

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost  
recovery clause.

DOCKET NO. 980002-EG  
ORDER NO. PSC-98-1541-PHO-EG  
ISSUED: November 20, 1998

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on Monday, November 16, 1998, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

JAMES A. MCGEE, ESQUIRE, Post Office Box 14042, St. Petersburg, Florida 33733  
On behalf of Florida Power Corporation (FPC).

CHARLES A. GUYTON, ESQUIRE, Steel Hector & Davis, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301  
On behalf of Florida Power & Light Company (FPL).

JEFFREY A. STONE, ESQUIRE, and RUSSELL A. BADDERS, ESQUIRE, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32576  
On behalf of Gulf Power Company (GULF).

VICKI GORDON KAUFMAN, ESQUIRE, McWhirter Reeves McGlothlin Davidson Decker Kaufman Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301  
On behalf of Florida Industrial Power Users Group (FIPUG).

JOHN ROGER HOWE, ESQUIRE, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399  
On behalf of the Citizens of the State of Florida (OPC).

WILLIAM COCHRAN KEATING, IV, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Commission Staff.

**PREHEARING ORDER**

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

DOCUMENT NUMBER-DATE

13102 NOV 20 98

FPS-C-RECORDS/REPORTING

## II. CASE BACKGROUND

As part of the Commission's continuing fuel cost, conservation cost recovery, purchased gas adjustment and environmental cost recovery proceedings, a hearing is set for November 23 - 25, 1998, in this docket and in Docket Nos. 980001-EI, 980003-GU, and 980007-EI. The hearing will address the issues set out in the body of this Prehearing Order. The parties have reached agreement concerning all issues identified for resolution at the November 23 - 25, 1998 hearing. Therefore, the case will be presented to the panel as a stipulation.

## III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

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

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

notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

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

#### IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a

party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

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

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

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

VI. ORDER OF WITNESSES

\* As a result of discussions at the prehearing conference, each witness whose name is preceded by an asterisk (\*) has been excused if no Commissioner assigned to hear this case seeks to cross-examine the particular witness. Parties shall be notified by the close of business on Friday, November 20, 1998, as to whether each witness shall be required to be present at hearing. The testimony of excused witnesses will be inserted into the record as though read and all exhibits submitted with those witnesses' testimony shall be identified as shown in Section IX of this Prehearing Order and be

admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*M.F. Jacob	FPC	1, 2
*Leonor Busto	FPL	1, 2
*Margaret D. Neyman	GULF	1, 2

VII. BASIC POSITIONS

POSITIONS:

FPC: None necessary.

FPL: FPL's proposed Conservation Cost Recovery Factors for the January 1999 through December 1999 recovery period and true-up amounts for prior periods should be approved.

GULF: It is the basic position of Gulf Power Company that the proposed ECCR factor presents the best estimate of Gulf's Conservation expense for the period January 1999 through December 1999, including the true-up calculations and other adjustments allowed by the Commission.

FIPUG: None at this time.

OPC: None at this time.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

Generic Conservation Cost Recovery Issues

STIPULATED

ISSUE 1: What are the appropriate end-of-period final true-up amounts for the period October 1, 1997, through March 31, 1998.

POSITION: FPC: \$12,735,283 Over Recovery  
FPL: \$ 1,389,882 Under Recovery  
GULF: \$ 167,208 Over Recovery

STIPULATED

ISSUE 2: What are the appropriate conservation cost recovery factors for the period January 1999 through December 1999?

POSITION:

FPC:	<u>Rate Class</u>	<u>ECCR Factor</u>
	Residential	0.321 cents/Kwh
	General Svc. Non-Demand	0.218 cents/Kwh
	@ Primary Voltage	0.216 cents/Kwh
	@ Transmission Voltage	0.214 cents/Kwh
	General Svc. 100% Load Factor	0.159 cents/Kwh
	General Svc. Demand	0.187 cents/Kwh
	@ Primary Voltage	0.185 cents/Kwh
	@ Transmission Voltage	0.183 cents/Kwh
	Curtaillable	0.162 cents/Kwh
	@ Primary Voltage	0.160 cents/Kwh
	@ Transmission Voltage	0.159 cents/Kwh
	Interruptible	0.154 cents/Kwh
	@ Primary Voltage	0.152 cents/Kwh
	@ Transmission Voltage	0.151 cents/Kwh
	Lighting	0.078 cents/Kwh

FPL: Total recoverable costs for the period January, 1999, through December, 1999, should be reduced by \$11,836 to reflect the change in the revenue tax multiplier.

<u>Rate Class</u>	<u>ECCR Factor</u>
Residential	0.215 cents/Kwh
General Svc.	0.202 cents/Kwh
General Svc. Demand	0.191 cents/Kwh
Sports Service 2	0.164 cents/Kwh
General Svc. Large 1/Curtailable 1	0.190 cents/Kwh
General Svc. Large 2/Curtailable 2	0.181 cents/Kwh
General Svc. Large 3/Curtailable 3	0.163 cents/Kwh
Interruptible Standby 1D	0.194 cents/Kwh
Standby Supplemental 1T	0.148 cents/Kwh
Standby Supplemental 1D	0.181 cents/Kwh
Commercial/Industrial Load Control D&G	0.175 cents/Kwh
Commercial/Industrial Load Control T	0.159 cents/Kwh
Metropolitan Transit	0.188 cents/Kwh
Outdoor/Street Lighting 1	0.141 cents/Kwh
Street Lighting 2	0.168 cents/Kwh

GULF: ECCR expenses should be reduced by \$7,112 for the estimated April 1998 - December 1998 period.

<u>Rate Class</u>	<u>ECCR Factor</u>
RS, RST	0.020 cents/Kwh
GS, GST	0.020 cents/Kwh
GSD, GSDT	0.020 cents/Kwh
LP, LPT	0.019 cents/Kwh
PX, PXT, RTP, SBS	0.018 cents/Kwh
OS-I, O-SII	0.018 cents/Kwh
OS-III	0.019 cents/Kwh
OS-IV	0.022 cents/Kwh

IX. EXHIBIT LIST

Witnesses whose names are preceded by an asterisk (\*) have been excused. All exhibits submitted with those witnesses' testimony shall be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
*Jacob	FPC	_____ (MFJ-1)	ECCR Adjusted Net True-Up for October 1997 - March 1998, Schedules CT1 - CT5
		_____ (MFJ-2)	ECCR Factors for Billings in January - December 1999, Schedules C1 - C5
*Busto	FPL	_____ (LMB-1)	Schedules CT-1 through CT-6, Appendix A
		_____ (LMB-2)	Schedules C-1 through C-5
*Neyman	GULF	_____ (MDN-1)	Schedules CT-1 through CT-6
		_____ (MDN-2)	Schedules C-1 through C-5

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

X. PROPOSED STIPULATIONS

The parties have stipulated to all issues.

XI. PENDING MOTIONS

There are no pending motions.

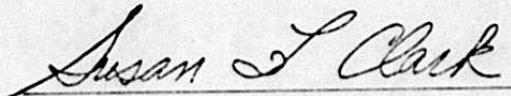
XII. RULINGS

- A. Florida Power & Light Company's Motion for Leave to File Supplemental Testimony and Alternative Relief is denied. Issues specific to FPL's Commercial/Industrial Load Control Program will not be heard at the November 23 - 25 hearing in this docket, but shall be resolved as expeditiously as possible by staff bringing a recommendation on the issues to a regularly-scheduled agenda conference or setting the issues for the February 17, 1999, hearing scheduled in this docket. Staff shall conduct discovery on an expedited basis in order to expedite the resolution of these issues.
- B. Counsel representing companies whose witnesses have been excused from attending the hearing for this docket pursuant to Section VI of this Prehearing Order, shall be excused.

It is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 20th day of November, 1998.

  
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SUSAN F. CLARK  
Commissioner and Prehearing Officer

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that

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is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric; gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.