

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020002-EG

In the Matter of  
ENERGY CONSERVATION COST  
RECOVERY CLAUSE.

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PROCEEDINGS: PREHEARING CONFERENCE

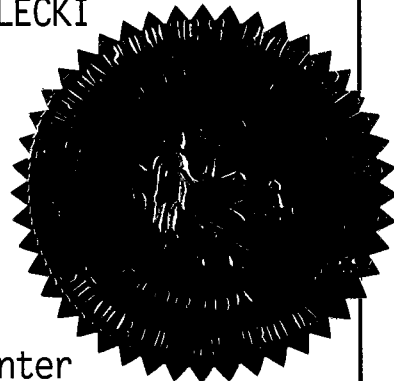
BEFORE: COMMISSIONER MICHAEL A. PALECKI  
Prehearing Officer

DATE: Monday, November 4, 2002

TIME: Commenced at 1:30 p.m.  
Concluded at 4:11 p.m.

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

REPORTED BY: LINDA BOLES, RPR  
Official FPSC Reporter  
(850) 413-6734



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## 1 APPEARANCES:

2 JOHN McWHIRTER, JR., McWhirter, Reeves McGlothlin,  
3 Davidson Decker, Kaufman & Arnold, P.A, 400 North Tampa Street,  
4 Suite 2450, Tampa, Florida 33601-3350, appearing on behalf of  
5 Florida Industrial Power Users Group (FIPUG).

6 JAMES A. McGEE, Florida Power Corporation, Post  
7 Office Box 14042, St. Petersburg, Florida 33733-4042, appearing  
8 on behalf of Florida Power Corporation (FPC).

9 CHARLES A. GUYTON, Steel, Hector & Davis, LLP, 215  
10 South Monroe Street, Suite 601, Tallahassee, Florida 32301,  
11 appearing on behalf of Florida Power and Light Company (FPL).

12 JEFFREY A. STONE, RUSSELL A. BADDERS, R. ANDREW KENT,  
13 Beggs & Lane, 700 Blount Building, 3 West Garden Street, Post  
14 Office Box 12950, Pensacola, Florida 32576-2950, appearing on  
15 behalf of Gulf Power Company (GULF).

16 JAMES D. BEASLEY, Ausley & McMullen, Post Office Box  
17 391, Tallahassee, Florida 32302, appearing on behalf of Tampa  
18 Electric Company (TECO).

19 NORMAN H. HORTON, JR., Messer, Caparello & Self,  
20 P.A., P.O. Box 1876, Tallahassee, Florida 32302-1876, appearing  
21 on behalf of Florida Public Utilities Company (FPUC).

22 ROBERT VANDIVER, Deputy Public Counsel, Office of  
23 Public Counsel, 111 West Madison Street, Room 812, Tallahassee,  
24 Florida 32399-1400, appearing on behalf of the Citizens of the  
25 State of Florida.

1 APPEARANCES CONTINUED:

2           LORENA A. HOLLEY, Florida Public Service Commission,  
3 General Counsel's Office, 2540 Shumard Oak Boulevard,  
4 Tallahassee, Florida 32399-0870, appearing on behalf of the  
5 Commission Staff.

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

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2 COMMISSIONER PALECKI: Call the prehearing conference  
3 to order at this time.

4 Would staff counsel please read the notice on all  
5 dockets.

6 MS. ECHTERNACT: Pursuant to notice issued by the  
7 Clerk of the Commission on October 7th, 2002, this time and  
8 place have been set for a prehearing conference in Docket  
9 Number 020001-EI, 020002-EG, 020003-GU, 020004-GU and Docket  
10 Number 020007-EI.

11 COMMISSIONER PALECKI: At this time we'll take  
12 appearances for all dockets. And rather than taking  
13 appearances several times, we'll go ahead and ask each counsel  
14 to please identify the docket numbers for which you are  
15 appearing, and we'll start with Mr. Vandiver.

16 MR. VANDIVER: My name is Rob Vandiver. I'm  
17 appearing on behalf of the Citizens of the State of Florida.  
18 I'm appearing in the 01 docket, the 02 docket, the 03 docket  
19 and the 07 docket.

20 MR. HORTON: Norman H. Horton, Jr., Messer, Caparello  
21 & Self. I'm appearing in the 01, 02, 03, 04 dockets for  
22 Florida Public Utilities, and in the 03 docket for Sebring,  
23 Sebring Gas.

24 MR. BEASLEY: I'm James D. Beasley with the Law Firm  
25 of Ausley & McMullen. I'm appearing on behalf of Tampa

1 Electric Company in the 01, 02 and 07 dockets.

2 MR. GUYTON: Charles A. Guyton with the law firm of  
3 Steel, Hector & David appearing on behalf of Florida Power &  
4 Light Company in the 02 docket.

5 MR. BADDERS: Russell Badders, and with me is Jeffrey  
6 A. Stone and R. Andrew Kent appearing on behalf of Gulf Power  
7 Company in the 01, 02 and 07 dockets.

8 MR. BUTLER: John Butler of Steel, Hector and Davis  
9 appearing on behalf of Florida Power & Light Company in dockets  
10 01 and 07.

11 MR. MELSON: Richard Melson and Gary Perko of the law  
12 firm Hopping, Green & Sams appearing on behalf of City Gas  
13 Company of Florida in the 03 and 04 dockets, and also appearing  
14 on behalf of Florida Power Corporation in the 07 docket.

15 MR. MCGEE: Jim McGee appearing on behalf of Florida  
16 Power Corporation in the 01 and 02 dockets.

17 MR. COSTA: Matt Costa appearing on behalf of Peoples  
18 Gas in the 03 and 04 dockets.

19 MR. SCHIEFELBEIN: Wayne Schiefelbein with the firm  
20 Rose, Sundstrom & Bentley appearing on behalf of the Florida  
21 Division of Chesapeake Utilities Corporation in the 03 and  
22 04 dockets.

23 MR. McWHIRTER: John McWhirter of the firm of  
24 McWhirter and Reeves appearing on behalf of the Florida  
25 Industrial Power Users Group with respect to 01, 02 and 07, and

1 on behalf of the Florida Industrial Gas Users Group with  
2 respect to Docket Number 03.

3 MS. STERN: Marlene Stern on behalf of the Commission  
4 in the 07 docket.

5 MS. ECHTERNACT: Katherine Echternact on behalf of  
6 the Commission on the 03 docket.

7 MS. HOLLEY: Lorena Holley on behalf of the  
8 Commission in Dockets 02 and 04.

9 MR. KEATING: Cochran Keating on behalf of the  
10 Commission in Docket 01.

11 COMMISSIONER PALECKI: Okay. Before we decide on the  
12 order in which we take up the dockets, I have a matter I need  
13 to put on the record, and that is that I have excused St. Joe  
14 Natural Gas from the prehearing conference in the 03 and  
15 04 dockets, and also have excused them from the hearing in  
16 those two dockets. And I've excused Indiantown from the  
17 prehearing as well as the hearing in the 03 docket.

18 Now I've been advised by staff that it would prefer  
19 to take up the dockets in the following order: 03, 04, 02, 07  
20 and 01. Do any parties have an objection or a different  
21 preference?

22 Hearing none, let's proceed at this time to the  
23 0003 docket.

24 \* \* \* \* \*

25 COMMISSIONER PALECKI: Let's move on to Docket Number

1 0002. We'll see how the staff's record holds up on this one.

2 0002, energy cost conservation. First, are there any  
3 preliminary matters? It's my understanding that there are.

4 MS. HOLLEY: We have an indication from FP&L that  
5 they plan to file supplemental direct testimony. Staff has  
6 been given an advance copy of that. And we've indicated that  
7 in the draft prehearing order under the exhibit lists and we  
8 have not altered their position. To our understanding, it will  
9 affect their position on Issue 2. We would request that we're  
10 given time to meet with staff and FP&L, and if we can come to a  
11 stipulation on that issue, that it be reflected as such in the  
12 final prehearing order.

13 COMMISSIONER PALECKI: Well, first, could I ask FPL  
14 to go ahead and generally explain the changes in its testimony?

15 MR. GUYTON: Yes, Commissioner. There are -- we are  
16 filing a revised petition as well as supplemental direct  
17 testimony in the conservation clause later this afternoon. The  
18 changes to conservation are due to a change in the sales  
19 forecast and the availability of two additional months of  
20 actual data.

21 The sales forecast has been increased by roughly one  
22 percent. It lowers the conservation factors because we're  
23 seeking recovery of the same amount of expenses over a greater  
24 number of billing determinants.

25 And then there is also impact on the estimated actual

1 true-up associated with having two months additional actual  
2 data that only impacts the calculation of the factors. Both of  
3 those are reflected in revised factors which I have handed out  
4 to counsel for FIPUG and the Office of Public Counsel as well  
5 as to staff a few moments ago. I would be surprised if they  
6 have had sufficient time to review those at this time.

7 We are perfectly amenable to staff's suggestion of  
8 sitting down and working through with them and allowing them  
9 and the other parties to confirm the nature of the changes  
10 we've suggested. We would, we would think that this matter  
11 could be stipulated.

12 COMMISSIONER PALECKI: That sounds like a good  
13 process. I would imagine that because of the lateness of this  
14 filing that a lot of issues that we may have believed were  
15 stipulated issues are now subject to change depending on what  
16 the parties think of your revised testimony.

17 What type of time schedule would you suggest? My  
18 main concern is that if we are going to have stipulations based  
19 upon your revised testimony, that we identify them soon enough  
20 so that they can be set out in the final version of the  
21 prehearing order so that when we do go to hearing, we have a  
22 prehearing order that's accurate and complete and we don't go  
23 through a lot of difficulties because we're unclear as to where  
24 our stipulations are.

25 MR. GUYTON: Uh-huh. I would think as to



1 conservation, that could be worked out fairly rapidly. There  
2 are more extensive changes, I understand, at FPL's fuel clause  
3 and perhaps in ECRC, and I think the parties discussed this  
4 morning a meeting on Friday, an informal meeting to try to work  
5 through those changes as well. And if the parties are amenable  
6 to working through the conservation this afternoon, that's  
7 certainly amenable to Florida Power & Light Company. We're  
8 available to them to explain this, if necessary.

9 COMMISSIONER PALECKI: Staff, does that -- is that  
10 satisfactory to you?

11 MS. HOLLEY: Yes.

12 COMMISSIONER PALECKI: Let me ask the other parties,  
13 is, is that a satisfactory process?

14 MR. McWHIRTER: Yes, sir.

15 COMMISSIONER PALECKI: All right. Well, we'll go  
16 ahead and do that.

17 Mr. Guyton, as far as excusing witnesses, it would  
18 appear then that we will at this time require all of Florida  
19 Power & Light's witnesses to attend the hearing. But I would  
20 imagine that if you can bring the stipulated issues to our  
21 attention quickly enough, we could, I think we could see to it  
22 that your witnesses are excused.

23 But let me ask staff, is that something that we can  
24 do outside of a noticed hearing? Would we be able to excuse  
25 the witnesses once a stipulation is identified?

1 MS. HOLLEY: I believe we would. The final  
2 prehearing order is -- the final is due on November 15th, which  
3 was a date we had set to notify the witnesses. So I believe  
4 that by that time we'll know whether or not those witnesses can  
5 be excused. And that can be reflected in the final prehearing  
6 order.

7 COMMISSIONER PALECKI: Thank you.

8 Are we ready then to proceed to the prehearing order?

9 MS. HOLLEY: Yes.

10 COMMISSIONER PALECKI: All right. Everyone does have  
11 a copy of the prehearing order. We'll go ahead and walk  
12 through this by section. Let's just look at Sections I through  
13 V. Are there any changes or corrections?

14 Hearing none, we move on to Section VI, the order of  
15 the witnesses and issues to be addressed by each. No changes,  
16 Mr. McGee?

17 MR. MCGEE: No, sir.

18 COMMISSIONER PALECKI: No? Hearing no changes or  
19 corrections, we'll move on to Section VII and VIII, the  
20 positions of the parties.

21 Do I need to go through this issue by issue or we'll  
22 go through it altogether? Does anyone have any changes or  
23 corrections to their positions on the issues?

24 MR. GUYTON: As they appear in Section X we do.  
25 Section VIII simply reflects a proposed stipulation, I suppose,

1 as to FPL's factors on Issue 2. We're going to need to address  
2 that at the appropriate time.

3 COMMISSIONER PALECKI: All right. And I, I imagine  
4 your revised testimony will change the factors --

5 MR. GUYTON: On Issue 2, that's correct.

6 COMMISSIONER PALECKI: -- on Issue 2. Do you have a  
7 change to your position on Issue 2 or will that not be --

8 MR. GUYTON: The only change would be the revised  
9 factors.

10 COMMISSIONER PALECKI: On the revised factors that  
11 appear under the proposed stipulations?

12 MR. GUYTON: Yes, sir.

13 COMMISSIONER PALECKI: All right. Section IX,  
14 exhibits.

15 MR. GUYTON: Florida Power & Light Company would  
16 point out at Page 10 that Mr. Reynolds did not file rebuttal  
17 testimony.

18 MS. HOLLEY: Oops. That section -- the whole section  
19 of rebuttal testimony will be removed. That shouldn't be there  
20 for any of the parties.

21 COMMISSIONER PALECKI: Is that satisfactory to all of  
22 the parties?

23 MR. BADDERS: Yes, it is.

24 MR. McGEE: Yes, sir.

25 COMMISSIONER PALECKI: All right. Well, staff,

1 that's the first mistake you've made.

2 All right. Section X, proposed stipulations. And,  
3 first of all, I'll ask for all of the parties except for  
4 Florida Power & Light are there any changes, modifications?

5 MR. MCGEE: None for Florida Power Corporation.

6 MR. BADDERS: None for Gulf Power.

7 COMMISSIONER PALECKI: Okay. Hearing none, let's  
8 move on to Florida Power & Light. Mr. Guyton, you were  
9 mentioning that in Issue 2 there would be a change in your  
10 factor?

11 MR. GUYTON: There are changes to each of the factors  
12 that we will be filing this afternoon associated with our  
13 revision and updating the sales forecast.

14 COMMISSIONER PALECKI: Do you want to change those on  
15 the record now or would you prefer --

16 MR. GUYTON: We have provided those to staff and  
17 we'll -- we can do it on the record or staff can rely on the  
18 changes that we've given for purposes of the draft, whatever  
19 your pleasure.

20 COMMISSIONER PALECKI: Staff, is that all that's  
21 needed? I mean, the main reason is to make sure we have an  
22 accurate prehearing order. But do we need something on the  
23 record?

24 MS. HOLLEY: I would prefer to actually have it -- I  
25 haven't had a chance to verify with staff that they agree to

1 those changes, so I would prefer to meet with staff and FP&L to  
2 verify that everybody is in agreement with those revised  
3 factors before showing them on the, the prehearing order.

4 COMMISSIONER PALECKI: Mr. Guyton, that sounds  
5 reasonable.

6 MR. GUYTON: Yes, sir.

7 COMMISSIONER PALECKI: Do you -- Mr. Guyton, do you  
8 want to take this opportunity to read into the record what you  
9 would propose as the changed factors? If you don't think it's  
10 necessary, I won't take the time to do it.

11 MR. GUYTON: I don't think it's necessary. I think  
12 we can address that with the parties, save everybody's time.

13 COMMISSIONER PALECKI: Thank you. Okay. Okay. Do  
14 we have any pending motions?

15 Hearing none, we'll move on to Section XII, pending  
16 confidentiality matters.

17 MS. HOLLEY: None.

18 COMMISSIONER PALECKI: There are none. And  
19 Section XIII, rulings. There are none. Is there anything  
20 else?

21 Then at this time we'll adjourn the prehearing  
22 conference for Docket Number 020002, and we will move to the  
23 prehearing conference in Docket 020007, Environmental Cost  
24 Recovery Clause.

25 (Thereupon, the portion of the Prehearing Conference

1 pertaining to Docket Number 020002 was concluded.)

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STATE OF FLORIDA )  
:  
COUNTY OF LEON )


CERTIFICATE OF REPORTER

I, LINDA BOLES, RPR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 12TH DAY OF NOVEMBER, 2002.

  
\_\_\_\_\_  
LINDA BOLES, RPR  
FPSC Official Commissioner Reporter  
(850) 413-6734