

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy Conservation Cost
Recovery Plan.

DOCKET NO. 010002-EG
ORDER NO. PSC-01-2268-PHO-EG
ISSUED: November 19, 2001

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on November 8, 2001, in Tallahassee, Florida, before Commissioner Lila A. Jaber, as Prehearing Officer.

APPEARANCES:

James A. McGee, Esquire, Post Office Box 14042, St. Petersburg, Florida 33733-4042
On behalf of Florida Power Corporation (FPC).

Charles Guyton, Esquire, Steel Hector & Davis LLP, 215 South Monroe Street, #601, Tallahassee, Florida 32301
On behalf of Florida Power & Light Company (FPL).

Norman H. Horton, Jr., Esquire, Messer Law Firm, Post Office Box 1876, Tallahassee, Florida 32302-1876
On behalf of Florida Public Utilities Company (FPUC).

Jeffery A. Stone, Esquire, and Russell A. Badders, Esquire, Beggs & Lane, 700 Blount Building, 3 West Garden Street, Post Office Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company (GPC).

Lee L. Willis, Esquire, and James D. Beasley, Esquire, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

John W. McWhirter, Jr., Esquire, Joseph A. McGlothlin, Esquire, Vicki Gordon Kaufman, Esquire, and Timothy J. Perry, Esquire, McWhirter Reeves McGlothlin Davidson Decker Kaufman Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301
On behalf of The Florida Industrial Power Users Group (FIPUG).

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Robert Vandiver, Esquire, Associate Public Counsel,
Office of Public Counsel, c/o The Florida Legislature,
111 West Madison Street, Room 812, Tallahassee, Florida
32399-1400
On behalf of the Citizens of the State of Florida (OPC).

Marlene K. Stern, 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.

II. CASE BACKGROUND

As part of the Commission's ongoing fuel cost recovery, energy conservation cost recovery, gas conservation cost recovery, and environmental cost recovery proceedings, a hearing is set for November 20 and 21, 2001, in this docket and in Docket No. 010001-EI, Docket No. 010003-GU, Docket No. 010004-GU and Docket No. 010007-EI. The Commission has the option to render a bench decision in this matter. Opening statements, if any, shall not exceed ten minutes per party.

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, 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.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

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

- a) 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.
- b) 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.
- c) 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.

- d) 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.
- e) 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 Commission Clerk and Administrative Service's confidential files.

IV. POST-HEARING PROCEDURES

If there is not a bench decision, 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. Except for the testimony of excused witnesses, 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 who has not been excused will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes. 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 witnesses who take the stand, 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 from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. 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.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
*John A. Masiello	FPC	1, 2 and 3
*Dennis Reynolds	FPL	1 and 2
*Leonardo E. Green	FPL	2
*Michael A. Peacock	FPUC	1, 2, 3, 6 and 7
*Michael J. McCarthy	GPC	1, 2, and 3
*Howard T. Bryant	TECO	1, 2, 3, 4A and 4B
*Michael Winner	TECO	1, 2 and 4A

VII. BASIC POSITIONS

FPC: None necessary.

FPL: FPL's revised Conservation Cost Recovery Factors for the January 2002 through December 2002 recovery period and true-up amounts for prior periods should be approved.

FPUC: FPUC has properly projected its costs and calculated its true-up amounts and conservation cost recovery factors. Those amounts and factors should be approved by the Commission.

GPC: It is the basic position of Gulf Power Company that the proposed ECCR factors present the best estimate of Gulf's Conservation expense for the period January 2002 through December 2002, including the true-up calculations and other adjustments allowed by the Commission.

TECO: The Commission should determine that Tampa Electric has properly calculated its conservation cost recovery true-up and projections and that the appropriate conservation cost recovery factor to be applied by Tampa Electric during the period January 2002 through December 31, 2002 is 0.041 cents per KWH for Interruptible, 0.116 cents per KWH for Residential, 0.110 cents per KWH for General Service Non-Demand and Temporary Service, 0.090

cents per KWH for General Service Demand - Secondary, 0.090 cents per KWH for General Service Demand - Primary, 0.085 cents per KWH for General Service Large Demand and Firm Standby - Secondary, 0.084 cents per KWH for General Service Large Demand and Firm Standby - Primary, 0.083 cents per KWH for General Service Large Demand and Firm Standby - Subtransmission, and 0.036 cents per KWH for Lighting.

The Commission should also approve the \$4.37 per KWH Contracted Credit Value Tampa Electric has calculated for the GSLM-2 and GSLM-3 rate riders for use during the period January 2002 through December 2002.

FIPUG: None necessary.

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

ISSUE 1: Stipulated. See Section X, Proposed Stipulations.

ISSUE 2: Stipulated. See Section X, Proposed Stipulations.

ISSUE 3: Stipulated. See Section X, Proposed Stipulations.

Company Specific Issues

Tampa Electric Company

ISSUE 4A: Stipulated. See Section X, Proposed Stipulations.

ISSUE 4B: Stipulated. See Section X, Proposed Stipulations.

Florida Power & Light Company

ISSUE 5: Stipulated. See Section X, Proposed Stipulations.

Florida Public Utility Company

ISSUE 6: Stipulated. See Section X, Proposed Stipulations.

ISSUE 7: Stipulated. See Section X, Proposed Stipulations.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
John A. Masiello	FPC	_____	ECCR Adjusted Net True-Up for January - December 2000, Schedules CT1- CT5.
		(JAM-1)	
Dennis Reynolds	FPL	_____	ECCR Factors for Billings in January - December 2002, Schedules C1- C5.
		(JAM-2)	

Dennis Reynolds	FPL	_____	Schedules CT-1 through CT-6
		(DR-1)	

Dennis Reynolds	FPL	_____	Schedules C-1 through C-5
		(DR-2)	

Dennis Reynolds	FPL	_____	R e v i s e d Schedule C-1, pages 2 and 3
		(DR-3)	

Leonardo E. Green	FPL	_____	E c o n o m i c F a c t o r s Supporting Sales Revision
		(LEG-1)	

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Michael A. Peacock	FPUC	_____	T r u e - u p
		(MAP-1)	calculations and Schedules CT-1 through CT-6 (Marianna and Fernandina B e a c h Divisions
Michael J. McCarthy	GPC	_____	Schedules C-1
		(MAP-2)	through C-5 (Marianna and Fernandina B e a c h Divisions
Michael J. McCarthy	GPC	_____	Schedules CT-1
		(MJM-1)	through CT-6
Howard T. Bryant	TECO	_____	Schedules C-1
		(MJM-2)	through C-5
Howard T. Bryant	TECO	_____	S c h e d u l e s
		(HTB-1)	s u p p o r t i n g c o s t r e c o v e r y f a c t o r , a c t u a l J a n u a r y 2 0 0 0 t h r o u g h D e c e m b e r 2 0 0 0 .
		_____	S c h e d u l e s
		(HTB-2)	s u p p o r t i n g c o n s e r v a t i o n c o s t s p r o j e c t e d f o r t h e p e r i o d J a n u a r y 1, 2 0 0 2 t h r o u g h D e c e m b e r 3 1, 2 0 0 2

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Michael Winner	TECO	_____ (MW-1)	1999 through 2 0 0 0 advertising campaign.

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

X. PROPOSED STIPULATIONS

1. **ISSUE 1:** What is the final end-of-the-period true-up amount for the period January 2000 through December 2000?

FPC:	\$ 9,617,291	Over Recovery
FPL:	\$12,324,927	Over Recovery
GPC:	\$ 867,223	Under Recovery
TECO:	\$ 2,390,385	Over Recovery
FPUC: (Fern.)	\$ 266	Under Recovery
FPUC: (Mari.)	\$ 8,085	Under Recovery

2. **ISSUE 2:** What are the appropriate conservation cost recovery factors by customer class for the period January 2002 through December 2002?

FPC:	<u>Rate Class</u>	<u>ECCR Factor</u>
	Residential	0.207 cents/Kwh
	General Svc. Non-Demand	0.165 cents/Kwh
	@ Primary Voltage	0.163 cents/Kwh
	@ Transmission Voltage	0.162 cents/Kwh
	General Svc. 100% Load Factor	0.130 cents/Kwh
	General Svc. Demand	0.148 cents/Kwh
	@ Primary Voltage	0.147 cents/Kwh
	@ Transmission Voltage	0.145 cents/Kwh
	Curtailable	0.115 cents/Kwh
	@ Primary Voltage	0.114 cents/Kwh
	@ Transmission Voltage	0.113 cents/Kwh
	Interruptible	0.128 cents/Kwh
	@ Primary Voltage	0.127 cents/kwh

@ Transmission Voltage 0.125 cents/kwh
 Lighting 0.064 cents/kwh

FPL:	<u>Rate Class</u>	<u>ECCR Factor</u>
	Residential	0.187 cents/Kwh
	General Svc.	0.169 cents/Kwh
	General Svc. Demand	0.159 cents/Kwh
	Sports Service 2	0.113 cents/Kwh
	General Svc. Large 1/Curtailable 1	0.155 cents/Kwh
	General Svc. Large 2/Curtailable 2	0.146 cents/Kwh
	General Svc. Large 3/Curtailable 3	0.144 cents/Kwh
	Interruptible Standby 1D	0.000 cents/Kwh
	Standby Supplemental 1T	0.135 cents/Kwh
	Standby Supplemental 1D	0.151 cents/Kwh
	Commercial Load Control D & G	0.143 cents/Kwh
	Commercial Load Control T	0.136 cents/Kwh
	Metropolitan Transit	0.171 cents/Kwh
	Outdoor/Street Lighting 1	0.090 cents/Kwh
	Street Lighting 2	0.139 cents/Kwh

GPC:	<u>Rate Class</u>	<u>ECCR Factor</u>
	RS, RST	0.064 cents/Kwh
	GS, GST	0.064 cents/Kwh
	GSD, GSdT	0.059 cents/Kwh
	LP, LPT	0.056 cents/Kwh
	PX, PXT, RTP, SBS	0.053 cents/Kwh
	OSI, OSII	0.045 cents/Kwh
	OSIII	0.056 cents/Kwh
	OSIV	0.049 cents/Kwh

TECO:	<u>Rate Class</u>	<u>ECCR Factor</u>
	Interruptible	0.041 cents/Kwh
	Residential	0.116 cents/Kwh
	General Svc. Non-Demand	0.110 cents/Kwh
	General Svc. Demand	0.090 cents/Kwh
	@ Primary Voltage	0.090 cents/Kwh
	General Svc. Large Demand	0.085 cents/Kwh
	@ Primary Voltage	0.084 cents/Kwh
	@ Subtransmission Voltage	0.083 cents/Kwh
	Lighting	0.036 cents/Kwh

FPUC:	<u>Rate Class</u>	<u>ECCR Factor</u>
	(Marianna)	0.083 cents/Kwh
	(Fernandina Beach)	0.058 cents/Kwh

3. **ISSUE 3:** What should be the effective date of the energy conservation cost recovery factors for billing purposes?

The factors should be effective beginning with the specified conservation cost recovery cycle and thereafter for the period January, 2002, through December, 2002. Billing cycles may start before January 1, 2002, and the last cycle may be read after December 31, 2002, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

4. **ISSUE 4A:** Does Tampa Electric Company's billboard advertising, in the amount of \$164,154 for the twelve months ending December 31, 2000, comply with rule 25-17.015(5), F.A.C?

Yes. TECO's billboards are part of a cohesive advertising campaign for energy conservation. That campaign includes advertisements in print and broadcast media which identify specific energy conservation programs offered by TECO. Although the billboards do not mention specific conservation programs, or reference energy conservation in all cases, they were designed to prompt recollection of the print and broadcast advertisements by featuring a symbol (a stylized lightbulb) common to all advertisements in the campaign.

FIPUG and OPC take no position.

5. **ISSUE 4B:** What is the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric for the period January 2002 through December 2002?

In accordance with Order No. PSC-99-1778-FOF-EI, issued September 10, 1999, in Docket NO. 990037-EI, Tampa Electric has calculated that, for the forthcoming cost

recovery period, January 2002 - December 2002, the Contracted Credit Value for the GSLM-2 and GSLMN-3 rate riders will be \$4.37 per KW.

FIPUG and OPC take no position.

6. **ISSUE 5:** Are the Okeelanta/Osceola litigation costs in the amount of \$4,259,178 that Florida Power and Light is seeking to recover in the ECCR for the twelve months ending December 31, 2000, appropriate?

The Okeelanta/Osceola litigation costs in the amount of \$4,628,740 that Florida Power & Light seeks to recover in the ECCR for the twelve months ending December 31, 2000, is appropriate.

FIPUG and OPC take no position.

7. **ISSUE 6:** Should Florida Public Utility Company be allowed to recover \$21,436 for promotional merchandise associated with the good cents program?

Yes. FPUC has provided assurance that individuals receiving promotional merchandise understand that the Good Cents program is directly related to an approved conservation program. FPUC has run billboard and print advertisements for Good Cents for 18 years. The billboards and print ads mention energy conservation and/or specific energy saving programs. Therefore, FPUC has created a link between the Good Cents branding, energy conservation, and specific, approved energy saving programs.

FPUC just began distributing promotional merchandise. Most of the promotional merchandise carries the Good Cents logo and FPUC's logo. A few items carry only the FPUC logo. The merchandise is distributed personally to residential and commercial customers when approved energy saving programs are discussed. The FPUC representative distributing the merchandise also provides his or her

business card, which carries the Good Cents logo. The personal delivery of the merchandise combined with the advertisements equating Good Cents with energy conservation and approved conservation programs satisfy the requirements of Rule 25-17.015, Florida Administrative Code.

FIPUG and OPC take no position.

8. **ISSUE 7:** Are the defaulted loan expenses in the amount of \$19,301.51 that FPUC charged to its good cents program appropriate?

Yes. The defaulted loan expenses relate to loans to two customers who have initiated bankruptcy proceedings. FPUC has filed claims for amounts due and will continue to seek recovery of the amounts but has taken appropriate action with respect to the expenses.

FIPUG and OPC take no position.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

FPL: FPL filed on May 15, 2001, Florida Power & Light Company's Motion For Protective Order Regarding Confidential Information Required To Be Filed As Part Of True Up Filing.

XIII. RULINGS

1. On June 29, 2001, Florida Power & Light Company filed its Request For Confidential Classification Of Materials Provided In The Energy Conservation Cost Recovery Clause Pursuant To Audit No. 01-058-4-2. The information meets the requirements of Section 366.093, Florida Statutes, and the Request is granted.
2. On July 20, 2001, Florida Power & Light Company filed its First Request For Extension Of Confidential Classification

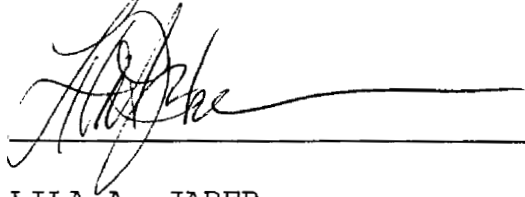
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Granted By Order No. PSC-00-0194-CFO-EG. The information meets the requirements of Section 366.093, Florida Statutes, and the Request is granted.

It is therefore,

ORDERED by Commissioner Lila A. Jaber, 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 Lila A. Jaber, as Prehearing Officer, this 19th day of November, 2001.



LILA A. JABER
Commissioner and Prehearing Officer

(S E A L)

MKS

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 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.

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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 the Commission Clerk and Administrative Services, 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.