

1 **APPEARANCES:**

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

5 **JEFFREY A. STONE** and **RUSSELL A. BADDERS**,
6 Beggs & Lane, 700 Blount Building, 3 West Garden
7 Street, Post Office Box 12950, Pensacola, Florida
8 32576-2950, appearing on behalf of **Gulf Power Company**.

9 **VICKI GORDON KAUFMAN**, McWhirter, Reeves,
10 McGlothlin, Davidson, Rief and Bakas, appearing on
11 behalf of **Florida Industrial Power Users Group (FPIG)**.

12 **CHARLES H. GUYTON**, Steel, Hector & Davis,
13 215 South Monroe Street, Suite 601, Tallahassee,
14 Florida 32301, appearing on behalf of **Florida Power &**
15 **Light Company (FPL)**.

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

20 **WILLIAM COCHRAN KEATING, IV**, Florida Public
21 Service Commission, Division of Legal Services, 2540
22 Shumard Oak Boulevard, Tallahassee, Florida
23 32399-0870, appearing on behalf of the **Commission**
24 **Staff**.

25

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

2 (Hearing convened at 1:30 p.m.)

3 **COMMISSIONER CLARK:** We'll call the
4 prehearings to order. Counsel, will you please read
5 the notice?

6 **MR. KEATING:** Pursuant to notice issued
7 October 19th, 1998, this time and place have been set
8 for a prehearing in the following dockets: Docket
9 No. 980001-EI, fuel and purchased power cost recovery
10 clause and generating performance incentive factor;
11 Docket No. 980002-EG, energy conservation cost
12 recovery clause; Docket No. 980003-GU, purchased gas
13 adjustment true-up; and Docket No. 980007-EI,
14 environmental cost recovery clause.

15 **COMMISSIONER CLARK:** We'll take appearances.

16 **MR. WILLIS:** I'm Lee L. Willis, appearing
17 together with James D. Beasley, Post Office Box 391,
18 Tallahassee, Florida 32302, appearing together with
19 Harry W. Long, Jr., P.O. Box 111, Tampa, Florida
20 33601, appearing on behalf of Tampa Electric Company
21 in the 01 and the 07 docket.

22 **MR. PALECKI:** Michael Palecki, 955 East 25th
23 Street, Hialeah, Florida 33013, appearing on behalf of
24 City Gas Company of Florida in the 03 docket.

25 **MR. MCGEE:** James McGee, Post Office

1 Box 14042, St. Petersburg, 33733, appearing on behalf
2 of Florida Power Corporation in the 01 and 02 dockets.

3 **MR. STONE:** I'm Jeffrey A. Stone, and with
4 me is Russell Badders. We're of the law firm Beggs &
5 Lane. We're representing Gulf Power Company in the
6 01, 02 and 07 dockets.

7 **MR. CHILDS:** Commissioner, my name is
8 Matthew Childs of the firm of Steel Hector & Davis.
9 I'm appearing on behalf of Florida Power & Light
10 Company in the 01 and the 07 docket. I believe
11 Mr. Guyton will be here shortly in the 02 docket.

12 **MR. HORTON:** Norman H. Horton, Jr. of
13 Messer, Caparello & Self, appearing in the 03 on
14 behalf of Sebring Gas System and South Florida Natural
15 Gas.

16 **MR. HOFFMAN:** Commissioner, my name is
17 Kenneth A. Hoffman. My address is Post Office
18 Box 551, Tallahassee, Florida 32302, and I'm appearing
19 on behalf of Florida Public Utilities Company in the
20 01 and 03 dockets.

21 **MR. SHIEFELBEIN:** Wayne Schiefelbein, Ruden
22 McClosky Smith Schuster & Russell. I'm appearing on
23 behalf of Chesapeake Utilities Corporation in the 03
24 docket.

25 **MR. NICHOLSON:** David Nicholson, Post Office

1 Box 1531, appearing on behalf of People's Gas System
2 in the 03 docket.

3 **MR. HOWE:** Commissioner Clark, I'm Roger
4 Howe with the Public Counsel's Office. The address is
5 as shown in the prehearing orders. I'm appearing on
6 behalf of the citizens of the state of Florida in the
7 01, 02, 03 and 07 dockets.

8 **MS. KAUFMAN:** Vicki Gordon Kaufman of the
9 McWhirter Reeves Law Firm, 117 South Gadsden,
10 Tallahassee, Florida 32301. I'm appearing on behalf
11 of the Florida Industrial Power Users Group in the 01,
12 02 and 07 dockets.

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

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

17 **COMMISSIONER CLARK:** Anyone else?
18 Mr. Guyton, Mr. Childs has entered your appearance.
19 We're glad you're here.

20 First of all, let me thank everyone for
21 allowing us to move the prehearing conference to this
22 afternoon. I really appreciated it. I'm sorry if it
23 inconvenienced you. I had to take my mother for some
24 tests, and she really appreciated having me there, so
25 thank you all, and she thanks you.

1 Any preliminary matters?

2 MS. PAUGH: No preliminary matters, but we
3 do have a recommendation in terms of expeditiousness
4 for the proceeding, what dockets we may wish to
5 consider first; and that would be the 03 docket and
6 then the 02 docket, and the gas folks can then leave
7 if they so desire.

8 COMMISSIONER CLARK: 03, 02, then what?

9 MS. PAUGH: 01 and 07.

10 COMMISSIONER CLARK: Any objection to
11 following that order? (No response.)

12 Seeing none, we'll follow that order. And I
13 need to tell you all that I apologize; I have not had
14 an opportunity to read the prehearing orders and the
15 motions that are pending. It may take us a little
16 longer, but I'm sure we'll get through it.

17 Starting with the 03.

18 (Whereupon other dockets were discussed.)

19 - - - - -

20 COMMISSIONER CLARK: 02. We'll go party by
21 party. Mr. McGee, do you have any changes?

22 MR. MCGEE: On Page 4 --

23 COMMISSIONER CLARK: Is your mike on? It
24 looks like it is on. You need to speak louder.

25 MR. MCGEE: On Page 4 of the draft

1 prehearing order, the witness shown at the bottom --

2 **COMMISSIONER CLARK:** Mr. McGee, you need to
3 get real close to that mike and speak loudly.

4 **MR. MCGEE:** The witness shown at the bottom
5 of the page is being proffered by FPC, not GPC, and
6 that's the only correction for Florida Power.

7 **COMMISSIONER CLARK:** Mr. Stone or
8 Mr. Badders?

9 **MR. STONE:** On the first page there are two
10 letters of my name that are transposed. I'll get with
11 Staff on that.

12 But other than the fact that there's been
13 some discussions between the company and the Staff, we
14 don't have any changes to the prehearing order. I'm
15 not sure where those discussions have been
16 incorporated in the order, but we've reached an
17 agreement, I believe.

18 **COMMISSIONER CLARK:** You reached agreement
19 on the issues?

20 **MR. STONE:** Yes. And I see in this draft it
21 has not fully reflected the discussions that have been
22 revealed to me. It's my understanding that on Issue 2
23 the Staff is changing their position to \$7,000.

24 **MR. KEATING:** Correct. On Issue 2, Staff is
25 going to change its position to state that ECCR

1 expenses should be reduced by \$7,000 plus applicable
2 interest for the estimated April 1998 through
3 December 1998 period.

4 **MR. STONE:** And with that change, Gulf is in
5 agreement with Staff. That does, in fact, change our
6 factors, and they would be the factors as listed by
7 Staff in their position.

8 **COMMISSIONER CLARK:** So that's a change on
9 Page 10, Mr. Stone?

10 **MR. STONE:** Yes.

11 **COMMISSIONER CLARK:** Okay. Anything else?
12 Mr. Guyton?

13 **MR. GUYTON:** Commissioner Clark, Florida
14 Power & Light Company may have two changes, but it
15 depends upon the ruling on the motion that we filed
16 for supplemental testimony. Depending on that ruling,
17 we would need to add witnesses and additional exhibits
18 at Page 5 and Page 10.

19 **COMMISSIONER CLARK:** Staff, do you have a
20 recommendation on the motion?

21 **MR. KEATING:** Staff recommends denying the
22 motion. Florida Power & Light seeks, first, leave to
23 file supplemental testimony to address two specific
24 issues that Staff had raised in this docket, and
25 alternatively if the issue is not heard at next

1 Monday's hearing, that when it is heard, that the
2 Commission's decision be applied prospectively only.

3 To give it a little background, Staff in its
4 prehearing statement has included two company-specific
5 issues for Florida Power & Light. Both of those
6 issues, Staff feels that it needs to conduct
7 additional discovery before we're prepared to go to
8 hearing on those issues, and therefore we don't
9 believe that the motion as to filing supplemental
10 testimony should be granted. We don't believe that
11 it's -- it's the appropriate time to go to hearing on
12 these issues.

13 **COMMISSIONER CLARK:** So let me be clear.
14 You're recommending that we not grant their motion for
15 leave to file supplemental testimony.

16 Do you also agree that they be heard in a
17 subsequent proceeding, and if they are subsequently
18 resolved, that such resolution have prospective
19 application only?

20 **MR. KEATING:** Right. We also recommend that
21 that portion of the motion be denied; that that
22 particular relief be denied. We don't --

23 **COMMISSIONER CLARK:** Wait a minute. You're
24 confusing me. Which particular relief?

25 **MR. KEATING:** The alternative relief; that

1 if motion for leave to file is not granted, that then
2 the Commission agree basically that its decision when
3 this matter is decided will only apply prospectively.

4 **COMMISSIONER CLARK:** So you deny the first
5 part and grant the alternative?

6 **MR. KEATING:** No. Deny both parts.

7 **COMMISSIONER CLARK:** Are these issues going
8 to be taken up in this hearing?

9 **MR. KEATING:** It wasn't Staff's intent that
10 these issues be taken up at this hearing.

11 **COMMISSIONER CLARK:** And it's your intent to
12 take it up, if at all, in a subsequent hearing, and
13 then it would have prospective application only?

14 **MR. KEATING:** No. Our intent is that it be
15 taken up at a subsequent hearing, and the question as
16 to whether it be prospectively or retroactively
17 applied be determined at that time.

18 **COMMISSIONER CLARK:** Mr. Guyton?

19 **MR. GUYTON:** Commissioner Clark, Florida
20 Power & Light Company would prefer not to go to
21 hearing on this matter in November as well, but
22 Staff's put Florida Power & Light in a difficult
23 position.

24 They've raised questions about the
25 eligibility of customers for its commercial industrial

1 load control program; customers that have signed
2 agreements that are eligible to go under the rate and,
3 in all likelihood, some of who will go under the rate
4 during whatever time is pending before the next
5 hearing.

6 If there's a question as to whether those
7 customers are eligible, in terms of program
8 administration, Florida Power & Light Company would
9 like to have that question addressed now rather than a
10 year from now.

11 If it's going to involve going back to
12 customers who in a number of instances have spent
13 significant amounts of money to position themselves to
14 take service that they understand they're entitled to
15 and they're going to be told after the fact that, no,
16 I'm sorry, you weren't eligible, and if the company in
17 turn is looking at a potential disallowance associated
18 with that, we would respectfully submit that the
19 better way to address that if Staff is not willing to
20 agree to just a prospective resolution when the issue
21 is ultimately addressed, if at all, is to go ahead and
22 hear the matter now.

23 It simply puts the company's administration
24 of a program and some fairly significant amount of
25 dollars at risk, and we think inappropriate.

1 **COMMISSIONER CLARK:** I'd like to hear from
2 Staff on this, because it strikes me that not only do
3 you have the company involved, but you have customers
4 who are deciding whether or not to go on this, and
5 there should be some resolution or indication as to
6 how you're going to treat that.

7 I guess what I'm not understanding is the
8 notion that we indicate whether or not it will have
9 prospective effect only. I guess what I'd be looking
10 for is under what authority would we give it
11 retroactive application.

12 **MR. BALLINGER:** Commissioner Clark, this is
13 Tom Ballinger for the Commission Staff.

14 A little history might give insight to what
15 we're doing. A couple years ago FPL asked the
16 Commission to close out its CILC program because it
17 identified a cost-effective level. At that time the
18 Commission granted that.

19 Since that time, we have learned that there
20 is a number of customers, approximately 130 customers,
21 out there that have what I call a waiting list. They
22 have part of the agreement signed that entitles them
23 to the CILC rate, yet they haven't been transferred to
24 the CILC rate as of yet.

25 There may be valid reasons. We don't know.

1 Staff is just trying to put the company on notice that
2 we may have some concerns. We're trying to be up
3 front with the issue to let them know that they may be
4 signing people up that aren't cost-effective anymore,
5 and we didn't want to come in at the last minute and
6 say, no, we're going to be denying cost recovery
7 because you signed up customers to a noncost-effective
8 program.

9 That is why we raise the issue now. I
10 intend -- or there's the distinct possibility that we
11 won't even hear this issue a year from now; that when
12 we discover each individual customer's circumstance,
13 they may have valid reasons for still being out there,
14 and they may still be eligible.

15 We just wanted to kind of put the company on
16 notice that we're questioning this, we're looking into
17 it, and we didn't want to come back in at the eleventh
18 hour.

19 **COMMISSIONER CLARK:** Mr. Ballinger, is it
20 Staff's intent that if they do sign up for it, that
21 those costs associated with those customers they have
22 signed up would be disallowed?

23 **MR. BALLINGER:** It's possible. I think what
24 we're trying to find is that -- from what we were told
25 two years ago, if the program is noncost-effective and

1 they're still signing people up and putting them on
2 their rate, Staff may very well recommend that the
3 credits associated with the program be disallowed.

4 **MR. KEATING:** And, Commissioner Clark, I
5 think that that doesn't put the program at any more
6 risk than it would have been if Staff had not raised
7 this issue now and raised it next November.

8 **MR. GUYTON:** If I might respond briefly.
9 Mr. Ballinger is right that the Commission terminated
10 the program because FPL was close to achieving its
11 cost-effective level. And what FPL asked to be able
12 to do is to continue to serve its existing customers,
13 plus customers that had signed an agreement as of the
14 time that it petitioned the Commission to close the
15 program.

16 It was envisioned when we petitioned to
17 close the program that the customers with outstanding
18 agreements would be added to CILC service. Those are
19 the customers whose eligibility Staff is now raising a
20 question as to whether or not they're appropriately
21 eligible.

22 This is not a question as to whether or not
23 Florida Power & Light Company may exceed the maximum
24 cost-effective level of that. We submit it was
25 appropriate when the Commission relied upon in

1 terminating the program.

2 We're talking about just getting up to that
3 level, and those are the customers that are at risk,
4 the ones that were envisioned when we petitioned to
5 close the program, that would be signed up after the
6 program was closed; those being the customers that had
7 an agreement but had not yet moved to the rate.

8 **COMMISSIONER CLARK:** Let me ask you,
9 Mr. Guyton, when was this terminated?

10 **MR. GUYTON:** Sometime in 1996. I don't
11 recall. I want to say in the spring, Commissioner
12 Clark.

13 **COMMISSIONER CLARK:** And since that time you
14 terminated the program, but indicated that those
15 people on the program and those people who had signed
16 a contract and who in effect were on the waiting list
17 would continue on the program; is that correct?

18 **MR. GUYTON:** Correct.

19 **COMMISSIONER CLARK:** It strikes me that
20 you're not in any different place than you were had
21 Staff not raised this issue.

22 Whether or not we can go back and the
23 propriety of going back will have to be litigated at
24 the appropriate time.

25 Are you concerned that you would be signing

1 people up, continuing to sign people up, and for some
2 reason identifying the issue now, and signing them up
3 afterwards somehow puts you at greater risk that they
4 may not be allowed?

5 MR. GUYTON: Well, I think the issue, if
6 we're talking about -- well, let me back up. I want
7 to try to be responsive to your question.

8 I think the difficulty that we have is that
9 we have customers who are eligible under the
10 agreement, eligible under your tariff, that the
11 company intends to sign up as the Commission
12 envisioned when the program was terminated, and we now
13 find ourselves, Staff is raising a question as to
14 whether or not that's appropriate. And we have no way
15 of resolving that issue, yet we're going to continue
16 to sign those customers up for the course of a year or
17 so.

18 Some of those customers are spending upwards
19 of \$350,000 in reliance upon being able to make this
20 transition, and we just don't think it's reasonable to
21 the customers who have or plan to spend that money,
22 for them to be put at risk or, for that matter, for
23 Florida Power & Light to be put at risk, for customers
24 it has been envisioned for two years now would sign up
25 under the rate.

1 **COMMISSIONER CLARK:** Let me ask you this:
2 When it was terminated, was it specifically indicated
3 that you could continue to make it available for those
4 who had signed up for it?

5 **MR. GUYTON:** Yes, Commissioner. There was a
6 provision in the tariff to that effect. There was a
7 provision also in the tariff that said that the
8 agreements that were signed and were outstanding would
9 become null and void after two years unless otherwise
10 agreed by the company.

11 And the company has otherwise agreed for two
12 reasons: One is that it's trying to achieve the
13 maximum cost-effective level of CILC, not stop short
14 of the level that's identified; and the other reason
15 is the company wants to achieve its demand-side
16 management goals, and if it loses this significant
17 block of megawatts, it's going to have some difficulty
18 achieving those goals.

19 **COMMISSIONER CLARK:** It strikes me,
20 Mr. Ballinger, that we need to resolve this.

21 **MR. BALLINGER:** Exactly, and it's precisely
22 that language in the agreement that gave FPL the
23 unilateral right to extend the term is what gave Staff
24 some concern about this, and that's what we want to
25 explore. Just basically letting the company know

1 we've got a potential issue; we want to explore it.
2 We can wait until next November to hear it.

3 **COMMISSIONER CLARK:** Well, it doesn't strike
4 me that it's prudent on our part to wait until next
5 November to hear it. Meanwhile you have people
6 waiting, spending money, and wanting to get signed up.

7 **MR. BALLINGER:** I understand. And I think
8 that we will work between now and then to resolve this
9 issue. Staff is continuing to do discovery to find
10 out, to narrow down this list.

11 Next November is just the next date we have
12 for the ECCR hearing. We do have dates still in
13 February from the original ECCR hearing. We can
14 possibly get it resolved then. I don't think that's a
15 wanted outcome from FPL's perspective.

16 **COMMISSIONER CLARK:** From what I'm hearing,
17 we're not ready to resolve this in any measure in this
18 proceeding, but I don't want it to wait until
19 November. And I would suggest that what we have to do
20 is, Staff, you need to expedite discovery, make some
21 decision, and then put it on Agenda for maybe a
22 proposed agency action or something like that; but in
23 my view, it can't wait.

24 I realize we may not be prepared to do it in
25 next week's hearing, but as soon as you've concluded

1 your discovery and made some conclusions, we need to
2 more forward and either allow it to continue or
3 terminate it.

4 **MR. BALLINGER:** I suppose procedurally we
5 can do that at a regular agenda. I don't know, since
6 it is an ECCR issue.

7 **COMMISSIONER CLARK:** We can spin it off into
8 another docket.

9 **MR. KEATING:** Commissioner Clark, I would
10 also, just as a suggestion, as Mr. Ballinger
11 mentioned, we do have a date reserved for hearing in
12 February for those -- for the other companies.

13 **COMMISSIONER CLARK:** Oh, you still have it?

14 **MR. KEATING:** Yes. Only three of the
15 companies are here today out of eight or nine in this
16 docket. The remainder will be here in February solely
17 for a conservation hearing. That date is still
18 available. I don't know if that's agreeable to
19 Florida Power & Light.

20 **MR. GUYTON:** Commissioner, we've gone to
21 great lengths to try to move that hearing back to
22 November, which is why we filed the leave to prefile
23 testimony, to go ahead and have this heard next week.
24 That certainly would be our preference, to have this
25 go ahead and heard next week.

1 I don't want to prejudice Staff by that in
2 any fashion. If this matter were to wait for an
3 Agenda to come up through PAA or, for that matter, for
4 the February hearing, would FPL be in a position where
5 whatever it does between now and then is not at risk?
6 I mean, that's the dilemma that we face with each
7 passing day. That's why we tried to set this thing
8 for hearing next week.

9 COMMISSIONER CLARK: When does the two years
10 run?

11 MR. GUYTON: It has run.

12 COMMISSIONER CLARK: I'm going to deny the
13 motion to file the supplemental testimony and deny the
14 alternative relief.

15 With respect to the alternative relief, I
16 really don't think it's within my authority to make
17 that determination as the prehearing officer, but I
18 would indicate that -- direct Staff to expeditiously
19 conduct your investigation and get this resolved, if
20 it's resolved, to allow them to continue either way.

21 I think that one of the ways you can do it
22 is put it on as a PAA. If we have to hear it in
23 February, we will, and perhaps we can resolve it ahead
24 of time.

25 MR. GUYTON: Thank you, Commissioner.

1 **COMMISSIONER CLARK:** Thank you.

2 **MR. BALLINGER:** Thank you.

3 **MR. GUYTON:** In light of your ruling,
4 there's no need for FPL to revise its position on the
5 prehearing statement.

6 **COMMISSIONER CLARK:** Thank you.

7 Ms. Kaufman?

8 **MS. KAUFMAN:** FIPUG will take no position on
9 Issues 1 and 2, which I believe are the only issues
10 remaining.

11 **COMMISSIONER CLARK:** Does that conclude --

12 **MR. HOWE:** Commissioner Clark, I'm still
13 here. I'm sorry. (Laughter)

14 On Issue 1, Public Counsel would take no
15 position. On Issue 2, if I could just ask for
16 clarification.

17 I think we will agree with Staff as it's
18 been modified. But Staff's position as stated on
19 Page 9 states that for Florida Power Corporation the
20 reduction did not cause a change in the ECCR factors.

21 If I understood Mr. Stone correctly, the
22 revised position for the Staff as shown on Page 10
23 will call for a change in the ECC -- in the
24 environmental cost recovery -- excuse me -- the
25 conservation cost recovery factors. Is this correct?

1 **MR. KEATING:** That's correct.

2 **MR. HOWE:** Are the factors as shown on
3 Page 10?

4 **MR. KEATING:** Those are the factors that are
5 to apply with the correction, and I think Mr. Stone
6 has agreed to those.

7 **MR. HOWE:** Okay. Those factors incorporate
8 the correction.

9 Then on Issues -- on Issue 2 we will agree
10 with Staff.

11 **COMMISSIONER CLARK:** Okay.

12 **MR. HOWE:** And if I could ask for
13 clarification on Issues 3 and 4, are they still alive?

14 **COMMISSIONER CLARK:** No.

15 **MR. KEATING:** I would bring up one other
16 thing.

17 **COMMISSIONER CLARK:** They're being taken out
18 as issues, and Staff will further investigate them and
19 bring the PAA back to us, or if you can't do it in a
20 PAA, take it up in February. But it would be, I
21 think, in the best interests of both FPL and their
22 customers to resolve this as soon as possible.

23 **MR. KEATING:** We'll remove those issues.
24 And I just wanted to clarify before we finish up with
25 02, Staff's position on Page 9 regarding Florida Power

1 Corporation's factors -- and that's for Issue 2 --
2 Staff would like to modify its position to "ECCR
3 expenses should be reduced by \$52,292 plus applicable
4 interest."

5 **COMMISSIONER CLARK:** What page are you on,
6 and where are you?

7 **MR. KEATING:** I'm on Page 9.

8 **COMMISSIONER CLARK:** Where?

9 **MR. KEATING:** At the top of the page, first
10 paragraph.

11 **COMMISSIONER CLARK:** FPC or FPL?

12 **MR. KEATING:** FPC.

13 **COMMISSIONER CLARK:** Okay. Go ahead.

14 **MR. KEATING:** We'd like to change that
15 position so it reads "ECCR expenses should be reduced
16 by \$52,292 plus applicable interest." It formerly
17 read "\$47,485".

18 With that change, the factors for Florida
19 Power Corporation still would not be changed. And if
20 Florida Power Corporation can agree to that change,
21 then I think all of the issues, Staff can recommend
22 approval of the positions on all the issues.

23 **COMMISSIONER CLARK:** Mr. McGee?

24 **MR. MCGEE:** The amount that Mr. Keating just
25 read apparently from the notation applies to the

1 period of April through December. The final true-up
2 period is October '97 through March '98.

3 Since this period of April through December
4 will be coming back before the Commission for final
5 true-up, Florida Power isn't prepared to concur with
6 the number or disagree with the number. We haven't
7 had a chance to go into that. But the fact that it
8 doesn't change the factor was the point that led us to
9 believe that a decision nonetheless could be
10 stipulated.

11 **MR. KEATING:** Commissioner Clark, I've just
12 been informed of -- I'm sorry. Was there a question
13 for me, or did you agree to the position? I'm sorry.

14 **COMMISSIONER CLARK:** Well, he doesn't agree
15 to the 52,292 with interest, but he agrees with the
16 factors, as I understood what he just said, and
17 there's no harm in not agreeing to that specific
18 amount because it will be trued up later.

19 **MR. KEATING:** Okay.

20 **COMMISSIONER CLARK:** I mean, I think somehow
21 you should clarify that. Well, probably not. Is that
22 the way we normally state it, and we understand it
23 always to be an estimate anyway?

24 **MR. KEATING:** Correct. I believe so.

25 **COMMISSIONER CLARK:** Okay. Anything else?

1 **MR. KEATING:** One other thing just came to
2 my attention. I think I'll let Mr. Colson address you
3 with it.

4 **COMMISSIONER CLARK:** Okay. Mr. Colson?

5 **MR. COLSON:** (Inaudible)

6 **COMMISSIONER CLARK:** Lee, is your mike on?

7 And tell us what page we need to be on.

8 **MR. COLSON:** This was just brought to my
9 attention from the rate section. And I think Florida
10 Power & Light addressed this to someone in the rate
11 section, that the regulatory expansion factor that
12 they use, I guess for the regulatory assessment fees,
13 was in error, that they provided in the testimony.
14 And I've been provided a new number, but we haven't
15 applied that yet to the factors, and that would just
16 present it a few -- I guess just before the hearing?

17 **COMMISSIONER CLARK:** Uh-huh.

18 **MR. COLSON:** So we just wanted to let you
19 know that we haven't set those factors, so that the
20 factors could change once we apply the regulatory
21 assessment factor.

22 **COMMISSIONER CLARK:** Let me just see if I
23 understand on Page 10 where you have the factors.

24 **MR. COLSON:** These factors could change
25 depending on when we apply the regulatory assessment

1 fees. It's a revenue tax factor.

2 MR. STONE: Commissioner Clark, I believe
3 he's referring to factors on Page 9 instead of the
4 ones on Page 10

5 COMMISSIONER CLARK: Okay. FPL is on
6 Page 9.

7 Do you understand that, Mr. Guyton, and do
8 you agree with that?

9 MR. GUYTON: At the risk of disagreeing with
10 my client, I am simply unaware of this development, so
11 I don't know that I disagree with it. I may just
12 simply be uninformed as to it.

13 COMMISSIONER CLARK: Well, maybe you'll be
14 informed in just a minute.

15 MR. GUYTON: (Pause) Commissioner, if I
16 understand the import of what Mr. Colson suggested, I
17 suspect this is something we could work out with
18 Staff. It looks as if we are in accord. I just
19 simply can't respond to it here.

20 COMMISSIONER CLARK: All right. Before we
21 issue the prehearing order, you'll resolve the
22 appropriate factors to be listed, and if there isn't
23 resolution and you need me to make a decision, you'll
24 let me know.

25 MR. KEATING: Yes. I don't think we'll have

1 a problem doing that, I think, because we're in
2 agreement now on the factors in Issue 2, that if we
3 agree to the appropriate regulatory assessment factor,
4 that everything should fall into place.

5 **COMMISSIONER CLARK:** All right. Is there
6 anything else in the 02 docket? (No response.)

7 With that, we'll handle it the same way in
8 that we will let the other Commissioners know that
9 unless they need a witness here or a party here, Staff
10 will move the evidence and testimony into the record
11 and parties need not appear.

12 (Whereupon other dockets were discussed.)

13

14 **COMMISSIONER CLARK:** Okay. Anything else on
15 any of these dockets? (No response.)

16 Mr. Stone, you look like you want to say
17 something. Unless you hurry up, I'm going to adjourn
18 this.

19 **MR. STONE:** No, Commissioner. I was
20 thinking that if there was going to be an 01 hearing
21 with witnesses and there was going to be an 07
22 apparently with Gulf's witness, that we might be able
23 to get a time certain other than 9:30 Monday morning,
24 but I realize that's not practical.

25 So what you saw was a question that I

1 resolved in my own head.

2 **COMMISSIONER CLARK:** Okay. There being
3 nothing further to take up at this time, before I
4 adjourn it, I'll be available to resolve anything to
5 the end that we can shorten up this hearing on
6 Thanksgiving week.

7 And with that, this hearing is adjourned;
8 prehearing is adjourned. Thank you.

9 (Thereupon, the hearing concluded at
10 3:40 p.m.)

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Page 1

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 980002-EG
Energy conservation :
cost recovery clause. :

PROCEEDINGS : PREHEARING CONFERENCE
BEFORE : COMMISSIONER SUSAN F. CLARK
Prehearing Officer
DATE : Monday, November 16, 1998
TIME : Commenced at 1:30 p.m.
Concluded at 3:40 p.m.
PLACE : Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY : N. RUTHE POTAMI, CSR, RPR
Official Commission Reporter

<p>\$350,000 16/19 \$47,485 23/17 \$52,292 23/3, 23/14 \$7,000 7/23, 8/1</p>	<p>812 2/18</p>	<p>change 24/7 change 7/25, 8/4, 8/5, 8/6, 21/20, 21/23, 23/14, 23/18, 23/20, 24/8, 25/20, 25/24 changed 23/19 changes 6/21, 7/14, 8/14 changing 7/23 CHARLES 2/11 Chesapeake 4/23 Childs 4/8 CILC 12/16, 12/23, 12/24, 14/18, 17/13 circumstance 13/12 Citizens 2/19, 5/4 City 3/24 clarification 21/16, 22/13 clarify 23/24, 24/21 CLARK 1/13, 3/3, 3/15, 5/3, 5/17, 6/8, 6/16, 6/20, 6/23, 7/2, 7/7, 7/18, 8/8, 8/11, 8/13, 8/19, 9/13, 9/23, 10/4, 10/7, 10/11, 10/18, 10/19, 12/1, 12/12, 12/19, 14/4, 15/8, 15/12, 15/13, 15/19, 17/1, 17/19, 18/2, 18/16, 19/7, 19/9, 19/13, 20/9, 20/12, 21/1, 21/6, 21/11, 21/12, 22/11, 22/14, 23/17, 23/8, 23/8, 23/11, 23/13, 23/23, 24/11, 24/14, 24/20, 24/25, 25/4, 25/6, 25/17, 25/22, 26/2, 26/5, 26/13, 26/20, 27/5, 27/14, 28/2</p>
<p>&</p>	<p>9 21/19, 22/25, 23/7, 24/3, 24/4 955 2/23 990001-EE 3/9 990003-EG 1/6, 3/11, 20/5 990003-GU 2/12 990007-EE 2/12 9:30 27/23</p>	<p>chance 24/7 change 7/25, 8/4, 8/5, 8/6, 21/20, 21/23, 23/14, 23/18, 23/20, 24/8, 25/20, 25/24 changed 23/19 changes 6/21, 7/14, 8/14 changing 7/23 CHARLES 2/11 Chesapeake 4/23 Childs 4/8 CILC 12/16, 12/23, 12/24, 14/18, 17/13 circumstance 13/12 Citizens 2/19, 5/4 City 3/24 clarification 21/16, 22/13 clarify 23/24, 24/21 CLARK 1/13, 3/3, 3/15, 5/3, 5/17, 6/8, 6/16, 6/20, 6/23, 7/2, 7/7, 7/18, 8/8, 8/11, 8/13, 8/19, 9/13, 9/23, 10/4, 10/7, 10/11, 10/18, 10/19, 12/1, 12/12, 12/19, 14/4, 15/8, 15/12, 15/13, 15/19, 17/1, 17/19, 18/2, 18/16, 19/7, 19/9, 19/13, 20/9, 20/12, 21/1, 21/6, 21/11, 21/12, 22/11, 22/14, 23/17, 23/8, 23/8, 23/11, 23/13, 23/23, 24/11, 24/14, 24/20, 24/25, 25/4, 25/6, 25/17, 25/22, 26/2, 26/5, 26/13, 26/20, 27/5, 27/14, 28/2</p>
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<p>6</p>	<p>601 2/13</p>	<p>chance 24/7 change 7/25, 8/4, 8/5, 8/6, 21/20, 21/23, 23/14, 23/18, 23/20, 24/8, 25/20, 25/24 changed 23/19 changes 6/21, 7/14, 8/14 changing 7/23 CHARLES 2/11 Chesapeake 4/23 Childs 4/8 CILC 12/16, 12/23, 12/24, 14/18, 17/13 circumstance 13/12 Citizens 2/19, 5/4 City 3/24 clarification 21/16, 22/13 clarify 23/24, 24/21 CLARK 1/13, 3/3, 3/15, 5/3, 5/17, 6/8, 6/16, 6/20, 6/23, 7/2, 7/7, 7/18, 8/8, 8/11, 8/13, 8/19, 9/13, 9/23, 10/4, 10/7, 10/11, 10/18, 10/19, 12/1, 12/12, 12/19, 14/4, 15/8, 15/12, 15/13, 15/19, 17/1, 17/19, 18/2, 18/16, 19/7, 19/9, 19/13, 20/9, 20/12, 21/1, 21/6, 21/11, 21/12, 22/11, 22/14, 23/17, 23/8, 23/8, 23/11, 23/13, 23/23, 24/11, 24/14, 24/20, 24/25, 25/4, 25/6, 25/17, 25/22, 26/2, 26/5, 26/13, 26/20, 27/5, 27/14, 28/2</p>
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<p>9</p>	<p>9</p>	<p>chance 24/7 change 7/25, 8/4, 8/5, 8/6, 21/20, 21/23, 23/14, 23/18, 23/20, 24/8, 25/20, 25/24 changed 23/19 changes 6/21, 7/14, 8/14 changing 7/23 CHARLES 2/11 Chesapeake 4/23 Childs 4/8 CILC 12/16, 12/23, 12/24, 14/18, 17/13 circumstance 13/12 Citizens 2/19, 5/4 City 3/24 clarification 21/16, 22/13 clarify 23/24, 24/21 CLARK 1/13, 3/3, 3/15, 5/3, 5/17, 6/8, 6/16, 6/20, 6/23, 7/2, 7/7, 7/18, 8/8, 8/11, 8/13, 8/19, 9/13, 9/23, 10/4, 10/7, 10/11, 10/18, 10/19, 12/1, 12/12, 12/19, 14/4, 15/8, 15/12, 15/13, 15/19, 17/1, 17/19, 18/2, 18/16, 19/7, 19/9, 19/13, 20/9, 20/12, 21/1, 21/6, 21/11, 21/12, 22/11, 22/14, 23/17, 23/8, 23/8, 23/11, 23/13, 23/23, 24/11, 24/14, 24/20, 24/25, 25/4, 25/6, 25/17, 25/22, 26/2, 26/5, 26/13, 26/20, 27/5, 27/14, 28/2</p>
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<p>B</p>	<p>B</p>	<p>chance 24/7 change 7/25, 8/4, 8/5, 8/6, 21/20, 21/23, 23/14, 23/18, 23/20, 24/8, 25/20, 25/24 changed 23/19 changes 6/21, 7/14, 8/14 changing 7/23 CHARLES 2/11 Chesapeake 4/23 Childs 4/8 CILC 12/16, 12/23, 12/24, 14/18, 17/13 circumstance 13/12 Citizens 2/19, 5/4 City 3/24 clarification 21/16, 22/13 clarify 23/24, 24/21 CLARK 1/13, 3/3, 3/15, 5/3, 5/17, 6/8, 6/16, 6/20, 6/23, 7/2, 7/7, 7/18, 8/8, 8/11, 8/13, 8/19, 9/1</p>

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