/purchase program.
7 Commercial appliance replacement was projected using past
8 experience with our commercial water heater
9 lease/purchase program as well as information provided by
10 commercial equipment distributors and gas installers.
11 The gas space conditioning program projections were based
12 on estimates; this is a new program for which we have no
13 historical information or experience from which to draw.

14 Q. Does this complete your testimony?

15 A. Yes.

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
2 DOCKET NO. 960002-EG
3 DIRECT TESTIMONY OF
4 TOM GOODWIN
5 ON BEHALF OF WEST FLORIDA NATURAL GAS COMPANY

6 Q. Please state your name and address.

7 A. My name is Tom Goodwin. My business address is 301 Maple
8 Avenue, Panama City, Florida. I am employed as
9 Coordinator - Gas Management by West Florida Natural Gas
10 Company. My responsibilities include participation in the
11 development of projected therm sales for the period April
12 1996 through March 1997 projection period.

13 Q. What is the purpose of your testimony?

14 A. The purpose of my testimony is to describe how we arrived
15 at the estimate of 42,711,972 therms for the period.
16 That projected sales volume is incorporated in the "C
17 schedules" sponsored by Cindy Arnold.

18 Q. Please explain how this estimate was developed.

19 A. The estimate of 42,711,972 therms consists of projected
20 firm gas sales totaling 26,352,872 therms and firm
21 transportation gas totaling 16,359,100 therms. The firm
22 gas sales estimate has been determined through
23 application of projected customer growth and heating
24 degree day data to our forecasting model. Growth was
25 projected at 3% for residential and 2% for commercial

1 class customers. Industrial sales projections reflect an
2 approximate growth factor of 1%. Firm gas transportation
3 sales to end-users is projected to increase by
4 approximately 2% based on customer stated intentions.

5 Q. Do these therm sales projections include any volumes to
6 be sold under an interruptible rate?

7 A. No. Since interruptible sales are excluded from
8 consideration under the conservation cost recovery
9 program, they have been excluded from the above
10 projections.

11 Q. Does this complete your testimony?

12 A. Yes.

1 MR. WRIGHT: Yes, Mr. Chairman.

2 MR. STONE: Commissioner Deason, if I may,
3 briefly, before you proceed with the first witness? I
4 handed out this morning revised conservation cost
5 recovery factors for Gulf Power Company. They have
6 not been identified as an exhibit number, and I did
7 not know whether you wanted to identify them. That is
8 the basis of a stipulation that resulted in the
9 excusal of Witness Neyman.

10 COMMISSIONER DEASON: How does Staff wish to
11 proceed with this?

12 MS. ERSTLING: I would like to have that
13 entered into the record as a Gulf exhibit. It would
14 be then MDN-6 for Gulf by Ms. Neyman.

15 COMMISSIONER DEASON: Well, let's just make
16 it Exhibit 20, since it was not prefiled.

17 MS. ERSTLING: That's fine.

18 COMMISSIONER DEASON: And it is being
19 provided at this time. This exhibit has been provided
20 to all parties; is that correct?

21 MR. STONE: Commissioner, it has been
22 provided to the Public Counsel and to the Florida
23 Industrial Power Users Group and to Staff. We did not
24 have enough copies for other utilities.

25 COMMISSIONER DEASON: It has been provided

1 to all persons who are represented today at this
2 hearing who have not apparently --

3 MR. STONE: I don't believe Mr. Wright has
4 one, but I'm not sure that he wants one.

5 COMMISSIONER DEASON: Okay. What I'm going
6 to ask, is there any objection by any party
7 represented here today at the hearing to the admission
8 of Exhibit No. 20? Hearing no objection, then Exhibit
9 No. 20 will be admitted in to the record. And the
10 court reporter has a copy; is that correct?

11 MR. STONE: That is correct.

12 (Exhibit No. 20 marked for identification
13 and received in evidence.)

14 MS. ERSTLING: Commissioner Deason, do you
15 want before we hear this witness to have the
16 stipulated issues entered into the record that were
17 not previously entered in, Issue 7 and Issue 8 for
18 Gulf Power Company?

19 COMMISSIONER DEASON: I understand now that
20 Issues 7 and 8 have been stipulated; is that correct?

21 MS. ERSTLING: That is correct, but they
22 were not stipulated at the time of the Prehearing
23 Order.

24 COMMISSIONER DEASON: How do you wish to
25 proceed? Do you want this identified as an exhibit,

1 or do you wish to amend the Prehearing Order at this
2 point? How is the appropriate --

3 MS. ERSTLING: I would like to just amend
4 the Prehearing Order at this point to reflect the
5 stipulated positions.

6 COMMISSIONER DEASON: And I'll just ask all
7 parties that are represented here today, are the
8 stipulated positions as shown on this document
9 correct? Are there any objections or corrections that
10 need to be made? Hearing nothing, I'll assume then
11 that this is correct.

12 And is your proposal that we simply amend
13 the Prehearing Order to show these stipulated
14 positions?

15 MS. ERSTLING: Yes, I do, sir.

16 COMMISSIONER DEASON: Very well. We'll show
17 that those amendments as shown will be made to the
18 Prehearing Order.

19 MR. STONE: Commissioner Deason, with one
20 last request. The need for further appearance by me
21 in this proceeding has been resolved by this
22 stipulation, may I be excused?

23 COMMISSIONER DEASON: Yes, you may,
24 Mr. Stone.

25 MR. STONE: Thank you.

1 MR. WRIGHT: Mr. Chairman, before we call
2 Mr. Krutsinger, I have a brief preliminary motion.

3 COMMISSIONER DEASON: Very well, please
4 proceed.

5 MR. WRIGHT: Thank you. Commissioners,
6 Peoples Gas would move the Commission for the
7 opportunity to present brief oral argument on Issues 9
8 and 11 at the conclusion of the proceeding or at the
9 conclusion of the discussion.

10 In the alternative, we would ask for the
11 opportunity to brief these issues. However, we would
12 greatly prefer oral argument, and I think you all
13 would, too. Staff has taken a position adverse to
14 Peoples Gas on Issue 11 and has taken no position at
15 this time on Issue 9, although we believe it is at
16 least likely that they will take a position adverse to
17 Peoples on Issue 9.

18 The Staff have presented no witness and,
19 therefore, I think all that they can possibly do to
20 support their adverse positions, to the extent they
21 exist, would be to argue on law and policy grounds
22 relative to the facts as they may be elicited from
23 Mr. Krutsinger's testimony in cross examination.

24 We don't know what their position is with
25 respect to Issue 9, nor do we know what arguments the

1 Staff may present in support of their positions on
2 either Issue 9 or Issue 11, or on what they will base
3 those arguments. This leaves us in the position that
4 unless we have the opportunity as we've requested to
5 present argument, we won't be able to present our side
6 of an argument on issues framed by Staff. This, I
7 think, would be basically, even fundamentally unfair.
8 And accordingly, we'd request the opportunity to
9 present brief argument. I think 10 minutes or so
10 after we know what Staff's position is on this would
11 be more than sufficient to present our side.

12 COMMISSIONER DEASON: Staff.

13 MS. ERSTLING: We have no objection to this.
14 This is -- particularly Issue No. 11 is an issue that,
15 I think, needs to be addressed by the Company as well.

16 COMMISSIONER DEASON: Any parties have any
17 objection to having oral argument, closing argument,
18 however you wish to characterize it, concerning issues
19 9 and 11? No objection.

20 At the correct time, Mr. Wright, we'll do
21 that. In case I forget, remind me, which I'm sure you
22 will.

23 Okay. I'm going to ask that Mr. Krutsinger
24 take the stand, and I'll swear him in. We'll just do
25 Mr. Krutsinger at this point. If it's necessary to

1 take witnesses in the 01 docket, we'll do that, swear
2 them in at that point.

3 Mr. Krutsinger, will you please stand and
4 raise your right hand?

5 Thank you, please be seated.

6

- - - - -

7

VERNON I. KRUTSINGER

8 was called as a witness on behalf of Peoples Gas
9 System, Inc. and, having been duly sworn, testified as
10 follows:

11

DIRECT EXAMINATION

12

MR. WRIGHT: May I proceed?

13

COMMISSIONER DEASON: Oh, yes, please.

14

BY MR. WRIGHT:

15

Q Mr. Krutsinger, would you please state your

16

name, title, and business address for the record?

17

A My name is Vernon Krutsinger. I work for

18

Peoples Gas System, Inc., 111 Madison Street, Tampa

19

Florida 33602.

20

Q Are you the same Vernon I. Krutsinger who

21

prepared and caused to be filed in this proceeding

22

direct testimony dated November 1, 1995, consisting of

23

four pages?

24

A Yes.

25

Q And did you also prepare and cause to be

1 filed in this proceeding additional direct testimony,
2 dated January 22, 1996, consisting of six pages?

3 A Yes.

4 Q And do you adopt these testimonies as your
5 sworn testimony for the purposes of this hearing?

6 A I do.

7 MR. WRIGHT: Mr. Chairman, I would request
8 that Mr. Krutsinger's direct testimonies of November
9 1, 1995, and January 22, 1996, be entered into the
10 record as though read.

11 COMMISSIONER DEASON: Without objection it
12 will be so inserted.

13 MR. WRIGHT: And, Mr. Chairman, do I
14 understand correctly that Mr. Krutsinger's exhibits
15 have now been identified as 14 and 15?

16 COMMISSIONER DEASON: I believe that's
17 correct, yes.

18 (Exhibit Nos. 14 and 15 marked for
19 identification.)

20

21

22

23

24

25

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
IN RE: CONSERVATION COST RECOVERY CLAUSE,
DOCKET NO. 950002-EG

DIRECT TESTIMONY OF VERNON I. KRUTSINGER

1 Q: Please state your name and business address.

2 A: My name is Vernon I. Krutsinger. My business address is
3 Peoples Gas System, Inc., Suite 1700, 111 East Madison
4 Street, Post Office Box 2562, Tampa, Florida 3361-2562.

5

6 Q: By whom are you employed and in what capacity?

7 A: I am employed by Peoples Gas System, Inc. as Manager of
8 Energy Utilization.

9

10 Q: Are you familiar with Peoples Gas System's energy
11 conservation programs?

12 A: Yes. As Manager of Energy Utilization, I work with the
13 Company's energy conservation programs on a daily basis.

14

15 Q: Are you familiar with the costs that Peoples incurs in
16 implementing its energy conservation programs?

17 A: Yes. I am responsible for planning, implementation,
18 coordination, and maintenance of all of Peoples' energy
19 conservation programs. My responsibilities include
20 routinely testifying in support of the Company's CCR
21 filings.

DIRECT TESTIMONY OF VERNON I. KRUTSINGER

1 Q: Have you previously testified in proceedings before the
2 Florida Public Service Commission?

3 A: Yes. I have testified in several Conservation Cost
4 Recovery ("CCR") proceedings beginning in 1992. I have
5 also testified in other conservation-related dockets before
6 the Commission.

7

8 Q: What is the purpose of your testimony in this docket?

9 A: My testimony in Docket No. 950002-EG addresses the costs
10 that Peoples seeks to recover through the conservation cost
11 recovery ("CCR") clause. Specifically, this part of my
12 testimony addresses the true-up amount for the period
13 October 1994 through September 1995.

14

15 Q: Are you sponsoring any exhibits with your testimony?

16 A: Yes. I am sponsoring Exhibit 14 (VIK-1), which contains
17 the Conservation Cost Recovery True-Up Data in the format
18 requested by the Commission Staff for the period October
19 1994 through September 1995. Exhibit 14 (VIK-1) consists
20 of 18 pages and includes summary and detailed data relating
21 to the true-up, CCR revenues, and actual and projected
22 program cost data.

DIRECT TESTIMONY OF VERNON I. KRUTSINGER

1 Q: What are the Company's true-up amounts for the period
2 October 1994 through September 1995?

3 A: As shown on Schedule CT-1 of Exhibit 14 (VIK-1), the end-
4 of-period net true-up for the period is an overrecovery of
5 \$1,020,434, including both principal and interest. The
6 projected true-up for the period, as approved by Commission
7 Order No. PSC-95-0398-FOF-EG, was \$3,732,152 underrecovery.
8 Subtracting the projected true-up underrecovery from the
9 actual overrecovery yields the adjusted net true-up of
10 \$4,752,586 overrecovery.

11

12 Q: What do the rest of the schedules in Exhibit 14 (VIK-1)
13 show?

14 A: Schedule CT-2 presents an analysis of the variance between
15 actual and estimated energy conservation program costs for
16 the period October 1993 through September 1994. Schedule
17 CT-3 presents an analysis of program costs, by month and by
18 program, and calculation of the true-up and interest
19 amounts. Schedule CT-4 is not applicable to Peoples Gas
20 System. Schedule CT-5 provides for a reconciliation and
21 explanation of differences between the Company's filing and
22 the PSC's audit for the relevant period; there are no such
23 differences to report as of the date of this filing.
24 Schedule CT-6 contains Program Progress Reports for each of
25 Peoples' approved energy conservation programs.

DIRECT TESTIMONY OF VERNON I. KRUTSINGER

- 1 Q: Does this conclude your prefiled direct testimony regarding
- 2 Peoples' requested true-up amounts?
- 3 A: Yes, it does.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**IN RE: CONSERVATION COST RECOVERY CLAUSE,
DOCKET NO. 960002-EG****DIRECT TESTIMONY OF VERNON I. KRUTSINGER**

1 **Q: Please state your name and business address.**

2 **A: My name is Vernon I. Krutsinger. My business address is**
3 **Peoples Gas System, Inc., Suite 1700, 111 East Madison**
4 **Street, Post Office Box 2562, Tampa, Florida 33601-2562.**

5

6 **Q: By whom are you employed and in what capacity?**

7 **A: I am employed by Peoples Gas System, Inc. as Manager of**
8 **Energy Utilization.**

9

10 **Q: Are you the same Vernon I. Krutsinger who previously filed**
11 **testimony in this proceeding?**

12 **A: Yes. My earlier direct testimony, filed in Docket No.**
13 **950002-EG on November 17, 1995, addressed Peoples'**
14 **requested energy conservation cost recovery ("ECCR") true-**
15 **up amount for the period October 1994 through September**
16 **1995.**

17

18 **Q: Are you familiar with Peoples Gas System's energy**
19 **conservation programs?**

20 **A: Yes. As Manager of Energy Utilization, I work with the**
21 **Company's energy conservation programs on a daily basis.**

DIRECT TESTIMONY OF VERNON I. KRUTSINGER

1 **Q: Are you familiar with the costs that Peoples incurs in**
2 **implementing its energy conservation programs?**

3 **A: Yes.** I am responsible for planning, implementation,
4 coordination, and maintenance of all of Peoples' energy
5 conservation programs. My responsibilities include
6 routinely testifying in support of the Company's ECCR
7 filings.

8

9 **Q: Have you previously testified in proceedings before the**
10 **Florida Public Service Commission?**

11 **A: Yes.** I have testified in several Conservation Cost
12 Recovery proceedings beginning in 1992. I have also
13 testified in other conservation-related dockets before the
14 Commission.

15

16 **Q: What is the purpose of your testimony in this docket?**

17 **A: My testimony in this docket addresses Peoples' energy**
18 **conservation programs and the costs that Peoples seeks to**
19 **recover through the energy conservation cost recovery**
20 **("ECCR") clause. Specifically, this part of my testimony**
21 **first presents data and summaries concerning the planned**
22 **and actual accomplishments of the Company's energy**
23 **conservation programs during the period October 1, 1994**
24 **through September 30, 1995. Data related to calculation of**
25 **the true-up amount for this period is also presented.**

DIRECT TESTIMONY OF VERNON I. KRUTSINGER

1 Second, my testimony describes generally the expenditures
2 made and projected to be made in implementing, promoting,
3 and operating Peoples' energy conservation programs for the
4 current period; this information includes actual costs
5 incurred in October and November 1995 and revised
6 projections of program costs that Peoples expects to incur
7 from December 1995 through September 1996. Next, my
8 testimony presents projected conservation program costs for
9 the period October 1, 1996 through March 31, 1997.
10 Finally, my testimony presents the calculation of the
11 conservation cost recovery adjustment factors to be applied
12 to customers' bills during the period beginning April 1,
13 1996 and continuing through March 31, 1997.

14

15 **Q: Are you sponsoring any exhibits with your testimony?**

16 A: Yes. I am sponsoring Exhibit 15 (VIK-2), which contains
17 Schedules C-1 through C-5. These exhibits were prepared
18 under my supervision and direction.

19

20 **Q: Have you prepared summaries of the Company's conservation
21 programs and the costs associated with these programs?**

22 A: Yes. Summaries of the Company's programs are presented in
23 Schedule C-5, Pages 1 of 10 through 10 of 10.

DIRECT TESTIMONY OF VERNON I. KRUTSINGER

1 Q: Have you prepared schedules that show the expenditures
2 associated with Peoples' energy conservation programs for
3 the periods that your testimony addresses?

4 A: Yes. Actual expenses for the period October 1994 through
5 September 1995 are shown on Schedule CT-2, Page 2, of
6 Exhibit 14 (VIK-1). Exhibit 15 (VIK-1) was included
7 with my earlier direct testimony. Page 1 of Schedule CT-2
8 presents a comparison of the actual program costs and true-
9 up amount to the projected costs and true-up amount for the
10 same period.

11

12 Q: What was the total cost incurred by the Company in
13 connection with its approved energy conservation programs
14 during the year ending September 30, 1995?

15 A: The total cost incurred by Peoples in connection with its
16 approved energy conservation programs for the year ending
17 September 30, 1995 was \$5,601,256.

18

19 Q: What is presented on Schedule C-1 of Exhibit 15 (VIK-2)?

20 A: Schedule C-1 presents a summary of the calculation of
21 Peoples' ECCR cost recovery factors.

22

23

DIRECT TESTIMONY OF VERNON I. KRUTSINGER

1 Q: Have you prepared a schedule that shows Peoples' projected
2 conservation program costs by month for the period October
3 1, 1996 through March 31, 1997?

4 A: Yes. The Company's projected ECCR costs for this period
5 are presented in Schedule C-2: Page 1 of 3 presents the
6 projected monthly ECCR costs by program, and Page 2 of 3
7 presents these costs by cost category for each program.
8 Page 3 of 3 is not applicable to Peoples Gas System, Inc.

9

10 Q: Have you prepared a schedule that shows Peoples'
11 conservation program costs for the year ending September
12 30, 1996?

13 A: Yes. Schedule C-3 presents Peoples' ECCR costs for the
14 year ending September 30, 1996. Pages 1 through 3 of 7
15 show total annual costs by program and by cost category.
16 Page 4 of 7 is not applicable to Peoples Gas System.
17 Schedule C-3, Page 5 of 7 presents monthly costs for each
18 of Peoples' approved conservation programs for the period
19 October 1995 through September 1996; actual data are
20 presented for October and November 1995, while the program
21 expense data are projected for the last ten months of the
22 year ending September 30, 1996. Page 6 of 7 presents the
23 monthly cost and revenue data -- two months actual and ten
24 months projected -- used to calculate the net true-up for
25 the period October 1, 1995 through September 30, 1996.

DIRECT TESTIMONY OF VERNON I. KRUTSINGER

1 Page 7 of 7 presents the monthly calculation of the
2 interest provision associated with the true-up or the same
3 period.

4

5 Q: Have you prepared schedules required for the calculation of
6 Peoples' proposed conservation adjustment factors to be
7 applied during billing periods beginning on April 1, 1996
8 and continuing through March 31, 1997?

9 A: Yes. These calculations are summarized on Schedule C-1 of
10 Exhibit 15 (VIK-2).

11

12 Q: What are the ECCR factors that Peoples is requesting
13 authority to apply for the period April 1, 1996 through
14 March 31, 1997?

15 A: Schedule C-1 shows the estimated ECCR revenues and ECCR
16 adjustment factors by rate class for the period April 1,
17 1996 through March 31, 1997.

18

19 Q: Does this conclude this part of your prefiled direct
20 testimony regarding Peoples' requested ECCR costs?

21 A: Yes, it does.

1 MR. WRIGHT: I'll move their admission at
2 the appropriate time. And with that, Mr. Krutsinger
3 is available for cross examination.

4 COMMISSIONER DEASON: Mr. Howe.

5 MR. HOWE: No questions.

6 MS. KAUFMAN: No questions.

7 COMMISSIONER DEASON: Staff.

8 **CROSS EXAMINATION**

9 BY MS. ERSTLING:

10 Q Mr. Krutsinger, good morning.

11 A Good morning.

12 Q Let's address Issue No. 9, first, if we
13 will. In Docket No. 941165-PU, Emergency Complaint of
14 Peoples Gas against the Tampa Electric Company, which
15 of Peoples' Commission-approved energy conservation
16 programs was challenged?

17 A Primarily, it was the home builder program.
18 It's a Commission-approved builder program.

19 Q You just said that this was a
20 Commission-approved program. My next question was:
21 Has the home builder program been modified since the
22 date on which it was originally approved by the
23 Commission?

24 A It has been modified a couple of times since
25 the original version, which was back in the mid '80s.

1 Q Subject to check, would you agree that in
2 Order No. PSC-94-0567-FOF-EG in Docket No. 940064-EG,
3 the Commission approved modifications to the home
4 builder program?

5 A Subject to check, yes.

6 MS. ERSTLING: I would like the Commission
7 to take official recognition of Order No. PSC-94-0567.
8 If you wish, I can hand out copies.

9 COMMISSIONER DEASON: Please do that, and
10 the Commission will take notice of its own orders.

11 Q (By Ms. Erstling) At the time the
12 modifications were submitted for approval, did Peoples
13 have to submit cost-effectiveness data?

14 A Yes, and I'm assuming your referring to the
15 latest version?

16 Q Yes.

17 A What was the date on that?

18 Q Let's see, I just gave my last copy out
19 there.

20 If you would hand a copy to the witness,
21 please? The date is on it.

22 A Yes. It's May of '94. I have it now.

23 Q So you do agree that cost-effectiveness data
24 was presented to the Commission. To the best of your
25 knowledge is the home builder program in compliance

1 with FEECA?

2 A Yes, ma'am, it is.

3 Q And has that compliance been continuous
4 since its inception?

5 A Yes, it has.

6 Q Do you recall that in Docket 941165, Tampa
7 Electric Company filed a countercomplaint challenging
8 the cost-effectiveness of the Peoples' home builder
9 program?

10 A Yes.

11 Q To the best of your knowledge, what
12 motivated TECO to directly challenge the home builder
13 program?

14 MR. WRIGHT: Mr. Chairman, I object to the
15 degree that it causes Mr. Krutsinger to speculate. He
16 can answer if he wants -- speculate as to Tampa
17 Electric's intent.

18 COMMISSIONER DEASON: Ms. Erstling, perhaps
19 you need to rephrase the question.

20 Q (By Ms. Erstling) To the best of your
21 knowledge, can you tell us what the original filing
22 and complaint entailed?

23 A The original filing was presented by Peoples
24 Gas in response to a marketing program that was being
25 promoted by Tampa Electric Company in an area which

1 was being developed under our energy conservation home
2 builder program. And these marketing programs that
3 Tampa Electric had promoted were not approved, and
4 they were, in our opinion, a direct attack on the home
5 builder program which we had established in this
6 particular area.

7 And we felt that since we were working under
8 a Commission-approved energy conservation program in
9 that area and made investments in that area and TECO's
10 programs were not an approved program and we felt
11 really gas busting programs, that we felt we needed to
12 defend the energy conservation programs that we had an
13 investment in. Does that answer your question?

14 Q Yeah. Just briefly can you tell me what the
15 countercomplaint filed by TECO was?

16 A The countercomplaint was a direct attack
17 against the cost-effectiveness of our existing energy
18 conservation programs. Not just the home builder
19 program, but basically all of our energy conservation
20 programs.

21 Q Did People's home builder program remain at
22 issue throughout the proceedings in Docket No. 941165?

23 A Yes.

24 Q Would you agree that docket 941165 was
25 initiated in November 1994?

1 A Subject to check, I believe that's correct.

2 Q Okay. And would you agree that a
3 continuance was granted in March of 1995 to allow the
4 parties time to try to negotiate a settlement of the
5 matter?

6 A Yes, as I recall.

7 Q Would you also agree that from the granting
8 of the continuance it took approximately eight months
9 for TECO and Peoples to reach a settlement of the
10 issues?

11 A Yes.

12 Q A stipulation of the issues by the parties
13 was filed in October 1995, correct?

14 A Yes.

15 Q Would you agree, subject to check, that the
16 stipulation was approved by the Commission in Order
17 No. PSC-95-1418-S-PU on November 21st, 1995?

18 A Yes.

19 MS. ERSTLING: I would like the Commission
20 to take official recognition of that order including
21 the attached joint stipulation.

22 COMMISSIONER DEASON: The Commission will
23 take notice of its own orders.

24 Q (By Ms. Erstling) So from the beginning to
25 the end, it took over a year to conclude Docket

1 941165, correct?

2 A That's correct.

3 Q What amount of legal costs are you seeking
4 to recover under conservation cost recovery?

5 A I'll have to look that up here.

6 Q Okay. (Pause)

7 Subject to check, Mr. Krutsinger, would you
8 agree it's approximately \$41,624.97?

9 A No. Actually the total amount for that
10 particular docket in fiscal year 1995 was \$54,107.91.

11 Q Is all of it related to Docket
12 No. 941165-PU?

13 A Yes.

14 Q When were these specific costs incurred?

15 A During the fiscal year 1995, in conjunction
16 with the complaint docket.

17 Q Did any of these occur in November of 1994
18 and later billed?

19 A There may have been some in September that
20 fell over into the next fiscal year, yes.

21 Q Subject to check, would you agree that the
22 following are the correct invoice dates and amounts,
23 an invoice dated 1/2/95 for \$8,041.66?

24 I've got three of them so if you want to do
25 each one separately I will wait.

1 A What was the date on that one?

2 Q That one would be 1/2/95.

3 A That would be one of them, yes.

4 Q All right. And the amount of that was
5 \$8,041.66?

6 A Yes.

7 Q Okay. The next one would be February 1, '95
8 in the amount of \$18,878.80?

9 A Yes.

10 Q And the third one would be March 1, 1995, in
11 the amount of \$14,704.51?

12 A Yes.

13 Q Are these invoices in the amount that you
14 gave me before, the total amount of legal fees
15 associated with Docket 941165?

16 A No, they are not.

17 Q Do you have any idea what the total amount
18 of legal fees were incurred in that docket?

19 A I have that here somewhere.

20 Q Well, while you might be checking that, let
21 me go and just ask you. Were these legal fees
22 associated with some particular area of concern in
23 Docket 941165?

24 A I don't seem to be able to locate that
25 particular number, but -- yes, here it is. The total

1 to date in that docket, some of which was in fiscal
2 year '94, and the remainder which was in fiscal year
3 '95, was \$56,177.91. The number that I previously
4 mentioned was what was actually booked in fiscal year
5 '95 which was in the final numbers that we projected
6 for this docket.

7 Q Is this the first time that Peoples has
8 incurred any legal expenses in defense of a
9 Commission-approved conservation program?

10 A I'm not sure that I can answer that. But
11 since I've been there and since 1992, they would be.
12 As far as defending an actual program the way we were
13 defending this, I can say that all of our legal
14 expenses associated with either development of a
15 program or the development of the cost effectiveness
16 or presentation to the Commission has always been
17 recovered through ECCR.

18 Q I am particularly concerned with the
19 expenses related to this particular docket and, in
20 particular, whether you have had a situation where you
21 had to defend a program that had been challenged.

22 Do the costs that were incurred, do they
23 meet the statutory criteria set forth in FEECA of
24 being reasonable and prudent unreimbursed costs
25 projected to be incurred in the implementation of its

1 conservation plan or with a particular conservation
2 program?

3 A Yes, I believe they do. Under the statute
4 and under the Commission' rules, it's entirely
5 appropriate for Peoples to recover these specific
6 costs and other costs like them. And as I've
7 administrated the program since 1992, we've always
8 recovered all of these types of costs, the legal costs
9 as well.

10 Q Well, you have recovered legal costs, but
11 you have not, as far as you know, recovered any costs
12 that were specifically in defense of a
13 Commission-approved program; is that correct?

14 A I would have to say that's accurate.

15 Q Okay. Let's move onto Issue No. 11.

16 A Okay.

17 Q Should Peoples Gas -- the issue is should
18 Peoples Gas be allowed to recover costs incurred in
19 Docket No. 941104-GU related to development of a
20 demand-side management cost recovery methodology; is
21 that correct?

22 A Yes.

23 Q Wasn't that docket opened to develop a
24 methodology that was generic for cost effectiveness of
25 any given gas conservation program?

1 A Yes. That docket was also opened as a
2 result of a -- what I believe was a stipulated
3 agreement between Tampa Electric and Chesapeake where
4 they had to defend one of their energy conservation
5 programs back several years ago. And as a result of
6 that and the attack against their cost-effectiveness
7 methodology, as I recall, that was the reason why this
8 docket was opened.

9 Q Yes, that may be the reason, but it was to
10 develop a generic methodology for looking at cost
11 effectiveness of all gas conservation programs, was it
12 not?

13 A Under FEECA, yes.

14 Q Thank you. Isn't it true that when the
15 Commission approves a methodology to measure cost
16 effectiveness for the gas industry, utility programs
17 will have to meet that test prior to receiving program
18 approval?

19 A Yes, I believe so.

20 Q Are you aware that the Commission in Order
21 No. PSC-95-0398-FOF-EG, that was last year's
22 conservation goals docket, determined that expenses
23 associated with participation in conservation goals
24 docket, including legal expenses, may not be recovered
25 through the clause because such costs are incremental

1 in administrative expenses related to Commission
2 activities that are litigated on a regular basis.

3 A That was recently brought to my attention.

4 Q I'd like to take official recognition of
5 PSC-95-0398-FOF-EG. I think we are going to have to
6 get that for you; we don't have that available.

7 Here it is.

8 COMMISSIONER DEASON: You are asking for the
9 Commission to take official recognition of that order?

10 MS. ERSTLING: Yes, I am, sir.

11 COMMISSIONER DEASON: The Commission will
12 recognize its own order.

13 Q (By Ms. Erstling) Would not the
14 establishment of a cost-effectiveness methodology be
15 similar to the setting of goals in that it is
16 preliminary to the implementation of any given
17 conservation plan or specific program?

18 A Could you repeat that, please?

19 Q Would not the establishment of a
20 cost-effectiveness methodology be similar to the
21 setting of goals in that it is preliminary to the
22 implementation of any given conservation plan or
23 specific program?

24 A Well, yes, it may be similar, but I don't
25 believe that -- I think that they are two totally

1 different situations. This particular docket is not a
2 goals docket so I really don't believe -- I really
3 don't believe that it would be the same.

4 Q Well, let me maybe phrase it a little bit
5 differently. Just like setting goals was determined
6 to be an administrative activity that is litigated on
7 a regular basis, wouldn't the development of a
8 methodology to measure cost effectiveness also be
9 regularly litigated Commission activity?

10 A I would guess.

11 MS. ERSTLING: That's all the questions that
12 I have.

13 COMMISSIONER DEASON: Commissioners,
14 questions? Redirect?

15 MR. WRIGHT: I have a few, Mr. Chairman,
16 thank you.

17 **REDIRECT EXAMINATION**

18 BY MR. WRIGHT:

19 Q Mr. Krutsinger, Ms. Erstling asked you some
20 questions regarding legal costs that Peoples Gas
21 incurred in connection with Docket 941165, commonly
22 known as the complaint docket or the Meadow Pointe
23 docket. Do you recall those questions?

24 A Yes.

25 Q In your opinion, were the costs that Peoples

1 incurred in pursuing and participating in that docket
2 directly associated with Peoples' implementation of
3 its approved programs?

4 A Absolutely. The situation was that we had
5 to defend our program and that it was an approved
6 Commission program that was under attack in that
7 particular situation.

8 The countercomplaint was directly related to
9 our energy conservation programs, and we were really
10 required to defend those issues, otherwise we would
11 have -- the implementation of our programs would have
12 been greatly affected. And the potential of the
13 benefits from those programs to our customers would
14 have been denied.

15 Q In this context is there -- in your opinion,
16 is there any meaningful difference between defending
17 your ability to implement your programs and pursuing
18 other activities that are perhaps more directly
19 associated with implementing the programs?

20 A No. As a matter of fact, I feel that we
21 need to be able to directly -- that all expenses
22 related to an existing program, just as any product or
23 service, that good business practice dictates that
24 those directly related expenses be captured so that
25 you know and understand how to price the product, in

1 the case of a product, so that you will be able to
2 measure the profitability of a particular product or
3 service. So without capturing those costs associated
4 with whatever it is, you really don't have the true
5 picture of the margins available, the profitability of
6 a particular area, and that falls in line with the
7 cost-effectiveness analysis that I feel was done in
8 the energy conservation cost recovery area. So that's
9 consistent and good business practice to include all
10 the costs involved, which is why we do it that way.

11 Q Mr. Krutsinger, Ms. Erstling asked you some
12 questions regarding cost incurred in association with
13 Docket 941104, which is commonly referred to is the
14 gas cost-effectiveness methodology rule docket. Do
15 you recall those questions?

16 A Yes.

17 Q And she also asked you some questions
18 regarding the electric conservation goals dockets and
19 costs incurred therein. She made reference to -- do
20 you recall her making reference to the goals dockets
21 being litigated on a regular basis?

22 A Yes.

23 Q Are you aware of a statutory requirement
24 that conservation goals proceedings for the electric
25 utilities must take place no less often than every

1 five years?

2 A Yes.

3 Q Do you believe that is a statutory
4 requirement requiring that those issues be litigated
5 on a regular basis?

6 A I would have to say I don't know, Scheff.

7 Q When was the last time a gas conservation
8 rulemaking proceeding took place before this
9 Commission, to the best of your knowledge?

10 A 19 -- early 1980's.

11 Q And when before that?

12 A 1978 or -9.

13 Q Do you expect that the methodology that will
14 be developed by this rule will be in place
15 indefinitely? That is, until some future proceeding
16 as yet unknown?

17 A Yes.

18 Q In light of that, do you believe that
19 rulemaking dockets of this nature are litigated on a
20 regular basis?

21 A They have been not been in the gas industry.

22 Q Ms. Erstling asked you questions regarding
23 whether you believe the cost at issue in Issues 9 and
24 11 are costs that are reasonable and prudent
25 unreimbursed costs within the meaning of the

1 applicable statute, which is Section 366:82(5) of the
2 Florida Statutes, commonly known as FEECA. Do you
3 recall those questions?

4 A Yes.

5 Q What has Peoples' position been with respect
6 to legal costs associated with conservation
7 activities?

8 A Our position has been from the beginning
9 since I went back and reviewed the records and since
10 the very beginning in the early '80s when we got
11 involved with energy conservation, all our legal
12 expenses associated with energy conservation programs
13 have been projected and recovered through ECCR.

14 MR. WRIGHT: I'm going to ask the witness a
15 leading question. I'll rephrase it if it's
16 objectionable.

17 Q (By Mr. Wright) Is it correct that all
18 legal expenses associated with conservation-related
19 activities incurred by Peoples Gas have been recovered
20 through ECCR since at least 1981?

21 A Yes.

22 Q In pursuing and obtaining a recovery in that
23 way, did you believe you were following the
24 Commission's policies and preferences for that
25 recovery?

1 A Yes. I believe that we've been following
2 the Commission's policy and basically the Staff's
3 policy. Again, I went back and reviewed the record,
4 and it's consistently -- it's been real consistent
5 down through all the orders and issues that have been
6 raised that all energy conservation related costs
7 should be included in energy conservation cost
8 recovery.

9 Q Do you think that is a wise policy?

10 A Yes. As I said before, I believe that all
11 expenses that are directly -- can be tracked or traced
12 directly to a given product or service, should be
13 taken into consideration as far as the cost
14 effectiveness or profitability of providing that
15 product or service; in this case, the energy
16 conservation programs. I think that is a good
17 business practice, and I think it's consistent with
18 what the Commission has set out as a policy in the
19 past.

20 Q Two more questions pertaining to Issue 11.
21 Does Peoples Gas Systems' approved energy conservation
22 program contemplate evaluation of cost effectiveness
23 of Peoples' conservation programs as an ongoing
24 activity?

25 A Yes, it does.

1 Q And do you consider the development of newer
2 and better methodologies for the purposes of
3 conducting such evaluations to be within the scope of
4 your plant?

5 A Yes, I do.

6 MR. WRIGHT: That's all I have, Mr.
7 Chairman. Thank you.

8 COMMISSIONER DEASON: Exhibits?

9 MR. WRIGHT: People move Exhibits 14 and 15.

10 COMMISSIONER DEASON: Without objection,
11 Exhibits 14 and 15 will be admitted into the records.

12 (Exhibit Nos. 14 and 15 received in
13 evidence.)

14 COMMISSIONER DEASON: I believe that
15 concludes all of the witnesses in this docket.

16 Ms. Erstling?

17 MS. ERSTLING: I'm sorry?

18 COMMISSIONER DEASON: This concludes all of
19 the witnesses in this docket?

20 MS. ERSTLING: Yes, sir, it does.

21 COMMISSIONER DEASON: Is there anything we
22 need to take up before we have closing argument in
23 this docket?

24 MS. ERSTLING: Not relative to this witness,
25 but we do have a motion outstanding.

1 COMMISSIONER DEASON: Okay. What is that
2 motion?

3 MS. ERSTLING: That is the motion filed by
4 LEAF, a joint motion to approve a stipulation on the
5 FPC issue. And I believe that the new stipulated
6 issue encompasses their joint stipulation. It allows
7 anyone who is a party to this docket, including FIPUG,
8 OPC and LEAF, to address this issue in another docket.

9 COMMISSIONER DEASON: Now, is that
10 stipulation included within one of the identified
11 issues in the order?

12 MS. ERSTLING: Yes, sir, I believe it's
13 Issue No. 5. I don't think it's identified in that
14 issue, sir, because the joint motion for stipulation
15 was filed prior to a stipulation of the issues.

16 COMMISSIONER DEASON: I guess my question
17 is: Do we need to address the joint motion for
18 stipulation separately, or is it subsumed within
19 Issue 5?

20 MS. ERSTLING: I believe it is consumed
21 within Issue 5; however, LEAF is not here to agree or
22 not agree with that.

23 COMMISSIONER DEASON: Did LEAF stipulate to
24 Issue 5, or they did not address that issue?

25 MS. ERSTLING: They did not address that

1 issue, sir, because they felt they had the joint
2 motion to stipulate available.

3 COMMISSIONER DEASON: Are there any other
4 matters pending?

5 MS. ERSTLING: No, sir.

6 COMMISSIONER DEASON: What I would propose
7 to do is that we have closing argument as proposed by
8 Mr. Wright. And then when we start going through the
9 issues, remind me of this joint motion for
10 stipulation, and we'll decide whether we have to make
11 a specific ruling on that, or whether it is, in fact,
12 subsumed within Issue 5.

13 MS. ERSTLING: Yes, sir.

14 COMMISSIONER DEASON: Mr. Wright, I believe
15 that you requested 10 minutes. I'm going to allow you
16 that much time, but if you can make it shorter than
17 that, that would be appreciated.

18 MR. WRIGHT: Thank you, Mr. Chairman, I hope
19 that I will.

20 Mr. Chairman, my motion did go to being able
21 to address the arguments as they may be framed by
22 Staff. I'm happy to go first on closing argument, but
23 if I could have an opportunity to the extent that they
24 raise issues outside what I talk about, I'd like the
25 opportunity to address those issues.

1 COMMISSIONER DEASON: Mr. Elias.

2 MR. ELIAS: I don't think we intend to offer
3 argument on those two issues. We'll listen to
4 Mr. Wright's presentation. If we could, take a few
5 moments to consider it, and if asked, make a
6 recommendation to the Commission.

7 COMMISSIONER KIESLING: Yeah. I mean, my
8 concern is that at least on one of them you have a
9 position; but on the other one, you have taken no
10 position, so I don't know how to put his argument
11 together with no position.

12 MS. ERSTLING: At the time we took no
13 position, we wanted to hear the cross examination that
14 was put forth. And I'm not too sure whether
15 Mr. Wright is wanting to orally argue against any
16 Staff recommendation that we make. If he has issues
17 of law that he believes should be addressed in making
18 a decision on this particular issue, then I don't
19 think Staff's recommendation is of concern in terms of
20 the issues of law that he wishes to bring forth. I
21 think that Staff can still make its recommendations
22 after he argues what issues of law that he is
23 concerned about, and I think that's where he had asked
24 to address his argument, not as a counter
25 recommendation to staff's recommendation.

1 COMMISSIONER KIESLING: I wasn't concerned
2 about him; I was concerned about me understanding what
3 we were even listening to. It's hard for me to know
4 how to deal with his argument if I don't even know
5 what Staff's position is. That was my problem.

6 MS. ERSTLING: Commissioner Kiesling, if
7 it's okay with Mr. Elias, if we could take 10 minutes
8 to just review our recommendation, we really have, I
9 don't believe, any particular argument against it
10 going either, whichever might suit you.

11 COMMISSIONER KIESLING: And that is a
12 position. That is okay with me.

13 MS. ERSTLING: That will be fine.

14 COMMISSIONER KIESLING: As long as I
15 understand that you are not taking a strong position
16 on one side or the other and you are leaving it up to
17 us --

18 MS. ERSTLING: That is exactly what our
19 recommendation is. We are presenting both sides and
20 allowing -- we realize this is a difficult issue.

21 COMMISSIONER KIESLING: Okay. Then I don't
22 need any more to understand what to do with his
23 argument.

24 COMMISSIONER DEASON: In regards to Issue 9,
25 you are still maintaining no position; is that

1 correct?

2 MR. ELIAS: We'd like a chance to hear
3 Mr. Wright's arguments and then make a recommendation
4 to you on both issues in whatever order you want. I
5 don't think that we --

6 COMMISSIONER DEASON: Probably what
7 Mr. Wright is indicating, at least for purposes of
8 argument, it would be helpful to him -- I'm not sure
9 if has a right to demand it. I think he's saying it
10 would be helpful to him to know what Staff's position
11 is on Issue 9, if you now have a position as a result
12 of the cross examination which took place today at the
13 hearing.

14 MS. ERSTLING: No, we don't have a
15 definitive position to take. We have information that
16 we want to bring forth to you and leave that decision
17 up to you. We do have a position on Issue 11.

18 COMMISSIONER JOHNSON: It might be helpful
19 if we allow Mr. Wright then to go ahead, Staff to
20 respond, and maybe a few minutes for him to perhaps
21 respond to what they said. Because I understand the
22 disadvantage that you are at, but Staff's not prepared
23 yet to present their case until they hear what you
24 say.

25 COMMISSIONER DEASON: Well, I think that's

1 probably a good suggestion. I know that in the past
2 when the Commission has made its decisions, we have
3 been rather accommodating to persons to address the
4 Commission as we deliberate. It is different from our
5 normal procedures where we close the hearing and we
6 allow parties to file briefs and Staff then makes a
7 recommendation which is formally filed and at that
8 point things are rather closed off. And I don't want
9 to violate that procedure, but I think that since we
10 are deliberating here today and you are going to be
11 here today, I'm sure that if the matter comes up,
12 you'll make yourself available to answer any question
13 a Commissioner may have.

14 And we'll proceed at that point. Let's just
15 see how things go. But I'm going to allow you now to
16 make your closing argument. And if Staff needs some
17 time to actually formulate a position, if we need to
18 recess for a short period of time, I will make that
19 accommodation.

20 MS. ERSTLING: Thank you.

21 COMMISSIONER DEASON: You may now proceed,
22 Mr. Wright.

23 MR. WRIGHT: Thank you, Mr. Chairman.

24 Mr. Chairman, Peoples believes that the
25 costs that are at issue in Issues 9 and 11 are

1 reasonable and prudent directly associated with
2 Peoples Gas conservation activities pursuant to its
3 Commission-approved plan and accordingly should be
4 recovered if not disallowed.

5 With respect to the \$41,625 at issue in
6 Issue 9, with respect to the costs Peoples incurred in
7 the so-called complaint docket, Peoples incurred these
8 costs directly to defend its ability to implement its
9 conservation programs and to assure that it can
10 continue to implement them. Had Peoples not done so,
11 arguably it would have been imprudent because they
12 would have lost the benefits of this cost-effective
13 program.

14 With respect to the costs at issue, some
15 \$7,828 in Issue 11 with respect to Peoples' activities
16 in a currently ongoing rule docket addressing a
17 cost-effectiveness methodology for gas conservation
18 programs, Peoples again strongly believes that these
19 are directly conservation related and that they are
20 directly within the scope of Peoples' responsibilities
21 to conduct evaluations of its conservation programs
22 pursuant to its Commission-approved plan.

23 These costs satisfy the statutory criteria
24 that they are reasonable and prudent unreimbursed
25 costs associated with conservation. There is no

1 allegation, there is not even a suggestion, nor is
2 there any evidence that these costs are unreasonable
3 or imprudent in any way, nor is there any suggestion,
4 allegation or evidence that People should not be
5 entitled to recover them. The issue seems to be
6 whether we should be entitled to recover them through
7 ECCR, or whether they should be kicked out of ECCR and
8 rolled into base rates at some future time.

9 Clearly, I think there is no requirement in
10 the statute to exclude costs of this nature from ECCR.
11 Peoples has been doing it with the Commission's
12 approval on an annual basis since 1981. Had there
13 been a question as to the legality of this type of
14 recovery, surely it would have been raised before.

15 To the extent that this issue, the inclusion
16 of conservation related legal costs has been addressed
17 by the Staff and by the Commission, the position has
18 been that all conservation related costs should be
19 recovered through ECCR for the policy reason that you
20 need to know all the costs in order to accurately
21 evaluate the cost effectiveness.

22 I would ask the Commission to take judicial
23 notice of at least two of its orders, and I have --
24 one of them is lengthy. Actually, they are both
25 moderately lengthy. I did not reproduce the entire

1 orders. I did reproduce the cover sheet and the
2 pertinent pages of these orders, 14762 and 15079. I'm
3 going to ask Mr. Krutsinger if he would pass out
4 copies of these, please?

5 I have previously identified these orders to
6 the Staff and verified that they were able to obtain
7 copies through the FPSC reporters.

8 Order No. 14762 was a Prehearing Order in
9 1985 ECCR proceeding. In that docket, the following
10 issue was raised: Should legal fees associated with
11 conservation be recovered through the conservation
12 adjustment factor?

13 If you look toward the bottom of Page 17,
14 you'll note the Staff's position on this issue.
15 "Staff: Yes. Reasonable legal fees directly
16 associated with conservation, which would not be
17 expected to be incurred in the absence of conservation
18 involvement by the Company, should be recovered
19 through the Conservation Cost Recovery Factor."

20 Now what action did the Commission take with
21 respect to this? We find that by turning to Order
22 15079 at Page 4 where the Commission stated: "The
23 recovery of conservation-related expenses is
24 appropriate in these proceedings as opposed to their
25 recovery through base rates as set in rate cases. In

1 general, we adopt Staff's position that those costs
2 which can be identified as directly related to
3 conservation should be recovered through the
4 Conservation Cost Recovery Factor, not through base
5 rates. Further, Staff has expressed its concern that
6 expenses for legal fees incurred in conservation cost
7 recovery are being recouped as part of base rates by
8 some participating utilities. Other utilities have
9 recovered legal fees as a conservation-related expense
10 in the cost recovery dockets.

11 Rather than treat legal fees apart from
12 other costs, we prefer to first ensure that all costs
13 related to conservation are concurrently recovered.
14 In addition, all parties need a clear understanding of
15 how to make the transition from base rate recovery to
16 conservation cost recovery factor recovery of any
17 conservation-related costs now being recovered in base
18 rates."

19 The Commission goes on to say that they will
20 provide guidance in the next regularly scheduled
21 hearing in the docket. Historical note, there was a
22 subsequent direction for the Staff to prepare a
23 Staff-advisory bulletin. To the best of my knowledge,
24 no such bulletin was ever prepared. I believe that
25 what happened, looking through the historical

1 evolution of this issue, is that this evolved later in
2 1986 into an amendment to the Commission's ECCR rules
3 which required that any costs that had been disallowed
4 for a utility must be specifically identified in any
5 subsequent filing in which the utility asked for
6 recovery of those items.

7 As noted by Mr. Krutsinger and as noted by
8 the Staff and the Commission, policy should favor the
9 inclusion of all costs associated with conservation
10 activities in ECCR. Otherwise, you don't know whether
11 they are cost effective looking at all the costs
12 associated with them.

13 There is no policy witness here and no
14 evidence to support a policy decision, indeed what I
15 would consider to be a policy shift away from what has
16 been the Commission's practice and Peoples' practice
17 and from what the Commission has consistently approved
18 for Peoples Gas for 15 years. I almost hate to say
19 this, but I would suggest that any change in recovery
20 of this type of cost, which have historically and
21 consistently been recovered through base rates, should
22 be made on a prospective basis. And what I kind of
23 hate to say is that it really is of the nature of
24 rulemaking.

25 COMMISSIONER JOHNSON: I'm sorry, I didn't

1 hear you.

2 MR. WRIGHT: It is in the nature of
3 rulemaking to talk about a policy shift from recovery
4 of certain costs from ECCR to base rates. I think
5 it's appropriate to rulemaking. It certainly is in
6 the nature of rulemaking and arguably even required
7 for rulemaking.

8 Finally, I think it's only fair, Peoples has
9 operated under this policy with the Commission's
10 approval for 15 years. I think it would be unfair at
11 this point to change the rules without going through
12 the formalities of, at least, a rulemaking proceeding.
13 And I would submit without giving us until our next
14 rate case to establish how we are going to make the
15 transition, if we are going to make it at all, from
16 recovery of all conservation related costs to recovery
17 of those costs through base rates.

18 Thank you very much.

19 COMMISSIONER JOHNSON: Can I ask a question?

20 COMMISSIONER DEASON: Sure.

21 COMMISSIONER JOHNSON: On your argument
22 there with respect to us having established the policy
23 that you've cited to and the orders that you've cited,
24 for my edification, we have not codified this in rule.

25 MR. WRIGHT: That is correct. Apparently,

1 it was contemplated but not done.

2 COMMISSIONER JOHNSON: But it would be your
3 opinion that even though it is not a codified rule, it
4 would be of the nature that if we wanted to change
5 it -- not saying change it in this case, but even in
6 the future -- that we would then have to do that by
7 rule. We couldn't just change the policy by order and
8 apply it prospectively?

9 MR. WRIGHT: I think under MacDonald, I
10 think you are entitled to a certain latitude with
11 respect to incipient policy making that can for a time
12 escape rulemaking. I think while this may not be
13 binding precedent, it's certainly persuasive
14 authority. To the best of my knowledge, it's the only
15 pronouncement on the subject of recovery of legal fees
16 that the Commission has ever generically made, other
17 than the disallowance of the costs associated with the
18 electric goals docket which we believe -- a) we
19 believe is different, and I don't want to get into.

20 COMMISSIONER DEASON: Well, that was going
21 to be my next question, as to how do you
22 distinguish -- I know I dissented from the opinion,
23 but, nevertheless, it was an opinion of this
24 Commission. How do you distinguish what you're
25 suggesting here today from the decision that is in

1 Order 950398 concerning the conservation goals docket
2 incremental expenses of the electric utilities which
3 were disallowed for recovery?

4 MR. WRIGHT: Well, certainly, with respect
5 to the \$41,625 incurred in the complaint docket, that
6 was directly associated with preserving our ability to
7 implement our program. We believe that the \$1,728 at
8 issue in Item 11 is not attributable to something
9 that's litigated on an ongoing basis.

10 Rule dockets come and go. There have been,
11 I think, three, counting the current one, pertaining
12 to gas utilities' goals. And the last one was a
13 repeal of the gas utility goals rule, I believe, in
14 1990. I do not believe that they meet the test
15 announced by Ms. Erstling that rule dockets are
16 litigated on an ongoing basis. The conservation goals
17 by statute are required to be litigated on an ongoing
18 regular basis no less often than every five years.
19 And furthermore, I think that --

20 COMMISSIONER DEASON: That would be a basis
21 to distinguish that decision.

22 MR. WRIGHT: A basis. Also, I think that
23 the evaluation responsibilities under our approved
24 plan encompass the development of a new evaluation
25 methodology. For example, even if we weren't doing as

1 a rule docket, we could work independently on
2 developing a new cost-effectiveness evaluation
3 methodology because we thought it was the right thing
4 to do. And we would submit that it would be entirely
5 appropriate to recover those costs and consistent with
6 historic practice.

7 Everything conservation related that Peoples
8 has ever incurred since 1981 has been recovered
9 through ECCR. And I make a point of saying 1981
10 because that, to the best of my knowledge, is when
11 recovery of such costs through ECCR became available.

12 COMMISSIONER DEASON: Does the recognition
13 of any of these costs place any of your program's cost
14 effectiveness in jeopardy?

15 MR. WRIGHT: No, sir. They are already in
16 the cost associated with the programs -- well, they're
17 not because of the timing difference. But to the
18 extent that we seek evaluation of cost effectiveness,
19 all costs associated with the programs -- including
20 administrative, general common costs, into which
21 category these fall -- would be included.

22 I'm not sure I finished answering your
23 question, Commissioner Johnson. I was saying, I
24 think, that your order from 1985 and 1986 is not --
25 orders -- is not binding precedent, but it's sure

1 persuasive authority. I don't think you'd have to do
2 it, I don't think you'd have to make a change by rule
3 within a strict legal sense, although I could argue
4 the other side, and that is, that this issue has been
5 around in a very explicit basis, in an explicit way
6 and explicitly considered since 1985. And you have
7 followed a policy through that time.

8 If not a new issue, it's something that to
9 the extent you wanted to develop rules on, you have
10 had 11 years at least to make rules on. And I would
11 argue that -- I mean, I could argue that it was
12 required, but I would argue more forcefully that it's
13 appropriate; it's of the nature of a rule.

14 It's appropriate for rulemaking. It's a
15 generic-type question as to the recoverability of
16 certain costs through one mechanism or another.

17 COMMISSIONER JOHNSON: So you are also
18 suggesting that even if we continue along with this
19 policy, since we've implemented it for some many
20 years, it's almost incumbent upon us to go ahead and
21 codify and rule, or does the rule that you cited where
22 you think we're addressing it, do you think that's
23 sufficient?

24 MR. WRIGHT: No, I could argue that one
25 either way. I think that a straightforward little --

1 reading Section 120.535, Rulemaking Required, would
2 indicate that it should be codified, yes, ma'am.

3 COMMISSIONER JOHNSON: Now, back on
4 Commissioner Deason's question where you were
5 distinguishing the case that our counsel cited, you
6 were speaking a little quickly.

7 MR. WRIGHT: I'm sorry.

8 COMMISSIONER JOHNSON: And on the first
9 issue that you said would be the distinguishing issue,
10 I didn't even get that.

11 MR. WRIGHT: I apologize. The question was
12 what distinctions, if any, we believe exist between
13 the legal costs that were disallowed for the electric
14 utilities in connection of their participation in the
15 conservation goals dockets and the costs that are at
16 issue in this case.

17 And I would first distinguish the cost at
18 issue in the complaint docket, which is Issue 9, the
19 \$41,625, on the grounds that those were directly
20 associated with Peoples Gas System defending its
21 ability to implement its Commission-approved program.

22 And I would distinguish the latter
23 because -- on at least two grounds. First, rulemaking
24 proceedings come and go. They are not regularly
25 litigated, as are the conservation goals proceeding

1 which by statute must be regularly litigated no less
2 often than every five years.

3 Mr. Krutsinger testified, and I believe
4 accurately, that there have been three -- counting the
5 current gas conservation rule proceeding regarding the
6 cost-effectiveness methodology, three since -- well,
7 since FEECA was first enacted. And that's three in
8 what, 23 years? 22 years? I think '74 maybe.

9 And I would submit that rulemaking dockets
10 of this character are not regularly litigated as
11 Mr. Krutsinger testified he believes that -- and I
12 would add that I believe that once this methodology
13 rule is in place, it's going to stay there for a long
14 time. It's not going to be revisited within five
15 years pursuant to a statutory mandate to do so.

16 Secondly, as I tried to articulate in
17 responding to Commissioner Deason's question, we
18 believe that this type of evaluation activity, working
19 on developing a better methodology to evaluate the
20 cost effectiveness of our programs, is entirely
21 appropriate and consistent with and encompassed by the
22 scope of our evaluation responsibilities pursuant to
23 the research, monitoring, and evaluation component of
24 Peoples' approved energy conservation plan.

25 As I remarked to Commissioner Deason, if we

1 were to undertake this type of activity, working on
2 what we thought was a better methodology for
3 conducting the required evaluation outside the context
4 of a rule docket, we would feel that we were entirely
5 entitled to recover the costs in that way as well, in
6 that context as well.

7 COMMISSIONER JOHNSON: Okay. Thank you.

8 COMMISSIONER DEASON: Are you finished,
9 Mr. Wright?

10 MR. WRIGHT: I am concluded. Thank you,
11 Mr. Chairman.

12 COMMISSIONER DEASON: Mr. Howe.

13 MR. HOWE: No questions.

14 COMMISSIONER DEASON: Ms. Kaufman.

15 MS. KAUFMAN: No questions.

16 COMMISSIONER DEASON: Staff, do you need
17 some time to formulate?

18 MS. ERSTLING: Yes, sir, we may.

19 COMMISSIONER DEASON: How much time do you
20 need?

21 MS. ERSTLING: About five minutes, sir.

22 COMMISSIONER DEASON: We'll give you ten.
23 How about that?

24 MS. ERSTLING: That's perfect.

25 COMMISSIONER DEASON: We'll take a recess

1 until 11:00 o'clock.

2 (Brief recess.)

3 - - - - -

4 COMMISSIONER DEASON: Call the hearing back
5 to order. Ms. Erstling.

6 MS. ERSTLING: Yes, sir. I would like for
7 us to address Issue No. 9, and I would like to keep
8 them separate.

9 We are making a recommendation. Staff has
10 considered this issue at length, and we admit that it
11 is a very, very difficulty issue. We believe that
12 Peoples acted prudently and appropriately in defending
13 its program, and that the expenses incurred in defense
14 of the program are appropriate to be recovered.
15 However, we also feel that despite what Mr. Wright
16 says, that this is an issue of first impression. That
17 although since 1985, legal costs have been recovered
18 through the conservation cost recovery, we seriously
19 doubt whether the Commission in 1985 ever considered
20 the possibility of a competitive challenge to a
21 conservation cost recovery program. And, therefore,
22 we are deeply concerned about what may occur in this
23 instance.

24 We feel that it would be appropriate at this
25 time, since this is the first and only case that we

1 have had of this type yet -- and we really have no
2 idea how many cases of this type may appear in the
3 future -- we believe that we should address this on a
4 case-by-case basis until such time as it appears that
5 a general policy is embodied and a rule would be
6 appropriate.

7 As we talk of rules, I do want to point out
8 something that Mr. Wright had mentioned about going
9 forward in rulemaking, the Statute 120.535 -- I
10 believe it's 10 -- specifically excludes any agency's
11 statements related to cost recovery clause, factors,
12 or mechanism, pursuant to Chapter 3366. They are
13 exempt from the requirements of that section.

14 I do want to point out that although they
15 are exempt from the requirement of the section, that
16 the Commission has, in the past where it felt
17 necessary, and would where it feels appropriate to be
18 instituted, go forward with the rulemaking possibly at
19 some time in the future. But there is no statutory
20 requirement that this be done when it reflects on the
21 conservation cost recovery factors, or any of the
22 factors.

23 So, therefore, what we are saying here in
24 our concern here is that as we go forward with this,
25 that we should be careful as we go forward in taking

1 this on a case-by-case basis in order to develop a
2 policy that would address situations in where the type
3 of legal costs incurred are not truly for the
4 implementation of any particular program, but are
5 really in defense of that program. And whether or
6 not -- our concern is the interest of the ratepayer
7 who may be required to pay directly for these costs.
8 And an argument can be made that the ratepayer
9 receives the benefit of the conservation programs and
10 should bear the costs.

11 However, we do not believe that these are
12 the type of legal costs that were contemplated by
13 FEECA or by the Commission in its Order in 1985. And
14 so, therefore, we would recommend at this time that
15 Peoples be allowed to recover for these expenses, but
16 that we should deal in the future on a case-by-case
17 basis until policy is developed. That is Issue 9.

18 COMMISSIONER JOHNSON: I have some questions
19 on that one before you go to the next one.

20 MS. ERSTLING: Certainly.

21 COMMISSIONER JOHNSON: So you are suggesting
22 that the policy that Mr. Wright cited to was correct
23 with respect to those facts, but these facts can be
24 distinguished?

25 MS. ERSTLING: Yes, that is true, these can

1 be distinguished because we have never had this occur
2 before, and I don't think that these types of expenses
3 were ever contemplated. And although we feel they
4 were prudent at this particular time, I don't know
5 whether we should go forward on that in a general
6 basis, but that we should look forward to it on a case
7 by case in the future.

8 COMMISSIONER JOHNSON: And the rationale
9 for -- given the fact that they are distinguishable
10 facts, what is the policy rationale for saying that
11 they should not also be allowed? Is it just because
12 this is a case of first impression, or are we afraid
13 of a floodgate effect, or are we afraid of the costs
14 that might be incurred?

15 MS. ERSTLING: Yes, that is exactly. We are
16 concerned about --

17 MR. ELIAS: Sorry to interject here, but we
18 recommended that they should be allowed in this
19 instance.

20 COMMISSIONER JOHNSON: Oh, I thought you
21 said they should not.

22 MS. ERSTLING: No, they should be. Oh, I'm
23 sorry.

24 COMMISSIONER JOHNSON: But that we not --
25 well, then, I'm confused. You are saying that they

1 should be recovered --

2 MS. ERSTLING: Yes, because they were
3 prudently expensed. And at the time they expended
4 these funds, they were not aware of the issue. They
5 were following the order that was in effect that legal
6 costs should be incurred -- that would be incurred,
7 would be passed through the cost recovery factor.

8 We now have a situation that we are looking
9 at the type of legal costs that's now being --
10 distinguishing the type of legal costs as being
11 different from the implementation of a program that
12 may have been contemplated by the Commission and
13 FEECA. We are now looking at competitive challenges,
14 legal expenses incurred in defense of competitive
15 challenges to a particular program. And in that way,
16 we feel that this is distinguishable, but at the same
17 time, we feel that it would be unfair at this
18 particular point not to allow recovery for Peoples.

19 COMMISSIONER JOHNSON: Okay. Because you
20 believe that his interpretation is a reasonable one
21 that might have occurred and it's something that we
22 did not anticipate. But on a prospective basis, we
23 might want to reevaluate this so that it not set
24 precedent and serve as a means of cost recovery in
25 these instances for everyone else.

1 MS. ERSTLING: That's right. I think that
2 in the future, until we develop a policy, we should
3 judge each of these, if they occur and when they
4 occur, on a case-by-case basis.

5 COMMISSIONER JOHNSON: And then the
6 rationale for allowing this would be a case of first
7 impression in that his interpretation was a reasonable
8 one?

9 MS. ERSTLING: That is correct. Yes, I
10 would agree with that.

11 COMMISSIONER DEASON: This competitive
12 challenge, as you refer to it, resulted in a
13 stipulation; is that correct?

14 MS. ERSTLING: It resulted in a stipulation
15 that the issues would be addressed in other dockets.
16 One was the cost-effectiveness methodology docket.
17 That I know there were two dockets that it was going
18 to be looked at in the future. But there was no
19 actual decision made in the original docket as to
20 whether or not what was occurring or whether the
21 programs were appropriate or not.

22 COMMISSIONER DEASON: In your mind, would it
23 be relevant as to whether the competitive challenge
24 was sustained or rejected as to whether the legal
25 costs would be appropriately recovered through the

1 clause?

2 MS. ERSTLING: In my mind -- and I'm not
3 sure I'm speaking totally for Staff in this position.
4 I think that the very fact that there was an extensive
5 challenge that went on for a year and that the fact
6 that the parties agreed to stipulate out and agree
7 that there were issues to be resolved and put them off
8 for other dockets, I think it was appropriate on their
9 part to do that and for the Commission to look at this
10 in the future. But I think also that the costs
11 incurred for that were directly as a result of that
12 challenge.

13 COMMISSIONER DEASON: What I'm saying, I
14 know the facts of this particular situation are what
15 they are. Hypothetically, if there had been a
16 challenge, that challenge was heard, and the
17 Commission decided that the challenge was correct,
18 that the program was being administered in a
19 competitively harmful way, would it still be your
20 position that those legal costs be recovered through
21 the clause? Or would that just be something that
22 would just have to be decided based upon the facts at
23 that time?

24 MS. ERSTLING: I think that's the issue that
25 we're standing with, with a case-by-case look at this

1 things at this point. We don't have enough in which
2 to formulate a full opinion on that.

3 COMMISSIONER DEASON: But these are the type
4 changes that could happen in the future that would
5 necessitate, in your opinion, the continuing look at
6 this on a case-by-case basis?

7 MS. ERSTLING: Yes, sir.

8 COMMISSIONER KIESLING: When you say that
9 these are reasonable fees for that case, I guess since
10 I don't know what backup material there is on the
11 reasonableness of it, I guess it seems like an awful
12 lot to accomplish not very much. And I can recognize
13 that they are prudent in the sense that I think it's
14 incumbent on any utility to defend its programs, but I
15 just want some assurance that a determination has been
16 made and a review has been made that supports the
17 reasonableness of the amount in relationship to that
18 case.

19 MS. BULECZA-BANKS: I worked on that case,
20 Commissioner. And if you saw the volumes of paper
21 that were coming through my office, it is not
22 surprising that it isn't even more than it is. The
23 attacks from both parties just ended up in a notable
24 amount of paper coming through, document after
25 document, after motion.

1 I'm glad I'm not an attorney because I
2 didn't even understand what some of them -- demotion
3 of the motion of this motion of the counterattack of
4 the motion. I was very thankful at that point. It
5 was very difficult, and it did take them a long time
6 to resolve that.

7 However, I think that it was in the benefit,
8 because had the Commission had to hear this, I think
9 we would have been here for many, many weeks. And I
10 think it was to the benefit of the parties to
11 stipulate that.

12 As far as the appropriateness of the cost,
13 we have the invoices, they have been reviewed, it
14 doesn't look abnormal to us. And the position that we
15 took is that the parties were in dispute over an
16 attack of a program that this Commission approved and
17 that I, personally, approved the last modification of
18 Peoples and reviewed that docket. And to me, if
19 anything, we were almost on attack because we approved
20 that program as being cost effective. And at that
21 time and the time the program is still being in place,
22 it is still, in my opinion, still cost effective.

23 COMMISSIONER KIESLING: Okay, that satisfies
24 me. I just wanted to be sure that someone had done
25 that, and I knew what their findings were.

1 MS. ERSTLING: And Staff counsel who worked
2 on that docket also reviewed the time frames and the
3 motions that were specifically filed during that
4 period of time and matched them up in time as to
5 whether that would be appropriate during that period.

6 COMMISSIONER KIESLING: Great. Thank you.

7 MS. ERSTLING: Are we prepared to go to
8 Issue 11?

9 COMMISSIONER DEASON: Yes, you may address
10 Issue 11.

11 MS. ERSTLING: Issue 11, I think, is much
12 more clear cut. I have to disagree with Mr. Wright.
13 I believe the issues that he raised in regard to this
14 are really -- they're distinctions without a
15 difference.

16 The Commission customarily and ordinarily
17 addresses rulemaking on all issues at all times. This
18 is a function, a usual function, of this Commission.
19 Whether or not a particular rulemaking docket relates
20 to conservation or relates to any other issue that is
21 here before this Commission is truly irrelevant. This
22 is a function of the Commission.

23 It's a normal regulated environment, and we
24 firmly believe that the setting of this generic
25 rulemaking for cost-effective methodology is really

1 similar to the setting of goals. It establishes the
2 preliminary basis upon which everything in the future
3 will be judged. It does not in and of itself
4 implement a particular program or a plan. What it
5 does, it sets up the criteria by which this Commission
6 will judge any programs that come here in the future.

7 I don't think it's important whether or not
8 we looked at this rulemaking 10 years ago or 15 years
9 ago. We have rules that have been in place for many,
10 many years, and we have rulemaking as an ongoing
11 thing, and when something needs to be addressed by
12 this Commission, it is addressed by the Commission at
13 the appropriate time.

14 In the same instance, I would also say,
15 acknowledging that it was again brought up that we go
16 forward with rulemaking to look at all of these issues
17 under conservation cost recovery, and as I said
18 earlier, these are excluded by 120.535(10). And if
19 the Commission feels at some time that it would be
20 appropriate to go forth with rulemaking on something,
21 we can do that.

22 In the interim, our orders speak for
23 themselves. And I believe we should go back to last
24 year's order on the conservation goals docket as the
25 precedent for this. We recommend denial.

1 COMMISSIONER JOHNSON: What about the
2 argument that he made that if this had been done
3 outside of the scope of rulemaking, it would have been
4 recoverable.

5 MS. ERSTLING: That is difficult to
6 determine whether it would be, but I don't think it is
7 a topic that would have been done generally outside of
8 rulemaking. We might have had -- we have had in the
9 past cost-effective methodology developed in the
10 electric industry. And to the best of my knowledge,
11 there was never any utility requested or received
12 recovery for legal expenses involved with that docket.

13 So I think we are dealing here with
14 something totally different, and I don't think that it
15 is appropriate for them to receive recovery on that.

16 COMMISSIONER DEASON: Further questions?

17 MR. WRIGHT: Mr. Chairman?

18 COMMISSIONER DEASON: Mr. Wright.

19 MR. WRIGHT: Could I speak briefly?

20 COMMISSIONER DEASON: I'm going to give you
21 that latitude, and then Staff obviously will be able
22 to have the last word.

23 MR. WRIGHT: Thank you. Ms. Erstling is
24 surely correct that Commission rulemaking proceedings
25 are continuous. However, that does not mean that cost

1 incurred in connection with conservation rules are the
2 same as cost incurred in connection with all other
3 rulemaking proceedings.

4 The fact is, all of Peoples' other
5 rulemaking proceeding costs or all their costs
6 incurred in participating in other rulemaking
7 proceedings have been and are recovered through base
8 rates. Conservation-related rulemaking costs have
9 been and are recovered through the ECCR factor for the
10 reasons that we discussed. Include all the costs
11 there; you know what they are.

12 The fact that a rule establishes a context
13 within which future evaluations take place on a
14 preliminary basis does not mean that these costs were
15 not reasonably prudent, nor do I believe that the
16 Staff asserts that these costs were either
17 unreasonable or imprudent, nor does it mean that they
18 are outside the scope of what is permissible for cost
19 recovery under FEECA, nor does it mean they are not
20 cost conservation-related reasonable and prudent
21 unreimbursed costs.

22 Another point related to keeping all
23 conservation-related costs within ECCR is that if,
24 perhaps as we move to the new competitive energy world
25 that many observers anticipate and perceive evolving,

1 if FEECA were to be repealed, if you have all the
2 costs and their recovery in ECCR, they're gone.

3 COMMISSIONER DEASON: Mr. Wright, now you
4 are raising a new argument that you could have raised
5 in your closing argument. Staff did not address that
6 whatsoever, so I'm going to cut you off at this point.

7 MR. WRIGHT: Thank you, Mr. Chairman.

8 COMMISSIONER DEASON: Ms. Erstling.

9 MS. ERSTLING: I really have very little
10 more to say, except that we truly believe that this
11 distinction that is being made between conservation
12 cost recovery methodologies are separate and distinct
13 from any other methodologies set here before the
14 Commission; we tend to disagree.

15 We believe that FEECA in the statute clearly
16 says that there would be cost recovery for
17 implementation of plan and of the program costs. I
18 don't think that it addresses the issue of how -- and
19 we have clearly said in setting up the goals dockets
20 that they would not be recoverable. And I think that
21 this particular docket is comparable to the goals
22 docket and should be handled in the same manner.

23 COMMISSIONER DEASON: Okay, thank you.

24 Commissioners, we've heard the testimony,
25 cross examination, argument, Staff's recommendation,

1 counterargument and then final recommendation. We can
2 proceed with the issues, or however you wish to do it
3 at this point. If you need additional time, we can do
4 that.

5 COMMISSIONER JOHNSON: Issue by issue.

6 COMMISSIONER KIESLING: Yeah, I'm prepared
7 to go issue by issue. I just need a little bit of
8 clarification on, for example, Issues 1 and 2 that are
9 partly stipulated in the prehearing. Are those
10 resolved now? Or is there still, for example, an
11 issue with Peoples on the --

12 COMMISSIONER DEASON: Those would be
13 basically fallout calculations. I think Peoples is
14 the only thing that's holding up those issues; is that
15 correct?

16 MS. ERSTLING: That is correct.

17 COMMISSIONER KIESLING: Okay.

18 COMMISSIONER DEASON: So depending on how we
19 resolve Issues 9 and 11, those calculations then must
20 fallout for 1 and 2.

21 COMMISSIONER KIESLING: Okay.

22 COMMISSIONER DEASON: So perhaps what we
23 need to do is -- perhaps we need to go ahead and
24 address 9 and 11 and get that resolved, and then the
25 other issues would either be stipulated or would then

1 fall out, the calculation would fall out. So perhaps
2 we can begin then with Issue 9.

3 COMMISSIONER JOHNSON: Well, I am prepared
4 to move Issue 9. And that is, that it is appropriate
5 for Peoples Gas to recover the \$41,625 of legal costs
6 incurred to defend the Commission's approved program
7 when challenged for its cost-effectiveness by a
8 competitive utility for the reasons stated by Staff,
9 and that we do, if indeed we do approve this, that we
10 craft our order quite narrowly for those reasons
11 stated, because I am concerned about the floodgate
12 opening, and that we need to look at these cases on a
13 case-by-case basis.

14 One of the factors that we might want to
15 consider is whether or not the competitive challenge
16 was sustained or rejected, that maybe one of the
17 factors that we look at, we may look at the length of
18 time. But given the arguments made and the cases
19 cited by counsel in his closing arguments, I do
20 believe that it is appropriate, given the
21 circumstances of this case, that we allow those
22 amounts.

23 COMMISSIONER DEASON: Now we have a motion.

24 COMMISSIONER KIESLING: And I'm willing to
25 second it, and I'll give a little speech, too.

1 I agree with Commissioner Johnson; however,
2 the real deciding factor for me is the concept that
3 they were defending an approved Commission-approved
4 program which we had found to be cost effective and a
5 competitor was then challenging whether it was truly
6 cost effective. And I think under those
7 circumstances, they have to defend it, and it is part
8 of defending the cost effectiveness of that program
9 and, therefore, I think it's recoverable.

10 COMMISSIONER DEASON: Okay. We have a
11 motion and a second. All in favor say aye.

12 COMMISSIONER KIESLING: Aye.

13 COMMISSIONER JOHNSON: Aye.

14 COMMISSIONER DEASON: Aye. I believe that
15 carries unanimously. That resolves Issue 9.

16 Issue 11.

17 COMMISSIONER KIESLING: Well, I'm willing to
18 make the motion on that one, and see if I get a second
19 on that one.

20 I feel somewhat differently on Issue 11. I
21 think that when I look at the order and what we did in
22 the conservation goals docket, together with the
23 concepts that this methodology was developed more to
24 deal with our rulemaking dockets and to implement a
25 methodology that will be used on an ongoing basis, I'm

1 willing to move Staff's recommendation and deny the
2 recovery through the conservation cost recovery clause
3 of the \$7,828.

4 COMMISSIONER JOHNSON: And I'm prepared to
5 second that for the same reasons. I would agree with
6 Staff counsel that this appears to -- or somewhat with
7 Staff counsel that this appears to be a distinction
8 without a real difference. In my mind it is a
9 distinction without enough of a difference.

10 I understand and I respect the points cited
11 by counsel for Peoples, but from a policy standpoint,
12 I think it's too closely tied to that other decision
13 and that was a correct decision and that we should
14 continue that line of reasoning.

15 COMMISSIONER DEASON: So we have a motion
16 and a second. All in favor say aye.

17 COMMISSIONER KIESLING: Aye.

18 COMMISSIONER JOHNSON: Aye.

19 COMMISSIONER DEASON: All opposed nay.

20 Nay. That is a two-to-one vote, motion
21 carries.

22 That addresses, I think, all of the
23 contested issues. And consistent with the vote on
24 Issues 9 and 11, I think the amount for Peoples can be
25 calculated as they pertain to Issue 1 and 2; is that

1 correct?

2 MS. BULECZA-BANKS: The numbers that you see
3 reflect your vote.

4 COMMISSIONER DEASON: So those numbers are
5 the correct numbers as Staff has presented them?

6 MS. BULECZA-BANKS: Yes, they are.

7 COMMISSIONER DEASON: All right. Then can
8 we move -- all the other issues then are stipulated or
9 are as calculated. Do we have a motion to accept the
10 remaining issues?

11 COMMISSIONER KIESLING: Yes, I so move; but
12 I would just remind you, we also have to deal with the
13 joint stipulation between FPC and LEAF. And if it
14 would make it cleaner, I'm willing to leave out Issue
15 5 in order to deal with that separately. But I would
16 move all other issues but 5.

17 COMMISSIONER DEASON: We have a motion for
18 all other issues except Issue 5. Is there a second?

19 COMMISSIONER JOHNSON: Second.

20 COMMISSIONER DEASON: Moved and seconded.

21 All in favor say aye.

22 COMMISSIONER KIESLING: Aye.

23 COMMISSIONER JOHNSON: Aye.

24 COMMISSIONER DEASON: Aye. That motion
25 carries unanimously. We can now address Issue 5.

1 Staff.

2 COMMISSIONER KIESLING: Just tell me what we
3 need to do.

4 MS. ERSTLING: I firmly believe that we
5 really don't have to address the joint motion to
6 approve the stipulation because I believe the
7 stipulation, the position on the stipulation, says in
8 the final sentence: FIPUG, LEAF, OPC and parties to
9 this docket retain the right to participate in future
10 proceedings on this decoupling true-up basis. And
11 that is the heart of what this joint motion to approve
12 the stipulation addresses.

13 COMMISSIONER DEASON: So apparently all we
14 need to do then is address Issue 5, if it is the
15 Commission's intent to approve that, that position on
16 Issue 5. Is there a motion to that?

17 COMMISSIONER KIESLING: Yeah, I'll try to
18 make it as clean as possible so that I'm incorporating
19 the approval of that stipulation. I would move Staff
20 on Issue 5 with the specific intent that it also be an
21 approval of the stipulation.

22 COMMISSIONER JOHNSON: Second.

23 COMMISSIONER DEASON: Approved and seconded.

24 All in favor say aye.

25 COMMISSIONER KIESLING: Aye.

1 COMMISSIONER JOHNSON: Aye.

2 COMMISSIONER DEASON: Aye. That motion
3 carries unanimously. That disposes of all issues in
4 the 02 docket.

5 MS. ERSTLING: Yes, sir, it does.

6 (Thereupon, the hearing concluded at 11:45
7 p.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

: CERTIFICATE OF REPORTER

3 I, ROWENA NASH HACKNEY, Official Commission
4 Reporter,

5 DO HEREBY CERTIFY that the Hearing in Docket
6 No. 960002-EG was heard by the Florida Public Service
7 Commission at the time and place herein stated; it is
8 further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript, consisting of 155 pages, constitutes a
13 true transcription of my notes of said proceedings.

14 DATED this 28th day February, 1996.

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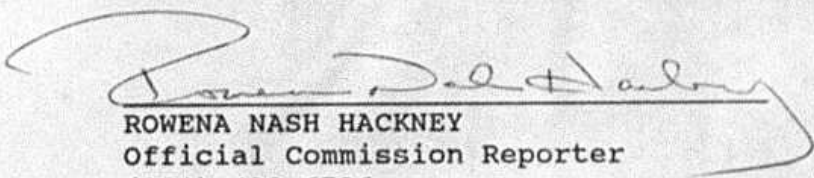
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