

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of :  
Energy Conservation Cost :  
Recovery Clause :  
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DOCKET NO. 980002-EG



PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER SUSAN F. CLARK  
Prehearing Officer

DATE: Monday, February 16, 1998

TIME: Commenced at 1:45 p.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR  
Chief, Bureau of Reporting  
(904) 413-6732

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1 **APPEARANCES:**

2                   **JAMES MCGEE**, Florida Power Corporation,  
3 Post Office Box 14042, 3201 34th Street South,  
4 Petersburg, Florida 33733, appearing on behalf of  
5 **Florida Power Corporation.**

6                   **CHARLES GUYTON**, Steel, Hector and Davis,  
7 215 South Monroe Street, Suite 601, Tallahassee,  
8 Florida 32303-0551, appearing on behalf of Florida  
9 **Power & Light Company.**

10                   **KENNETH A. HOFFMAN**, Rutledge, Ecenia,  
11 Underwood, Purnell and Hoffman, P. O. Box 511, 215  
12 South Monroe Street, Suite 420, Tallahassee, Florida  
13 32302-0551, appearing on behalf of **Florida Public**  
14 **Utilities Company.**

15                   **JEFFREY A. STONE and RUSSELL A. BADDERS**,  
16 Beggs & Lane, 700 Blount Building, 3 West Garden  
17 Street, Post Office Box 12950, Pensacola, Florida  
18 32576-2950, appearing on behalf of **Gulf Power Company.**

19                   **JAMES D. BEASLEY**, Ausley & McMullen, Post  
20 Office Box 391, Tallahassee, Florida 32302, appearing  
21 on behalf of **Tampa Electric Company.**

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1 **APPEARANCES CONTINUED:**

2 **VICKI GORDON KAUFMAN**, McWhirter, Grandoff &  
3 Reeves, Post Office Box 3350, Tampa, Florida  
4 32601-3350, appearing on behalf of **Florida Industrial**  
5 **Power Users Group**.

6 **WAYNE L. SCHIEFELBEIN**, Gatlin, Schiefelbein  
7 and Cowdery, The Mahan Station, 1709-D Mahan Drive,  
8 Tallahassee, Florida 32308, appearing on behalf of  
9 **Chesapeake Utilities Corporation, Florida Division**

10 **MICHAEL PALECKI**, NUI Corporation, Southern  
11 Division, 755 East 25 Street, Hialeah, Florida 33013,  
12 appearing on behalf of **City Gas Company of Florida**.

13 **DAVID M. NICHOLSON**, Macfarlane, Ferguson &  
14 McMullen, Post Office Box 1531, Tampa, Florida 33601,  
15 appearing on behalf of **Peoples Gas System**.

16 **JOHN ROGER HOWE**, Deputy Public Counsel,  
17 Office of Public Counsel, c/o The Florida Legislature,  
18 111 West Madison Street, Room 812, Tallahassee,  
19 Florida 32399-1400, on behalf of the **Citizens of the**  
20 **State of Florida**.

21 **WM. COCHRAN KEATING**, Florida Public Service  
22 Commission, Legal Division, 2540 Shumard Oak  
23 Boulevard, Tallahassee, Florida 32399-0870, on behalf  
24 of **Commission Staff**.

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**P R O C E E D I N G S**

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2           **COMMISSIONER CLARK:** Let's call the  
3 prehearing to order. Counsel, would you please read  
4 the notice.

5           **MR. KEATING:** Pursuant to notice issued  
6 January 13th, 1998, this time and place have been set  
7 for a prehearing in Docket Nos. 980001-EI, fuel and  
8 purchased power cost recovery clause and generating  
9 performance incentive factor; Docket No. 980002-EG,  
10 conservation cost recovery clause; Docket  
11 No. 980003-GU, purchased gas adjustment PGA true-up  
12 and Docket No. 980007-EI, environmental cost recovery  
13 clause.

14           **COMMISSIONER CLARK:** We'll take appearances,  
15 starting with you, Mr. Palecki.

16           **MR. PALECKI:** Michael Palecki, City Gas  
17 Company of Florida, 955 East 25th Street, Hialeah,  
18 Florida 33013.

19           **COMMISSIONER CLARK:** Which docket are you  
20 appearing in?

21           **MR. PALECKI:** Appearing in 002 and 003.

22           **MR. BEASLEY:** James D. Beasley, of the law  
23 firm of Ausley & McMullen, P. O. Box 391, Tallahassee,  
24 Florida 32301. I'm representing Tampa Electric  
25 Company in the 980001, 2 and 7 dockets.

1           **MR. MCGEE:** James McGee, P. O. Box 14042  
2 St. Petersburg 33733, and with me is Ronald M. Bright,  
3 Class B Practitioner. Mr. Bright is appearing in the 01  
4 docket, and I'm appearing in the 01 and 02 docket on  
5 behalf of Florida Power Corporation.

6           **MR. CHILDS:** Commissioner, my name is  
7 Matthew Childs of the law firm of Steel, Hector and  
8 Davis. I'm appearing on behalf of Florida Power and  
9 Light Company in the 01 and 07 dockets.

10           **MR. STONE:** Commissioner, I'm  
11 Jeffrey A. Stone of the law firm of Beggs & Lane.  
12 With me today is Russell A. Badders. We're appearing  
13 on behalf of Gulf Power Company in the 01 and 02  
14 dockets, and for the limited purpose of addressing the  
15 issue with regard to the annual hearing in the 07  
16 docket.

17           **MR. NICHOLSON:** Commissioner, I'm David  
18 Nicholson of the law firm of Macfarlane Ferguson &  
19 McMullen, appearing for Peoples Gas in the 02 and 03  
20 docket, and also for the former West Florida Natural  
21 Gas Company in the 02 docket.

22           **MR. SCHIEFELBEIN:** Wayne Schiefelbein  
23 appearing on behalf of Chesapeake Utilities  
24 Corporation in the 02 and 03 dockets.

25           **MS. KAUFMAN:** Vicki Gordon Kaufman of

1 McWhirter, Reeves, McGlothlin, Davidson, Rief & Bakas.  
2 I'm appearing on behalf of the Florida Industrial  
3 Power Users Group in the 01, 02 and 07 dockets.

4 **MR. HOWE:** Commissioner Clark, I'm  
5 Roger Howe with the Office of Public Counsel appearing  
6 on behalf of the citizens of the State of Florida in  
7 the 01, 02, 03 and 07 dockets.

8 **MR. HOFFMAN:** Commissioner Clark, my name is  
9 Kenneth A. Hoffman. I'm here this afternoon on behalf  
10 of Florida Public Utilities Company in the 01, 02 and  
11 03 dockets.

12 **MR. HORTON:** I'm Norman H. Horton of Messer,  
13 Caparello & Self. Appearing on behalf of Sebring Gas  
14 System and South Florida Natural Gas in the 03 docket.

15 **MR. GUYTON:** Commissioner, my name is  
16 Charles Guyton with the law firm of Steel, Hector and  
17 Davis, appearing on behalf of Florida Power and Light  
18 Company in the 02 docket.

19 **MS. PAUGH:** Leslie Paugh on behalf of Staff  
20 in the 01 and 07 dockets.

21 **MR. KEATING:** Cochran Keating on behalf of  
22 Staff in the 02 and 03 dockets.

23 **COMMISSIONER CLARK:** Anyone else? Thank you  
24 very much.

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**COMMISSIONER CLARK:** All right. 02.

Mr. Keating, are you handling these?

**MR. KEATING:** Yes.

**COMMISSIONER CLARK:** Are there any changes -- how about through Page 8?

**MR. SCHIEFELBEIN:** Yes, Commissioner. On Page 6, for CUC, the latter part of the basic position, the first three numbers should be changed.

**COMMISSIONER CLARK:** Okay.

**MR. SCHIEFELBEIN:** For GS residential it should be 4.993; for GS commercial 1.574, and for GS commercial large volume 0.954. The balance is as is.

**COMMISSIONER CLARK:** Okay.

**MR. NICHOLSON:** For Peoples Gas on Page 7, which is actually going to be the same thing on Page 12, it's the same table, the commercial large volume 2 should read 1.031 and natural gas vehicle service should read .461.

**COMMISSIONER CLARK:** Okay. And the same change on what page?

**MR. NICHOLSON:** Page 12.

**COMMISSIONER CLARK:** Okay. Issue 1.

**MR. KEATING:** Commissioner, on Issue 1 Staff needs to change its position as to Gulf Power Company.

1 Staff's position should read \$585,850.

2 MR. STONE: Could you say that again?

3 COMMISSIONER CLARK: 585.

4 MR. KEATING: 585,850. With a note that  
5 cost from Gulf's Good Cents Environmental Home Program  
6 should not be allowed because the program is not  
7 cost-effective or -- excuse me, recovery of the costs.

8 COMMISSIONER CLARK: I take it then Gulf and  
9 Staff are no longer in agreement?

10 MR. KEATING: No, we are not in agreement at  
11 this point. This issue was just brought up by Staff  
12 with Gulf based on discovery responses we received.

13 COMMISSIONER CLARK: Okay. Do I understand  
14 that with respect to Issue 1 then the only outstanding  
15 dispute is with respect to Gulf?

16 MR. KEATING: That is correct. Staff finds  
17 the positions taken by all of the parties besides Gulf  
18 reasonable and accepts those positions.

19 COMMISSIONER CLARK: All right. We'll show  
20 a proposed stipulation for all parties except Gulf.

21 Any possibility of working out with respect  
22 to Gulf?

23 MR. KEATING: Yes. Staff has just advised  
24 me that we will be working on that.

25 COMMISSIONER CLARK: Okay. Let's shoot for

1 Friday again to work that out.

2 MR. STONE: That's fine.

3 COMMISSIONER CLARK: Issue 2.

4 MR. SCHEFELBEIN: Yes. Commissioner, the  
5 same changes for CUC, Chesapeake, as indicated in our  
6 basic position. The first three numbers would go to  
7 4.993, 1.574, and 0.954.

8 COMMISSIONER CLARK: Okay. Any other  
9 changes?

10 MR. PALECKI: Commissioner, City Gas would  
11 change -- make one change on Page 11 of the Draft  
12 Prehearing Order. We would delete a separate factor  
13 for gas lights, and that's based on our discussions  
14 with the Commission Staff. We'll have only two  
15 factors: residential and commercial factor.

16 COMMISSIONER CLARK: Okay. I'm sorry, Ms.  
17 Kaufman.

18 MS. KAUFMAN: I was going to note FIPUG is  
19 going to have no position on Issues 1 through 6.

20 MR. HOWE: Public Counsel agrees with Staff  
21 on both Issue 1 and Issue 2. I would ask, is there  
22 disagreement between Staff and Florida Power  
23 Corporation -- it's just a third digit -- on the  
24 curtailable primary voltage?

25 MR. KEATING: No. I believe that -- I know

1 we had cleared that up and I believe we were going to  
2 change our number to match Florida Power  
3 Corporation's.

4           **COMMISSIONER CLARK:** Is that Issue 2?

5           **MR. KEATING:** Yes. That's on Issue 2.

6           **COMMISSIONER CLARK:** All right. We're on  
7 Issue 2. We've taken care of Issue 1. So Issue 2 do  
8 I take it then this is a proposed stipulation?

9           **MR. KEATING:** Yes. Just one other note. On  
10 Staff's position on Issue 2, with respect to City Gas,  
11 because City Gas withdraw its position on a separate  
12 rate class for gas lights, we also are withdrawing our  
13 position on that. Otherwise, Staff finds that the  
14 positions taken by all of the parties in Issue 2 --  
15 I'm sorry, again with the exception of Gulf, are  
16 reasonable and, therefore, accepts those positions.

17           Staff's position with respect to Gulf would  
18 be that the factors proposed by Gulf should be reduced  
19 to reflect any disallowance of cost recovery from  
20 Issue 1.

21           **COMMISSIONER CLARK:** All right.

22           **MR. KEATING:** Again, that's something that  
23 we would try to stipulate by Friday.

24           **COMMISSIONER CLARK:** We'll show that  
25 hopefully by Friday as a proposed stipulation, and if

1 we can't reach it with respect to Gulf, it will be  
2 shown as not applying to Gulf. Issue 3.

3 **MR. SCHIEFELBEIN:** Yes, Commissioner, for  
4 CUC on Issue 3 on Page 16, we would take no position,  
5 as opposed to no position at this time.

6 **COMMISSIONER CLARK:** All righty.

7 **MR. HOWE:** Same would be true for Public  
8 Counsel. No position on Issue 3.

9 **COMMISSIONER CLARK:** FIPUG?

10 **MS. KAUFMAN:** No position.

11 **COMMISSIONER CLARK:** All right. Staff.

12 **MR. HOFFMAN:** While Staff is conferring, I  
13 would add for the record on Page 17 for Florida Public  
14 Utilities that Florida Public Utilities agrees with  
15 and adopts the position that was submitted by Gulf  
16 Power Company. Thank you.

17 **COMMISSIONER CLARK:** Isn't this the one  
18 we've already -- we've already taken care of Issue 3.  
19 This is the one that we would have the full Commission  
20 decide. This is included in that generic proceeding  
21 hopefully done through a PAA. Is that correct?

22 **MR. GUYTON:** Commissioner Clark, may I  
23 observe that we may be in a slightly different posture  
24 as to this issue in this docket, because there is a  
25 rule that addresses the period for filing for ECCR

1 unlike the other adjustment clauses.

2           **COMMISSIONER CLARK:** Okay.

3           **MR. GUYTON:** I think any adjustment to the  
4 schedule inconsistent with the rule would have to be  
5 addressed through rulemaking. I was going to propose  
6 perhaps that this matter ought to be assigned to  
7 rulemaking as opposed to having a hearing here where  
8 the Commission technically can't act outside of a  
9 rulemaking to change the filing schedule.

10           **MS. BULECZA-BANKS:** It hasn't been a year  
11 since that particular rule was amended to go to  
12 annual. That when we went to annual hearings, we go  
13 April through March; that was done in 1992. That rule  
14 change was completed last year. And we haven't even  
15 done the transition period yet for it because it just  
16 became effective in the fall of last year. So just to  
17 let you know that we haven't even done the transition  
18 yet to go from March to April.

19           **COMMISSIONER CLARK:** Just so I'm clear,  
20 we've already decided to go to annual hearings in --

21           **MS. BULECZA-BANKS:** In 1992 we went to  
22 annual for conservation and PGA. What they did was in  
23 this rule change they wanted to coincide the audit  
24 period with the period for the collection time. So we  
25 used to be auditing the period October through

1 September, and the companies had indicated their  
2 desire to have that changed to coincide with the  
3 period of which when the factors were in place, which  
4 was April through March. So we have just been trying  
5 to do that now, which probably is totally irrelevant  
6 to any of this.

7           **COMMISSIONER CLARK:** I was trying to --  
8 "Issue 3: Should the Commission approve a change in  
9 the future hearing scheduled for this ongoing docket  
10 to coincide with any changes approved in 980001?"

11           We've already decided that it wouldn't be  
12 done in that; it would be a generic proceeding through  
13 the full Commission. I guess the issue still will be  
14 should any changes approved by the Commission with  
15 respect to fuel adjustment -- is now the issue.

16           **MS. BULECZA-BANKS:** Will it initiate a rule  
17 proceeding, because we'll have to change the rule.

18           **COMMISSIONER CLARK:** I guess what I want to  
19 know is the first decision that has to be made is  
20 change; should we go to annual? The second decision  
21 is when should those hearings take place?

22           **MR. GUYTON:** I'm not sure that we need to  
23 reach the first decision in that we're already annual.

24           **COMMISSIONER CLARK:** So then the issue is  
25 should we change the time to the calendar and you're

1 saying that requires a rule hearing.

2 **MS. BULECZA-BANKS:** We'll have to do that.

3 **COMMISSIONER CLARK:** I think the issue  
4 whether or not the -- what is this one we're on --  
5 conservation cost recovery should also be changed --  
6 should likewise be taken up by the full panel and  
7 should be part of that generic proceeding. And you'll  
8 simply have to note that for conservation cost  
9 recovery it will have to be done through rulemaking.  
10 So I don't think it should be an issue in this case.

11 **Issue 4.**

12 **MR. KEATING:** Staff would propose changing  
13 the language of Issue 4 to read as "FPC's proposed  
14 1997 residential revenue decoupling true-up  
15 underrecovery balance of \$22,167,795 correct?" That  
16 would just be adding the words "underrecovery" after  
17 "true-up."

18 **COMMISSIONER CLARK:** Okay.

19 **MR. MCGEE:** While we're talking about  
20 possible modifications to the language in the issue,  
21 I'd like to suggest that we add the term "final  
22 estimated" in front of "1997" to make sure it's  
23 understood that this will be subject to another  
24 adjustment next year.

25 **COMMISSIONER CLARK:** Okay. So it will read

1 "Is FPC's proposed final estimated 1997 residential  
2 revenue decoupling true-up balance underrecovery of 22  
3 correct?" Is that it?

4 MR. MCGEE: The "underrecovery" will come  
5 before "balance."

6 COMMISSIONER CLARK: Okay. Is that what you  
7 want, Mr. Keating?

8 MR. KEATING: Yes.

9 COMMISSIONER CLARK: Okay. With that, can  
10 we show it as a proposed stipulated --

11 MR. HOWE: Public Counsel would take no  
12 position.

13 COMMISSIONER CLARK: Okay. FIPUG?

14 MS. KAUFMAN: No position.

15 COMMISSIONER CLARK: Can we show that as a  
16 proposed stipulated issue?

17 MR. KEATING: Staff finds the position  
18 reasonable.

19 COMMISSIONER CLARK: Issue 5.

20 MR. HOWE: Public Counsel's position would  
21 be yes.

22 MS. KAUFMAN: FIPUG has no position.

23 MR. KEATING: Staff finds the position taken  
24 by Florida Power Corporation to be reasonable and,  
25 therefore, accepts it.

1           **COMMISSIONER CLARK:** So we'll show that as a  
2 proposed stipulated issue. Issue 6.

3           **MR. STONE:** Commissioner Clark, we have  
4 shown an issue that has now been delineated as Issue 6  
5 in our preliminary list of positions and issues. It  
6 was a carryover from the way we used to previously  
7 phrase issues and it can be deleted.

8           **COMMISSIONER CLARK:** Okay. Thank you.

9           **MR. KEATING:** Along those same lines, if we  
10 go back to Page 5 on the witness list, we can delete  
11 also Issue 6 next to Gulf's witness.

12           **COMMISSIONER CLARK:** All right. Then it  
13 seems to me that all of the issues are going to be  
14 stipulated with the possible exception of Gulf; we'll  
15 know by Friday. And if that's the case, all of the  
16 witnesses will be excused, and all of the issues shown  
17 as proposed stipulated issues. Anything else on 02?

18           **MR. KEATING:** I don't believe Staff has  
19 anything else on 02.

20           **COMMISSIONER CLARK:** Okay.

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1 STATE OF FLORIDA)  
: CERTIFICATE OF REPORTER  
2 COUNTY OF LEON )

3 I, JOY KELLY, CSR, RPR, Chief, Bureau of  
4 Reporting, Official Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing  
6 Conference in Docket No. 980002-EG was heard by the  
7 Prehearing Officer at the time and place herein  
8 stated; it is 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 16 pages, constitutes a true  
13 transcription of my notes of said proceedings.

14 DATED this 18th day of February, 1998.

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JOY KELLY, CSR, RPR  
Chief, Bureau of Reporting

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