

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost
Recovery Factors.

DOCKET NO. 010007-EI
ORDER NO. PSC-01-2463-FOF-EI
ISSUED: December 18, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

APPEARANCES:

Matthew M. Childs, Steel, Hector & Davis, LLP, 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 and 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, and Vicki Gordon Kaufman, 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).

Robert D. Vandiver, Esquire, Deputy 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).

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FPSC-COMMISSION CLERK

Marlene K. Stern, Esquire, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee,
Florida 32399-0850
On behalf of the Commission Staff.

FINAL ORDER APPROVING PROJECTED EXPENDITURES AND
TRUE-UP AMOUNTS FOR ENVIRONMENTAL COST RECOVERY FACTORS

I. Case Background

As part of the Commission's ongoing environmental cost recovery proceedings, a hearing was held on November 20, 2001, in this docket. The hearing addressed the issues set out in the body of the Prehearing Order. The parties have stipulated to several of the issues. The stipulations are described below.

II. Generic Environmental Cost Recovery Issues

A. Final Environmental Cost Recovery True-Up Amounts for the Period Ending December 31, 2000

We approve as reasonable the following stipulation for the final environmental cost recovery true-up amounts for the period ending December 31, 2000:

FPL:	\$1,610,244 under recovery.	Pursuant to Commission Order No. PSC-99-0519-AS-EI, this true-up amount is being recorded in a non-recoverable account and is not being included for recovery in the Environmental Cost Recovery Clause.
TECO:	\$677,727 over recovery.	
GULF:	\$643,068 over recovery.	

B. Estimated Environmental Cost Recovery True-Up Amounts for Period January 2001 through December 2001

We approve as reasonable the following stipulation for the estimated environmental cost recovery true-up amounts for the period January 2001 through December 2001:

FPL: \$140,141 over recovery.
TECO: \$ 33,526 over recovery.
GULF: \$684,892 over recovery.

C. Total Environmental Cost Recovery True-Up Amounts to be Collected or Refunded During the Period January 2002 Through December 2002

We approve as reasonable the following stipulation for the total environmental cost recovery true-up amounts to be collected or refunded during the period January 2002 through December 2002:

FPL: \$0.
TECO: \$711,253 to be refunded.
GULF: \$1,327,960 to be refunded (excluding revenue taxes).

D. Projected Environmental Cost Recovery Amounts For the Period January 2002 Through December 2002

We approve as reasonable the following stipulation for the projected environmental cost recovery amounts for the period January 2002 through December 2002:

FPL: Projected environmental costs for the period January 2002 through December 2002 are \$11,073,337. However, pursuant to Commission Order No. PSC-99-0519-AS-EI, FPL is not requesting recovery of these costs during 2002 and FPL is setting the Environmental Factor for 2002 at zero.
TECO: \$27,920,097
GULF: \$10,942,569

E. Effective Date of the Environmental Cost Recovery Factors for Billing Purposes

We approve as reasonable the following stipulation as to the effective date of the environmental cost recovery factors for billing purposes:

The factors should be effective beginning with the specified environmental 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.

F. Depreciation Rates Used to Develop the Depreciation Expense Included in the Total Environmental Cost Recovery Amounts for the Period January 2002 Through December 2002

We approve as reasonable the following stipulation for the depreciation rates used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2002 through December 2002:

The depreciation rates used to calculate the depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service.

G. Jurisdictional Separation Factors for the Projected Period January 2002 Through December 2002

We approve as reasonable the following stipulation as to the jurisdictional separation factors for the projected period January 2002 through December 2002:

FPL: Energy Jurisdictional factor 98.96163%; CP Demand Jurisdictional Factor 99.03598%

GULF: The demand jurisdictional separation factor is 96.50747%. The energy jurisdictional separation factors are calculated for each month based on retail kWh sales as a percentage of projected total system kWh sales.

TECO: The demand jurisdictional separation factor is 91.89189%. The energy jurisdictional separation factors are calculated for each

month based on projected retail kWh sales as a percentage of projected total system kWh sales.

The Florida Industrial Power Users Group (FIPUG) and the Office of Public Counsel (OPC) took no position on this issue, and did not endorse the stipulated resolution set forth herein.

H. Environmental Cost Recovery Factors for the Period January 2002 Through December 2002 for Each Rate Group

We approve as reasonable the following stipulation as to the environmental cost recovery factors for each rate group for the period January 2002 through December 2002:

FPL:	<u>RATE CLASS</u>	<u>ENVIRONMENTAL RECOVERY FACTOR (\$KWH)</u>
	RS1	0.00000
	GS1	0.00000
	GSD1	0.00000
	OS2	0.00000
	GSLD1/CS1	0.00000
	GSLD2/CS2	0.00000
	GSLD3/CS3	0.00000
	ISST1D	0.00000
	SST1T	0.00000
	SST1D	0.00000
	CILC D/CILC G	0.00000
	CILC T	0.00000
	MET	0.00000
	OL1/SL1/PL1	0.00000
	SL2	0.00000

TECO:

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RST	0.159
GS, GST, TS	0.158

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GSD, GSDT	0.157
GSLD, GSLDT, SBF, SBFT	0.156
IS1, IST1, SBI1, IS3, IST3, SB13	0.151
SL, OL	0.156

GPC:

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RST, RSVP	0.102
GS, GST	0.102
GSD, GSDT	0.093
LP, LPT	0.087
PX, PXT, RTP, SBS	0.082
OSI, OSII	0.066
OSIII	0.086
OSIV	0.072

FIPUG and OPC took no position on this issue, and did not endorse the stipulated resolution set forth herein.

III. Company Specific Environmental Cost Recovery Issues

A. Florida Power & Light Company

i. Effect of Florida Power & Light Company's Stipulation, Approved by Order No. PSC-99-0519-AS-EI, on the Company's Level of Recovery for 2002

We approve as reasonable the following stipulation regarding the effect of Florida Power & Light Company's stipulation, in Order No. PSC-99-0519-AS-EI, on the company's level of recovery for 2002:

FPL should be required to follow the provisions of the stipulation in Order No. PSC-99-0519-AS-EI, which state: "For 2002, FPL will not be allowed to recover any costs through the environmental cost recovery docket. FPL may, however, petition to recover in 2003 prudent environmental costs incurred after the expiration of the three-year term of this Stipulation and Settlement in 2002." FPL is authorized to recover these prudently incurred environmental costs in 2003. Interest, however, will not accrue on these expenses.

FIPUG took no position on this issue, and did not endorse the stipulated resolution set forth herein.

B. Gulf Power Company

i. Recovery of Costs for Consumptive Use-Shield Water Substitution Project Through the Environmental Cost Recovery Clause

We approve as reasonable the following stipulation as to Gulf Power Company's request for the recovery of costs for Consumptive Use-Shield Water Substitution Project through the Environmental Cost Recovery Clause:

By Order PSC-01-1788-PAA-EI, the Commission found that Gulf's Shield Water Project satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC.

FIPUG and OPC took no position on this issue, and did not endorse the stipulated resolution set forth herein.

- ii. Allocation to the Rate Classes for the Newly Proposed Environmental Costs for the Consumptive Use-Shield Water Substitution Project

We approve as reasonable the following stipulation for the allocation of newly proposed environmental costs to the rate classes for the Consumptive Use-Shield Water Substitution Project:

The recoverable costs for Consumptive Water Use Monitoring Activity should be allocated to the rate classes using the 12 Coincident Peak and 1/13 Average Demand method.

FIPUG and OPC took no position on this issue, and did not endorse the stipulated resolution set forth herein.

C. Tampa Electric Company

- i. Recovery of Costs for Gannon Thermal Discharge Study Through the Environmental Cost Recovery Clause

We approve as reasonable the following stipulation as to the recovery of costs for the Gannon Thermal Discharge Study through the Environmental Cost Recovery Clause:

By Order PSC-01-1847-PAA-EI, the Commission found that TECO's Gannon Discharge Study project satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC.

FIPUG and OPC took no position on this issue, and did not endorse the stipulated resolution set forth herein.

- ii. Allocation to the Rate Classes for the Newly Proposed Environmental Costs for the Gannon Thermal Discharge Study Project

We approve as reasonable the following stipulation regarding the allocation to the rate classes of the newly proposed environmental costs for the Gannon Thermal Discharge Study Project:

The costs for the Gannon Thermal Discharge Study should be allocated to the rate classes using the 12 Coincident Peak and 1/13 Average Demand method.

OPC took no position on this issue, and did not endorse the stipulated resolution set forth herein.

IV. Issue For Which A Stipulation Was Not Reached

A. Recovery of Costs by Gulf Power Company for the Generic NO_x Control Intelligent System (GNOCIS) Through the Environmental Cost Recovery Clause

GPC asserts that the GNOCIS project is being implemented to meet a governmentally imposed environmental requirement on an existing Gulf Power Company power plant. Therefore, GPC argues that GNOCIS satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC.

The GNOCIS project is an environmental requirement of the Florida Department of Environmental Protection designed to meet air permit requirements for GPC's Smith Unit 3. As such, we find that the GNOCIS project satisfies the requirements of Section 366.8255, Florida Statutes, and qualifies for recovery through the ECRC. However, the more appropriate cost recovery method is base rates because the GNOCIS project is due to the siting of a new power plant, Smith Unit 3, and because GPC has a pending rate case (Docket No. 010949-EI).

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the stipulations and findings set forth in the body of this Order are hereby approved. It is further

ORDERED that the utilities named herein are authorized to collect the environmental cost recovery amounts and use the factors approved herein beginning with the specified environmental cost

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recovery cycle and thereafter for the period of 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. It is further

ORDERED that the more appropriate cost recovery method for Gulf Power Company's Generic NO_x Control Intelligent System (GNOCIS) is base rates.

By ORDER of the Florida Public Service Commission this 18th day of December, 2001.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

AEV

COMMISSIONER BAEZ dissents, in part, as set forth below:

Although the majority presents us with the opportunity to address Gulf's recovery of costs arising from its GNOCIS project through an impending rate case, given that these costs comport with the requirements set forth in Section 366.8255, Florida Statutes, and subsequent Commission interpretations thereof, I believe that it is proper to allow recovery of these costs through the Environmental Costs Recovery Clause ("ECRC") at this time rather than through pending or future base rate proceeding.

Section 366.8255 allows for recovery of all prudently incurred environmental compliance costs through the ECRC unless and until such costs are appropriately included in the base rates as established through new rate case proceedings. Commission Order No. PSC-94-004-FOF-EI issued January 12, 1994 in Docket No. 930613-EI offers further guidance by outlining three criteria for costs to be recovered through the ECRC. Pursuant to that Order, costs may be recovered through the ECRC if:

1. such costs were prudently incurred after April 13, 1993;
2. the activity is legally required to comply with a governmentally imposed environmental regulation enacted, became effective, or whose effect was triggered after the company's last test year upon which rates are based; and,
3. such costs are not recovered through some other cost recovery mechanism or through base rates.

The Commission adds a fourth criterion in Order No. PSC-94-1207-FOF-EI, issued October 3, 1994 in Docket No. 940042-EI wherein it requires that ". . . a utility's petition for cost recovery must describe proposed activities and projected costs, not costs that have already been incurred." Utilities are therefore expected to petition the Commission for approval of new projects in advance of the costs being incurred.

Gulf's request to recover the costs associated with its project GNOCIS through the ECRC meets each of these four criteria. Furthermore, there is nothing in Section 366.8255 or Commission precedent that prevents us from allowing recovery through the ECRC at this time. Disallowing recovery of Gulf's costs through the ECRC goes against the plain meaning and clear intent of the Statute and sets forth a policy that creates uncertainty regarding cost recovery for environmental projects even when these projects meet the requirements of the law.

Based on these reasons, I respectfully dissent from the majority's opinion in this matter.

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.