

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.	DOCKET NO. 090001-EI ORDER NO. PSC-09-0723-PHO-EI ISSUED: October 30, 2009
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BY THE COMMISSION:

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October, 20, 2009, in Tallahassee, Florida, before Commissioner Nathan A. Skop, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD and JOHN T. BUTLER, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408
On behalf of Florida Power & Light Company (FPL).

NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello & Self, P. A., Post Office Box 15579, Tallahassee, Florida 32317
On behalf of Florida Public Utilities Company (FPU).

JEFFREY A. STONE, RUSSELL A. BADDERS, and STEVEN R. GRIFFIN, ESQUIRES, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32591
On behalf of Gulf Power Company (GULF).

JOHN T. BURNETT, ESQUIRE, Progress Energy Service Company, LLC, 100 Central Avenue, St. Petersburg, Florida 33701-3323
On behalf of Progress Energy Florida, Inc. (PEF).

JAMES D. BEASLEY and LEE L. WILLIS, ESQUIRES, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

PATRICIA A. CHRISTENSEN and CHARLIE BECK, ESQUIRES, 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).

ALLAN L. JUNGELS, CAPTAIN, and SHAYLA L. MCNEILL, CAPTAIN, 139 Barnes Drive, Suite 1, Tyndall Air Force Base, FL 32403-5319
On behalf of Federal Executive Agencies (FEA).

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JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter, Reeves & Davidson, P. A., Post Office Box 3350, Tampa, Florida 33601-3350, and JON C. MOYLE and VICKI KAUFMAN, ESQUIRES. Keefe Anchors Gordon and Moyle, PA, 118 N. Gadsden Street, Tallahassee, FL 32301
On behalf of Florida Industrial Power Users Group (FIPUG).

ROBERT SCHEFFEL WRIGHT, ESQUIRE, Young van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301
On behalf of Florida Retail Federation (FRF).

CECILIA BRADLEY, ESQUIRE, Office of the Attorney General, The Capitol – PL01, Tallahassee, Florida 32399-1050
On behalf of the Office of Attorney General (OAG).

JAMES W. BREW and F. ALVIN TAYLOR, ESQUIRES, Brickfield, Burchette, Ritts & Stone, P.C., 1025 Thomas Jefferson Street, NW Eighth Floor, West Tower, Washington, DC 20007
On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate).

LISA C. BENNETT, ERIK SAYLER, ANNA WILLIAMS, and KEINO YOUNG, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, Acting General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

As part of the continuing fuel and purchased power adjustment and generating performance incentive clause proceedings, an administrative hearing will be held by the Public Service Commission on November 2-4, 2009. The Commission will address those issues listed in this prehearing order. The commission has the option to render a bench decision on any or all of the issues listed below.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. 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.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

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 Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential

classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and 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 timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness 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.

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. After all parties and Staff have had the opportunity to cross-examine the witness, 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.

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.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

As a result of discussions at the prehearing conference, each witness whose name is followed by an asterisk (*) may be excused from this hearing if no Commissioner seeks to cross-examine the particular witness. Parties will be notified as to whether any such witness shall be required to be present at hearing. The testimony of excused witnesses will be inserted in the record as though read, and all exhibits submitted with those witnesses' testimony, as shown in Section IX of this Prehearing Order, shall be identified and admitted in the record.

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Name	Utility/Staff	
G. Yupp*	FPL	2A, 2B, 8-10, 12
T. J. Keith*	FPL	6-16, 24A, 27-33
J. A. Stall*	FPL	8-10 and 12
R. R. Kennedy*	FPL	21, 22
Curtis D. Young (adopting testimony of April Lundgren)	FPU	3A, 3B, 3C, 6-16
Mark Cutshaw	FPU	3A, 3B, 3C, 6-16
H. R. Ball	GULF	4A, 4B, 4C, 6-9, 27, 28, 31
R. W. Dodd	GULF	4C, 6-16, 27-33
M.A. Young*	GULF	21, 22
Will Garrett*	PEF	8, 27
Marcia Olivier*	PEF	6, 7, 9-16, 23A, 28, 30-33
Joseph McCallister*	PEF	1A, 1B
Robert M. Oliver*	PEF	21-22
Carlos Aldazabal*	TECO	6-16, 27, 28, 30-33
Brian S. Buckley*	TECO	21, 22
Benjamin F. Smith*	TECO	5A, 5B, 12, 31
Joann T. Wehle*	TECO	5A, 5B, 12
Tomer Kopelovich*	STAFF	5B
Ronald A. Mavrides*	STAFF	1B

Rebuttal

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Name	Utility/Staff	
Joseph McCallister*	PEF	1A, 1B

VII. BASIC POSITIONS

UTILITIES:

FPL: None necessary.

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

GULF: It is the basic position of Gulf Power Company that the fuel and capacity cost recovery factors proposed by the Company present the best estimate of Gulf's fuel and capacity expense for the period January 2010 through December 2010 including the true-up calculations, GPIF and other adjustments allowed by the Commission.

PEF: None necessary.

TECO: The Commission should approve Tampa Electric's calculation of its fuel adjustment, capacity cost recovery and GPIF true-up and projection calculations, including the proposed fuel adjustment factor of 4.509 cents per kWh before any application of time of use multipliers for on-peak or off-peak usage; the company's proposed for the period January through December 2010; a GPIF reward of \$1,239,009 and approval of the company's proposed GPIF targets and ranges for 2010. Tampa Electric also requests approval of its calculated wholesale incentive benchmark of \$1,846,336 for calendar year 2010.

INTERVENOR:

OPC: None.

FEA: None.

FIPUG: As a matter of general principle FIPUG contends that it would be in the interest of energy efficiency for the Commission to more specially identify all fixed and non

volatile costs presently incorporated in the fuel clause and to require utilities to segregate these costs in fuel cost recovery dockets for appropriate action. Cost recovery clauses by their nature should deal with volatile and unusual costs rather than fixed costs. This is especially true now that utilities have redesigned their base rate structures to put more emphasis on collecting for fixed costs through energy consumption charges. Electric consumption falls in economically recessed times putting fixed cost recovery in peril unless new rate increases are granted or concepts, such as, revenue decoupling are introduced. When fixed costs are included in the energy charge it likewise discourages utilities from promoting fuel saving conservation. Utilities have no economic incentive to conserve fuel when all the fuel cost risk has been shifted to customers.

In the 2008 fuel docket forecasted fuel costs for 2009 were substantially overstated. FPL reduced its 2009 forecast and charges in late November 2008, TECO and PEF revised their fuel charges downward during the year. These reductions were contemporaneous with and partially offset base rate and other cost recovery increases that occurred during the year. In their September filings these three utilities dramatically reduced their forecasted 2010 fuel costs vis a vis 2009.

Should the Commission grant base rate and cost recovery increases sought in other dockets, which it should not do, such increases would take effect on or about January 1, 2010. The fuel cost reductions are welcome, but will mislead customers by giving the wrong impression that customers' bills are not dramatically affected by rate increases in other dockets. Should a minimum or no rate increase be authorized, ratepayers would realize the full beneficial impact of the projected fuel price decrease. Real power bill reductions will enable customers to retain funds that can be used to help weather the difficult economy confronting Florida.

For Gulf and FPU 2010 projected fuel costs are only nominally reduced because anticipated wholesale revenue failed to materialize for Gulf and because FPU is primarily a distribution company from a municipal utility that hasn't reduced its fuel charges.

Because fuel charges are now based more on forecasts than actual experience customers are disadvantaged. By Commission order midcourse corrections only occur when utilities opt to revise their forecasts. It appears to FIPUG that the new procedure gives utilities too much leeway in setting fuel charges based on internal forecasts that they are at liberty to accelerate or postpone. FIPUG recommends that fuel cost forecasts be mandated quarterly or that the Commission revert to basing fuel charges on actual rather than forecasted results.

In the last three years there is growing concern that the commodities markets may currently be governed more by derivative transactions than actual demand for the

commodity. FIPUG suspects that when prices fell dramatically below forecasts in the fall of 2008 and 2009 that all the benefits customers received when prices were rising have been wiped out by utility hedging practices. FIPUG is concerned about billion dollar hedging losses but must continue to rely heavily on the Commission staff to protect consumer interest in connection with the derivative commodities markets because all of the utility hedging practices are deemed to be trade secrets unavailable to the general public.

FRF: The investor-owned electric utilities bear the burden of proving the reasonableness and prudence of their expenditures for which they seek recovery through their Fuel and Purchased Power Cost Recovery Charges.

The FRF agrees with FIPUG that if the Commission were to grant base rate and cost recovery increases sought in other dockets, which the FRF opposes, such increases would take effect early in 2010. The fuel cost reductions are welcome, but will mislead customers by giving the wrong impression that customers' bills are not dramatically affected by rate increases in other dockets. Should minimal or no base rate increases be authorized, ratepayers would realize the full beneficial impact of the projected fuel price decreases. Real power bill reductions will enable customers to retain funds that can be used to help weather the difficult economy confronting Florida.

OAG: None.

PCS: At this time, PCS Phosphate generally accepts and adopts the positions taken by the Florida Office of Public Counsel ("OPC") with respect to the fuel costs sought to be recovered by Progress Energy Florida ("Progress").

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

Progress Energy Florida, Inc.

ISSUE 1A: *Proposed Full Stipulation, See Section X., A.*

ISSUE 1B: *Proposed Full Stipulation, See Section X., A.*

Florida Power & Light Company

ISSUE 2A: *Proposed Full Stipulation, See Section X., A.*

ISSUE 2B: *Proposed Full Stipulation, See Section X., A.*

ISSUE 2C: With respect to the February 26, 2008 outages, should FPL or its customers be responsible for replacement power costs associated with the outages? *

* **Ruling:** *Ruling on Issue 2C, See Section XIV. Rulings.*

Florida Public Utilities Company

ISSUE 3A: Has FPU pursued all reasonable avenues to protect its ratepayers from mid-course increases in fuel and demand charges from JEA in 2009?

POSITION:

FPU: Yes. FPU retained services of consultants to review the costs of service study utilized by JEA and presented comments and objections to the JEA Board which were rejected.

OPC: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

OAG: No position.

PCS: No position.

STAFF: No position at this time.

ISSUE 3B: Should the Commission approve FPU's proposal to use a portion of storm hardening revenues to mitigate increases to customers in the Northwest Division?

POSITION:

FPU: Yes. The proposal to apply a portion of storm hardening revenue to the underrecovered fuel costs in the Northwest Division will reduce the total increase to be borne by these customers and provide them with a benefit. The option, if approved, would be for one (1) year with further evaluation.

OPC: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

OAG: No position.

PCS: No position.

STAFF: No position at this time.

ISSUE 3C: Should the Commission approve FPU's proposal to reduce the amount of fuel billed to the GSLD-1 class, and apply that amount to the fuel portion of bad debt?

POSITION:

FPU: The Fuel clause for GSLD1 customers provides for direct pass through of fuel costs. There is no over or under recovery on these customers and their fuel costs and fuel revenues have no effect on the recovery factors of the remaining customers. Based on the tariffs for this customer and the timing of the bankruptcy filing, two separate bills were required for this one GSLD1 customer. Total fuel revenues for the one month exceeded their direct portion of fuel costs. The over recovered portion of direct fuel costs on this one customer should partially offset their fuel revenues that will not be collected due to the bankruptcy. Therefore, FPU should reduce the amount of fuel revenue for the over recovered direct fuel costs for the GSLD 1 customer Smurfit. This will have no impact to the other customers in their fuel rates but will simply reduce fuel revenues for GSLD1 customers by the GSLD1 over recovered fuel revenue from this same customer. It would not be appropriate to recover the fuel portion that relates to the over recovered fuel costs through a base rate proceeding as other customers would see

a negative impact to their base rates and the company would have permanent over recovered fuel costs.

OPC: Agree with Staff.

FEA: No position.

FIPUG: No position.

FRF: Agree with Staff.

OAG: Concurs with Staff that this should be handled in a rate case instead of a fuel clause.

PCS: No position.

STAFF: This issue is not appropriate for disposition in this docket. FPU seeks commission approval to reduce excess fuel revenues billed to a GSLD-1 customer due to a bankruptcy filing, and apply the excess billed amount against a portion of the bankruptcy-related bad debt. FPU witness Young stated that the requested adjustment does not impact fuel rates for other customers since GSLD-1 customers are billed the actual costs of the purchased power used to serve them on a monthly basis. There does not appear to be any impact of the proposed adjustment other than to reduce the bankruptcy-related bad debt write-off of the GSLD-1 customer. Bad debt expense is more properly considered in a base rate case.

Gulf Power Company

ISSUE 4A: *Proposed Full Stipulation, See Section X., A.*

ISSUE 4B: *Proposed Full Stipulation, See Section X., A.*

ISSUE 4C: Should the Commission approve GULF's proposal to include the costs associated with construction and operation of the Perdido landfill Gas to Energy Facility in the fuel clause?

POSITION:

GULF: Yes. The Florida Legislature, Office of the Governor and the Florida Public Service Commission have recognized that promoting the development of renewable energy resources and increasing fuel diversity through reliance on renewable generation in Florida is in the public interest and that development of renewable generation resources should be encouraged. Gulf Power views the

Perdido project as an opportunity to further this public interest while at the same time benefiting the community and providing a reliable and economic source of generation for Gulf's customers. Gulf Power is seeking cost recovery for this project through the fuel clause based on the precedent set forth in PSC Order Number 14546 issued in Docket 850001-EI-B. In Order Number 14546, the Commission set forth its policy concerning the types of costs appropriately recovered through the fuel clause. The Commission expressly retained the flexibility to allow for recovery through the fuel clause of expenses normally recovered through base rates when the utility is in a position to take advantage of a cost-effective transaction, the costs of which were not recognized or anticipated in the level of costs used to establish the utility's base rates. Gulf Power anticipates that the Perdido project will produce fuel savings to its customers, reduce volatility of fuel costs, promote renewable generation and provide fuel diversity in the form of reduced dependence on coal and natural gas. For these reasons, Gulf is seeking the Commission's determination that the costs associated with construction and operation of the Perdido project are appropriate for recovery through the fuel clause. (Ball, Dodd)

- OPC:** No generation plant should be permitted through the fuel clause.
- FEA:** Adopts FIPUG's position.
- FIPUG:** Adopts OPC's position.
- FRF:** No position.
- OAG:** No generation plant should be permitted through the fuel clause.
- PCS:** No position.
- STAFF:** No position at this time.

Tampa Electric Company

ISSUE 5A: *Proposed Full Stipulation, See Section X., A.*

ISSUE 5B: *Proposed Full Stipulation, See Section X., A.*

GENERIC FUEL ADJUSTMENT ISSUES

ISSUE 6: *Proposed Full Stipulation, See Section X., A.*

ISSUE 7: *Proposed Full Stipulation, See Section X., A.*

ISSUE 8: What are the appropriate fuel adjustment true-up amounts for the period January 2008 through December 2008?*

** Proposed Partial Stipulation with regards to FPL, PEF, and TECO, See Section X., B.*

POSITION:

FPU: Northwest Division: \$591,984 (overrecovery)
Northeast Division: \$1,659,809 (overrecovery)

GULF: Under recovery \$48,757,977.

OPC: No position.

FEA: Adopts FIPUG's position.

FIPUG: No position with regards to FPU. Gulf's under recovery should be \$33,734,126. It has supplied no competent substantial evidence to justify selling power to its holding company at a price that was \$5.99 per Mwh less than the average cost of fuel supplied to the generators used to produce the power.

FRF: Adopts FIPUG's position.

OAG: No position.

PCS: No position.

STAFF: Staff has no position at this time with respect to GULF and FPU.

ISSUE 9: What are the appropriate fuel adjustment true-up amounts for the period January 2009 through December 2009?*

** Proposed Partial Stipulation with regards to FPL, PEF, and TECO, See Section X., B.*

FPU: Northwest Division: \$2,317,304 (underrecovery)
Northeast Division: \$2,485,067 (underrecovery)

GULF: Over recovery \$36,414,908.

OPC: No position.

FEA: Adopts FIPUG's position.

FIPUG: No position with regards to FPU. Gulf's over recovery should be \$58,262,592. It has supplied no competent substantial evidence to justify selling power to its holding company at a price that is \$11.44 per Mwh less than the average cost of fuel supplied to the generators used to produce the power.

FRF: Adopts FIPUG's position.

OAG: No position.

PCS: No position.

STAFF: Staff has no position at this time with respect to FPU and GULF.

ISSUE 10: What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2010 to December 2010?*

** Proposed Partial Stipulation with regards to FPL, PEF, and TECO, See Section X., B.*

POSITION:

FPU: Northwest Division: \$1,725,320 (underrecovery)
Northeast Division: \$825,258 (underrecovery)

GULF: Collection of \$12,343,069.

OPC: No position.

FEA: Adopts FIPUG's position.

FIPUG: No position with regards to FPL, FPU, PEF, and TECO. Gulf should refund \$24,528,461.

FRF: Adopts FIPUG's position.

OAG: No position.

PCS: No position.

STAFF: Staff has no position at this time with respect to FPU and GULF.

ISSUE 11: *Proposed Full Stipulation, See Section X., A.*

ISSUE 12: What are the appropriate projected net fuel and purchased power cost recovery and Generating Performance Incentive amounts to be included in the recovery factor for the period January 2010 through December 2010?*

** Proposed Partial Stipulation with regards to FPL, PEF, and TECO, See Section X., B.*

POSITION:

FPU: Northwest Division: \$26,064,444
Northeast Division: \$22,114,719

GULF: \$601,137,405.

OPC: No position for FPL, TECO, and PEF. No position for Gulf except to extent Issue 4C impacts the calculation. No position for FPUC except to the extent Issue 3C impacts the calculation.

FEA: Adopts FIPUG's position.

FIPUG: No position with regards to FPL, FPU, PEF, and TECO. Gulf \$553,583,557.

FRF: Adopts FIPUG's position.

OAG: No position except to the extent that 3C affects FPUG and 4C affects Gulf.

PCS: No position.

STAFF: Staff has no position at this time with respect to FPU and GULF.

ISSUE 13: What are the appropriate levelized fuel cost recovery factors for the period January 2010 through December 2010?*

** Proposed Partial Stipulation with regards to FPL, PEF, and TECO, See Section X., B.*

POSITION:

FPU: Northwest Division: 8.197¢/kwh
Northeast Division: 6.572¢/kwh

GULF: 5.348 cents/kWh.

OPC: No position for FPL, TECO, and PEF. No position for Gulf except to extent Issue 4C impacts the calculation. No position for FPUC except to the extent Issue 3C impacts the calculation.

FEA: Adopts FIPUG's position.

FIPUG: For Gulf, the 2010 fuel cost factor should be 4.9248 cents per kwh.

FRF: Adopts FIPUG's position.

OAG: No position except to the extent that 3C affects FPUG and 4C affects Gulf.

PCS: No position.

STAFF: Staff has no position at this time with respect to FPU, and GULF.

ISSUE 14: *Proposed Full Stipulation, See Section X., A.*

ISSUE 15: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?*

** Proposed Partial Stipulation with regards to FPL, PEF, and TECO, See Section X., B.*

POSITION:

FPU:

Northwest Division:

<u>Rate Schedule</u>	<u>Adjustment</u>
RS	\$.12293
GS	\$.12158
GSD	\$.11708
GSLD	\$.11285
OL, OL1	\$.09937
SL1, SL2 and SL3	\$.10018
Step Rate for RS	
RS with less than 1,000 kWh/Month	\$.11927
RS with more than 1,000 kWh/Month	\$.12927

Northeast Division:

<u>Rate Schedule</u>	<u>Adjustment</u>
RS	\$.09955
GS	\$.09735

GSD	\$.09266
GSLD	\$.09341
OL	\$.07050
SL	\$.07112
Step Rate for RS	
RS with less than 1,000 kWh/Month	\$.09615
RS with more than 1,000 kWh/Month	\$.10615

GULF: See table below:

Group	Rate Schedules*	Line Loss Multipliers	Fuel Cost Factors ¢/KWH		
			Standard	Time of Use	
				On-Peak	Off-Peak
A	RS, RSVP,GS, GSD, GSDT, GSTOU, OSIII, SBS(1)	1.00526	5.376	5.878	4.998
B	LP, LPT, SBS(2)	0.98890	5.289	5.782	4.917
C	PX, PXT, RTP, SBS(3)	0.98063	5.244	5.734	4.876
D	OSI/II	1.00529	5.219	N/A	N/A

*The recovery factor applicable to customers taking service under Rate Schedule SBS is determined as follows: (1) customers with a contract demand in the range of 100 to 499 KW will use the recovery factor applicable to Rate Schedule GSD; (2) customers with a contract demand in the range of 500 to 7,499 KW will use the recovery factor applicable to Rate Schedule LP; and (3) customers with a contract demand over 7,499 KW will use the recovery factor applicable to Rate Schedule PX.

OPC: No position for FPL, TECO, and PEF. No position for Gulf except to extent Issue 4C impacts the calculation. No position for FPUC except to the extent Issue 3C impacts the calculation.

FEA: No position.

FIPUG: No position.

FRF: Gulf's Fuel Cost Recovery Charges for specific rate classes should be set at the levels that correspond to FIPUG's proposed levelized fuel charge value of 4.9248 cents/kWh, as shown on Issue 13.

OAG: No position except to the extent that 3C affects FPUG and 4C affects Gulf.

PCS: No position.

STAFF: Staff takes no position at this time with regard to GULF and FPU.

ISSUE 16: *Proposed Full Stipulation, See Section X., A.*

COMPANY-SPECIFIC GENERATING PERFORMANCE INCENTIVE FACTOR ISSUES

Progress Energy Florida, Inc.

No company-specific issues for Progress Energy Florida, Inc. have been identified at this time. If such issues are identified, they shall be numbered 17A, 17B, 17C, and so forth, as appropriate.

Florida Power & Light Company

No company-specific issues for Florida Power & Light Company have been identified at this time. If such issues are identified, they shall be numbered 18A, 18B, 18C, and so forth, as appropriate.

Gulf Power Company

No company-specific issues for Gulf Power Company have been identified at this time. If such issues are identified, they shall be numbered 19A, 19B, 19C, and so forth, as appropriate.

Tampa Electric Company

No company-specific issues for Tampa Electric Company have been identified at this time. If such issues are identified, they shall be numbered 20A, 20B, 20C, and so forth, as appropriate.

GENERIC GENERATING PERFORMANCE INCENTIVE FACTOR ISSUES

ISSUE 21: *Proposed Full Stipulation, See Section X., A.*

ISSUE 22: *Proposed Full Stipulation, See Section X., A.*

COMPANY-SPECIFIC CAPACITY COST RECOVERY FACTOR ISSUES

Progress Energy Florida, Inc.

ISSUE 23A: Has PEF included in the capacity cost recovery clause, the nuclear cost recovery amount ordered by the Commission in Docket No. 090009-EI?

POSITION:

PEF: Yes. PEF has included \$207,056,700 (including revenue tax) in its 2010 capacity cost recovery factors.

OPC: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

OAG: No position.

PCS: No position.

STAFF: Staff agrees with PEF.

Florida Power & Light Company

ISSUE 24A: Has FPL included in the capacity cost recovery clause, the nuclear cost recovery amount ordered by the Commission in Docket No. 090009-EI?

POSITION:

FPL: Yes. FPL has included \$ 62,676,366 in its 2010 capacity cost recovery clause factors.

OPC: No position.
FEA: No position.
FIPUG: No position.
FRF: No position.
OAG: No position.
PCS: No position.
STAFF: Staff agrees with FPL.

Gulf Power Company

No company-specific issues for Gulf Power Company have been identified at this time. If such issues are identified, they shall be numbered 25A, 25B, 25C, and so forth, as appropriate.

Tampa Electric Company

No company-specific issues for Tampa Electric Company have been identified at this time. If such issues are identified, they shall be numbered 26A, 26B, 26C, and so forth, as appropriate.

GENERIC CAPACITY COST RECOVERY FACTOR ISSUES

ISSUE 27: *Proposed Full Stipulation, See Section X., A.*

ISSUE 28: What are the appropriate capacity cost recovery true-up amounts for the period January 2009 through December 2009?*

** Proposed Partial Stipulation with regards to GULF and TECO, See Section X., B.*

POSITION:

FPL: \$56,156,955 under-recovery (\$55,988,146 under-recovery, plus the Turkey Point Unit 5 GBRA true-up adjustment of \$168,809 that will be subject to audit).

PEF: \$59,791,815 under-recovery.

OPC: No position.
FEA: No position.
FIPUG: No position.
FRF: No position.
OAG: No position.
PCS: No position.
STAFF: Staff agrees with FPL and PEF.

ISSUE 29: *Intentionally left blank.*

ISSUE 30: What are the appropriate total capacity cost recovery true-up amounts to be collected/refunded during the period January 2010 through December 2010?*

** Proposed Partial Stipulation with regards to GULF and TECO, See Section X., B.*

POSITION:

FPL: \$71,077,044 under-recovery.
PEF: \$57,262,162 under-recovery.
OPC: No position.
FEA: No position.
FIPUG: No position.
FRF: No position.
OAG: No position.
PCS: No position.
STAFF: Staff agrees with FPL and PEF.

ISSUE 31: What are the appropriate projected net purchased power capacity cost recovery amounts to be included in the recovery factor for the period January 2010 through December 2010?*

** Proposed Partial Stipulation with regards to GULF and TECO, See Section X., B.*

POSITION:

FPL: \$576,771,931, including prior period true-ups and revenues taxes.

PEF: \$604,487,612.

OPC: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

OAG: No position.

PCS: No position.

STAFF: Staff agrees with FPL and PEF.

ISSUE 32: What are the appropriate jurisdictional separation factors for capacity revenues and costs to be included in the recovery factor for the period January 2010 through December 2010?*

** Proposed Partial Stipulation with regards to GULF and TECO, See Section X., B.*

POSITION:

FPL: The appropriate jurisdictional separation factors are:

FPSC 99.09578%

FERC 0.90422%

PEF: Base-91.669%, Intermediate-59.352%, Peaking-91.716%.

OPC: No position.

FEA: No position.

FIPUG: No position.
FRF: No position.
OAG: No position.
PCS: No position.
STAFF: Staff agrees with FPL and PEF.

ISSUE 33: What are the appropriate capacity cost recovery factors for the period January 2010 through December 2010?*

** Proposed Partial Stipulation with regards to GULF and TECO, See Section X., B.*

POSITION:

FPL:

Rate Schedule	Capacity Recovery Factor (\$/kw)	Capacity Recovery Factor (\$/kwh)
RS1/RST1	-	.00621
GS1/GST1/WIES1	-	.00612
GSD1/GSDT1/HLFT1(21-499 kW)	1.93	-
OS2	-	.00642
GSLD1/GSLDT1/CS1/CST1/HLFT2(500-1,999 kW)	2.31	-
GSLD2/GSLDT2/CS2/CST2/HLFT3(2,000+ kW)	2.21	-
GSLD3/GSLDT3/CS3/CST3	2.08	-
CILC D/CILC G	2.37	-
CILC T	2.25	-
MET	2.46	-
OL1/SL1/PL1	-	0.00149
SL2/ GSCU1	-	0.00414

RATE CLASS	CAPACITY RECOVERY FACTOR (RESERVATION DEMAND CHARGE) (\$/KW)	CAPACITY RECOVERY FACTOR (SUM OF DAILY DEMAND CHARGE) (\$/KW)
ISST1D	.28	.14
ISST1T	.28	.13
SST1T	.28	.13
SST1D1/SST1D2 /SST1D3	.28	.14

PEF: Using 12CP and 1/13AD method, the cost recovery factors are as follows:

<u>Rate Class</u>	<u>CCR Factor</u>
Residential	2.041 cents/kWh
General Service Non-Demand	1.488 cents/kWh
@ Primary Voltage	1.473 cents/kWh
@ Transmission Voltage	1.458 cents/kWh
General Service 100% Load Factor	1.074 cents/kWh
General Service Demand	1.326 cents/kWh
@ Primary Voltage	1.313 cents/kWh
@ Transmission Voltage	1.299 cents/kWh
Curtaillable	1.170 cents/kWh
@ Primary Voltage	1.158 cents/kWh
@ Transmission Voltage	1.147 cents/kWh
Interruptible	1.069 cents/kWh
@ Primary Voltage	1.058 cents/kWh
@ Transmission Voltage	1.048 cents/kWh
Lighting	0.312 cents/kWh

OPC: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

OAG: No position.

PCS: No position.

STAFF: Staff agrees with FPL and PEF.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
			<u>Direct</u>
G. Yupp	FPL	GJY-1	2008 Hedging Activity Report
G. Yupp	FPL	GJY-2	Hedging Information Report
G. Yupp	FPL	GJY-3	Fuel Cost Recovery Forecast Assumptions
G. Yupp	FPL	GJY-4	2010 Risk Management Plan
G. Yupp	FPL	GJY-5	Confidential: 2010 Risk Management Plan
G. Yupp	FPL	GJY-6	Confidential: 2008 Hedging Activity Report
G. Yupp	FPL	GJY-7	Confidential: Hedging Information Report
T. J. Keith	FPL	TJK-1	Fuel Cost Recovery Final True-Up for January, 2008 through December, 2008
T. J. Keith	FPL	TJK-2	Capacity Cost Recovery Final True-Up for January, 2008 through December, 2008
T. J. Keith	FPL	TJK-3	Fuel Estimated/Actual True-Up January, 2009 through December, 2009

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
T. J. Keith	FPL	TJK-4	Capacity Estimated/Actual True-Up January, 2009 through December, 2009
G. Yupp J.A. Stall T.J. Keith	FPL	TJK-5	Levelized Fuel Cost Recovery Factors for January, 2010 through December, 2010
T.J. Keith	FPL	TJK-6	Capacity Cost Recovery Factors for January, 2010 through December, 2010
T.J. Keith	FPL	TJK-7	Revised Projected Capacity Payments, January 2010 through December 2010
R. R. Kennedy	FPL	RRK-1	Generating Performance Incentive Factor Performance Results for January, 2008 through December, 2008
R. R. Kennedy	FPL	RRK-2	Generating Performance Incentive Factor January, 2010 through December, 2010
Curtis D. Young (adopting the exhibits of April Lundgren	FPU	AML-1 (Composite)	Schedules M1, F1, and E1-B (for the Northwest and Northeast Divisions)
Curtis D. Young	FPU	CDY-1 (Composite)	Schedules E1-A, E1-B, and E1-B1 (for the Marianna and Fernandina Beach Divisions) Exhibit 1 Smurfit Stone bankruptcy information
Curtis D. Young	FPU	CDY-2 (Composite)	Revised Schedules E1-A, E1-B and E1-B1 for the Marianna Division
Mark Cutshaw	FPU	MC-1 (Composite)	Schedules E1, E1-A, E2, E7, E8, E10, and F1 (Northeast Division) (mid-course)
Mark Cutshaw	FPU	MC-2 (Composite)	Schedules E1, E1-A, E2, E7, E8, E10, F1 (Northeast Division)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Mark Cutshaw	FPU	MC-3 (Composite)	Schedules E1, E1-A, E2, E7, E8, E10, F1 (Northeast Division)
Curtis D. Young/ Mark Cutshaw	FPU	MC-4 (Revised) (Composite)	Schedules E1, E1-A, E2, E7, (Composite) and E10 for the Marianna Division and Schedules E1, E1-A, E2, E7, E8 and E10 for the Fernandina Beach Division (contains confidential material) (Revised)
Curtis D. Young/ Mark Cutshaw	FPU	MC-5 (Composite)	Schedules E1, E1-A, E2, E7, and E10 for the Marianna Division (contains confidential material)
Ball	GULF	HRB-1	Coal Suppliers, Natural Gas Price Variance, hedging Effectiveness, and Hedging Transactions August 2008 – December 2008
Ball	GULF	HRB-2	Projected vs. Actual Fuel Cost of Net Generation December 1999-December 2008
Ball	GULF	HRB-3	Hedging Information Report January 2009 – July 2009
Ball	GULF	HRB-4	Risk management Plan for Fuel Procurement for 2010
Ball	GULF	HRB-5	Perdido Landfill Gas to Energy Project Description
Dodd	GULF	RWD-1	Calculation of Final True-Up and A-Schedules January 2008 – December 2008
Dodd	GULF	RWD-2	Estimated True Up January 2009 - December 2009
Dodd	GULF	RWD-3	Projection January 2010 – December 2010

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Dodd	GULF	RWD-3 (Revised)	Projection January 2010 – December 2010 (Revised)
Young	GULF	MAY-1	Gulf Power Company GPIF Results January 2008 – December 2008
Young	GULF	MAY-2	Gulf Power Company GPIF Targets and Ranges January 2010 – December 2010
Garrett	PEF	WG-1T	Fuel Cost Recovery True-Up (Jan-Dec. 2008)
Garrett	PEF	WG-2T	Capacity Cost Recovery True- Up (Jan-Dec. 2008)
Garrett	PEF	WG-3T	Schedules A1 through A3, A6 and A12 for Dec 2008
Olivier	PEF	MO-1	Estimated/Actual true-up Schedules for period January- December 2009
Olivier	PEF	MO-2	Projection factors for January to December 2010 (includes revised schedules)
McCallister	PEF	JM-1T	Summarized Hedging Information (2002-2008)
McCallister	PEF	JM-1P	2010 Risk Management Plan
McCallister	PEF	JM-2P	Hedging Report (January-July 2009)
Oliver	PEF	RMO-1T	GPIF Reward/Penalty Schedules for 2008
Oliver	PEF	RMO-1P	GPIF Targets/Ranges Schedules (for Jan-Dec. 2010)
Carlos Aldazabal	TECO	CA-1 (Composite)	Fuel and Capacity Cost Recovery January 2008 - December 2008

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Carlos Aldazabal	TECO	CA-2 (Composite)	Fuel and Capacity Cost Recovery, Actual and Estimated January 2009 - December 2009
Carlos Aldazabal	TECO	CA-3 (Composite)	Fuel and Capacity Cost Recovery, Projected January 2010 - December 2010, and Levelized and Tiered Fuel Rate
Brian S. Buckley	TECO	BSB-1	Generating Performance Incentive Factor Results January 2008- December 2008
Brian S. Buckley	TECO	BSB-2	Generating Performance Incentive Factor Estimated January 2010 – December 2010
Joann T. Wehle	TECO	JTW-1	2008 Waterborne Transportation Cost Adjustment
Joann T. Wehle	TECO	JTW-2 (Composite)	Redacted - TECO’s Risk Management Report for 2008 (filed April 3, 2009) and Risk Management Plans 2009 (filed September 2, 2008) and 2010 (filed August 4, 2009) - TECO’s Gas Management Activities - January through July, 2009 (filed August 14, 2009) (Hedging)
Joann T. Wehle	TECO	JTW-3 (Confidential Composite)	Confidential - TECO’s Risk Management Report for 2008 (filed April 3, 2009) and Risk Management Plans 2009 (filed September 2, 2008) and 2010 (filed August 4, 2009) - TECO’s Gas Management Activities - January through July, 2009 (filed August 14, 2009) (Hedging)
Tomer Kopelovich	STAFF	TK-1	Audit Report 2009 Hedging Activities (TECO)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Ronald A. Mavrides	STAFF	RAM-1	Audit Report 2009 Hedging Activities (PEF)

Rebuttal

<u>Name</u>	<u>Utility/Staff</u>		
Joseph McCallister	PEF	JM-1R	2009/2009 Forecasted and Actual Burn natural Gas Data
Joseph McCallister	PEF	JM-2R	2009 Forecasted and Actual Burn Light Oil Data
Joseph McCallister	PEF	JM-3R	2008 Forecasted and Actual Burn Heavy Oil Data

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

X. PROPOSED STIPULATIONS

As reference in Section VIII, above, the parties have reached full or partial stipulations on the issues described below.

A. The following *fully stipulated issues* reflect agreement among each investor-owned utility and Staff, with all other parties taking no position on the issue:

ISSUE 1A: Should the Commission approve as prudent, PEF's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices, as reported in PEF's April 2009 and August 2009 hedging reports?

Stipulation: *Yes. PEF's actions to mitigate the price volatility of natural gas, residual oil and purchased power prices were reasonable and prudent. Staff's discovery showed that PEF entered into hedge positions at market prices.*

ISSUE 1B: Should the Commission approve PEF's 2010 Risk Management Plan?

Stipulation: *Yes. PEF's Risk Management Plan is consistent with the Hedging Guidelines. Staff's Hedging Activities Audit identified that, for the period August 1, 2008 to July 31, 2009, PEF exceeded the percentage range of volumes of natural gas and heavy fuel oil to be hedged as prescribed in the Risk Management Plan. PEF provided information showing that the reason the volumes hedged were above the*

range was due to lower generation requirements. The percentages hedged based on actual volumes burned remained below 100%.

Florida Power & Light Company

ISSUE 2A: Should the Commission approve as prudent, FPL's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices, as reported in FPL's April 2009 and August 2009 hedging reports?

Stipulation: *Yes. FPL's actions to mitigate the price volatility of natural gas, residual oil and purchased power prices were reasonable and prudent. Staff's discovery showed that FPL entered into hedge positions at market prices.*

Staff's discovery for this issue showed that FPL had swap contracts with Lehman Brothers Commodity Services, Inc. (LBCS), which declared bankruptcy on October 3, 2008. FPL terminated its hedging activities with LBCS. FPL provided information demonstrating that this bankruptcy did not result in a material effect on fuel costs.

ISSUE 2B: Should the Commission approve FPL's 2010 Risk Management Plan?

Stipulation: *Yes. FPL's Risk Management Plan is consistent with the Hedging Guidelines.*

Florida Public Utilities Company

Issues 3A-3C: *No Stipulation at this time.*

Gulf Power Company

ISSUE 4A: Should the Commission approve as prudent, GULF's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices, as reported in GULF's April 2009 and August 2009 hedging reports?

Stipulation: *Yes. GULF's actions to mitigate the price volatility of natural gas were reasonable and prudent. Staff's discovery showed that GULF entered into hedge positions at market prices.*

ISSUE 4B: Should the Commission approve GULF's 2010 Risk Management Plan?

Stipulation: *Yes. GULF's Risk Management Plan is consistent with the Hedging Guidelines.*

Issue 4C: *No Stipulation at this time.*

Tampa Electric Company

ISSUE 5A: Should the Commission approve as prudent, TECO's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices, as reported in TECO's April 2009 and August 2009 hedging reports?

Stipulation: *Yes. TECO's actions to mitigate the price volatility of natural gas and purchased power prices were reasonable and prudent. Staff's discovery showed that TECO entered into hedge positions at market prices.*

Staff's discovery for this issue showed that TECO had swap contracts with Lehman Brothers Commodity Services, Inc. (LBCS), which declared bankruptcy on October 3, 2008. TECO terminated its hedging activities with LBCS. TECO provided information demonstrating that this bankruptcy did not result in a material effect on fuel costs.

ISSUE 5B: Should the Commission approve TECO's 2010 Risk Management Plan?

Stipulation: *Yes. TECO's Risk Management Plan is consistent with the Hedging Guidelines. Staff's Hedging Activities Audit identified that, for the period August 1, 2008 to July 31, 2009, TECO exceeded the percentage range of volumes of natural gas to be hedged as prescribed in the Risk Management Plan. TECO provided information showing that the reason the volume hedged was above the range was due to lower generation requirements. The percentage hedged based on actual volumes burned remained below 100%.*

GENERIC FUEL ADJUSTMENT ISSUES

ISSUE 6: What are the appropriate actual benchmark levels for calendar year 2009 for gains on non-separated wholesale energy sales eligible for a shareholder incentive?

Stipulation: *Staff agrees with the actual benchmark levels provided by FPL, GULF, PEF, and TECO, respectively. (See below).*

FPL: \$18,328,381

GULF: \$2,416,709.

PEF: \$1,875,691.

TECO: \$1,077,446.

ISSUE 7: What are the appropriate estimated benchmark levels for calendar year 2010 for gains on non-separated wholesale energy sales eligible for a shareholder incentive?

Stipulation: *Staff agrees with the estimated benchmark levels provided by FPL, GULF, PEF, and TECO, respectively, subject to adjustments in the 2009 final true-up. (See below).*

FPL: \$16,160,850 subject to adjustments in the 2009 final true-up filing to include all actual data for the year 2009.

GULF: \$1,542,406.

PEF: \$1,663,602.

TECO: \$1,846,336.

ISSUE 11: What is the appropriate revenue tax factor to be applied in calculating each investor-owned electric utility's levelized fuel factor for the projection period January 2010 through December 2010?

Stipulation: *Staff agrees with the utilities. (See below).*

FPL: 1.00072.

FPU: Northwest Division: 1.00072
Northeast Division: 1.00072

GULF: 1.00072.

PEF: 1.00072.

TECO: *The appropriate revenue tax factor is 1.00072.*

ISSUE 14: What are the appropriate fuel recovery line loss multipliers to be used in calculating the fuel cost recovery factors charged to each rate class/delivery voltage level class?

Stipulation: *Staff agrees with the utilities.*

FPL: *The appropriate Fuel Cost Recovery Loss Multipliers are provided in response to Issue No. 15.*

FPU: *Northwest Division: 1,0000 All Rate Schedules
 Northeast Division: 1.0000 All Rate Schedules*

GULF: *See table below:*

Group	Rate Schedules	Line Loss Multipliers
A	RS, RSVP, GS, GSD, GSDT, GSTOU, OSIII, SBS(1)	1.00526
B	LP, LPT, SBS(2)	0.98890
C	PX, PXT, RTP, SBS(3)	0.98063
D	OSI/II	1.00529
(1) Includes SBS customers with a contract demand in the range of 100 to 499 KW		
(2) Includes SBS customers with a contract demand in the range of 500 to 7,499 KW		
(3) Includes SBS customers with a contract demand over 7,499 KW		

PEF:

Group	Delivery Voltage Level	Line Loss Multiplier
A.	Transmission	0.9800
B.	Distribution Primary	0.9900
C.	Distribution Secondary	1.0000
D.	Lighting Service	1.0000

TECO: *The appropriate fuel recovery line loss multipliers are as follows:*

<u>Metering Voltage Schedule</u>	<u>Line Loss Multiplier</u>
Distribution Secondary	1.0000
Distribution Primary	0.9900
Transmission	0.9800
Lighting Service	1.0000

ISSUE 16: What should be the effective date of the fuel adjustment charge and capacity cost recovery charge for billing purposes?

Stipulation: *The new fuel and capacity factors should be effective beginning with the first billing cycle for January 2010 and thereafter through the last billing cycle for December 2010. The first billing cycle may start before January 1, 2010, and the last cycle may be read after December 31, 2010, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.*

GENERIC GENERATING PERFORMANCE INCENTIVE FACTOR ISSUES

ISSUE 21: What is the appropriate generation performance incentive factor (GPIF) reward or penalty for performance achieved during the period January 2008 through December 2008 for each investor-owned electric utility subject to the GPIF?

Stipulation: *Staff agrees with the utilities.*

FPL: *\$11,464,340 reward.*

GULF: *\$113,177 reward.*

PEF: *\$531,150 penalty.*

TECO: *A reward in the amount of \$1,239,000 .*

ISSUE 22: What should the GPIF targets/ranges be for the period January 2010 through December 2010 for each investor-owned electric utility subject to the GPIF?

Stipulation: *Staff agrees with the utilities. (See below).*

FPL: *The targets and ranges should be as set forth in the Testimony and Exhibits of R. Kennedy including the following:*

PLANT/UNIT	EAF TARGET (%)	HEAT RATE HR. TARGET (BTU/KWH)
Ft. MYERS 2	92.7	6,952
MARTIN 8	85.5	6,826
MANATEE 3	94.3	6,750
SANFORD 4	89.7	6,968
SANFORD 5	88.2	6,969
SCHERER 4	74.4	10,151
ST. LUCIE 1	81.3	10,868

ST. LUCIE 2	76.7	11,207
TURKEY POINT 3	82.3	11,474
TURKEY POINT 4	93.6	11,470

GULF: See table below:

Unit	EAF	POF	EUOF	Heat Rate
Crist 4	89.4	8.2	2.4	10,837
Crist 5	96.3	0.0	3.7	10,777
Crist 6	92.5	0.0	7.5	10,910
Crist 7	87.6	0.0	12.4	10,656
Smith 1	95.8	0.0	4.2	10,300
Smith 2	89.9	6.3	3.8	10,345
Daniel 1	77.7	17.2	5.0	10,415 ⁽¹⁾
Daniel 2	87.8	5.8	6.4	10,231
<p>(1) Gulf has revised the target heat rate for Daniel 1 to reflect the appropriate level of rounding precision. Note: the value contained in Gulf's petition was 10,414.</p> <p>EAF = Equivalent Availability Factor (%) POF = Planned Outage Factor (%) EUOF = Equivalent Unplanned Outage Factor (%)</p>				

PEF: The appropriate targets and ranges are shown on Page 4 of Exhibit RMO-1P filed on September 14, 2009, with the Direct Testimony of Robert M. Oliver.

TECO: The appropriate targets and ranges are shown in Exhibit No. ____ (BSB-2) to the prefiled testimony of Mr. Brian S. Buckley. Targets and ranges should be set according to the prescribed GPIF methodology established in 1981 by Commission Order No. 9558 in Docket No. 800400-CI and later modified in 2006 after meeting with Staff and intervening parties at the request of the Commission.

GENERIC CAPACITY COST RECOVERY FACTOR ISSUES

ISSUE 27: What are the appropriate capacity cost recovery true-up amounts for the period January 2008 through December 2008?

Stipulation: *Staff agrees with the PEF, TECO, FPL and GULF.*

FPL: \$14,920,089 under-recovery.

GULF: Over recovery of \$680,158.

PEF: \$2,529,653 over-recovery.

TECO: \$8,525,166 under-recovery.

B. The following *partially stipulated issues* reflect agreement between some investor-owned utilities and Staff, with all other parties taking no position on the issue; the *non-stipulated issues* remain in Section VIII above:

ISSUE 8: What are the appropriate fuel adjustment true-up amounts for the period January 2008 through December 2008?*

* *No stipulation at this time with respect to FPU, See Section VIII, above.*

Partial Stipulation: *Staff agrees with FPL, PEF, and TECO, provided that the amount at issue in 2C for FPL shall be held subject to refund. (See below).*

FPL: \$79,321,012 under-recovery.

PEF: \$870,658 over-recovery.

TECO: \$35,402,527 over-recovery.

ISSUE 9: What are the appropriate fuel adjustment true-up amounts for the period January 2009 through December 2009?*

* *No stipulation at this time with respect to FPU and GULF, See Section VIII, above.*

Partial

Stipulation: *Staff agrees with FPL, PEF, and TECO, provided that the amount at issue in 2C for FPL shall be held subject to refund. (See below).*

FPL: *\$444,164,222 over-recovery.*

PEF: *\$13,385,074 over-recovery.*

TECO: *\$45,016,696 over-recovery.*

ISSUE 10: *What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2010 to December 2010?**

** No stipulation at this time with respect to FPU and GULF, See Section VIII, above.*

Partial

Stipulation: *Staff agrees with FPL, PEF, and TECO, provided that the amount at issue in 2C for FPL shall be held subject to refund. (See below).*

FPL: *\$364,843,209 over-recovery.*

PEF: *\$14,255,732 over-recovery.*

TECO: *\$45,016,697 over-recovery.*

ISSUE 12: *What are the appropriate projected net fuel and purchased power cost recovery and Generating Performance Incentive amounts to be included in the recovery factor for the period January 2010 through December 2010?**

** No stipulation at this time with respect to FPU and GULF, See Section VIII, above.*

Partial

Stipulation: *Staff agrees with FPL, PEF, and TECO, provided that the amount at issue in 2C for FPL shall be held subject to refund. (See below).*

FPL: *\$3,851,847,567 including prior period true-ups and revenue taxes. (KEITH)*

PEF: *\$1,787,669,943.*

TECO: *The projected net fuel and purchased power cost recovery amount to be included in the recovery factor for the period January 2010 through December 2010, adjusted by the jurisdictional separation factor, is \$907,801,607. The total*

recoverable fuel and purchased power cost recovery amount to be collected, including the true-up and GPIF and adjusted for the revenue tax factor, is \$864,645,124.

ISSUE 13: What are the appropriate levelized fuel cost recovery factors for the period January 2010 through December 2010?*

** No stipulation at this time with respect to FPU and GULF, See Section VIII, above.*

Partial

Stipulation: *Staff agrees with FPL, PEF, and TECO's revised position, provided that the amount at issue in 2C for FPL shall be held subject to refund. (See below).*

FPL: *3.813 cents/kWh*

PEF: *4.917 cents per kWh (adjusted for jurisdictional losses).*

TECO: *The appropriate factor is 4.509 cents per kWh before any application of time of use multipliers for on-peak or off-peak usage.*

ISSUE 15: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?*

** No stipulation at this time with respect to FPU and GULF, See Section VIII, above.*

Partial

Stipulation: *Staff agrees with FPL, PEF, and TECO, noting that the amount at issue in 2C for FPL shall be held subject to refund.*

FPL:

FLORIDA POWER & LIGHT COMPANY

FUEL RECOVERY FACTORS – BY RATE GROUP
(ADJUSTED FOR LINE/TRANSFORMATION LOSSES)

JANUARY 2010 – DECEMBER 2010

(1) Group	(2) Rate Schedule	(3) Average Factor	(4) Fuel Recovery Loss Multiplier	(5) Fuel Recovery Factor
A	RS-1 first 1,000 kWh	3.813	1.00171	3.496
	all additional kWh	3.813	1.00171	4.496
A	GS-1, SL-2, GSCU-1, WIES-1	3.813	1.00171	3.819

(1) Group	(2) Rate Schedule	(3) Average Factor	(4) Fuel Recovery Loss Multiplier	(5) Fuel Recovery Factor
A-1*	SL-1, OL-1, PL-1	3.704	1.00171	3.710
B	GSD-1	3.813	1.00166	3.819
C	GSLD-1 & CS-1	3.813	1.00078	3.816
D	GSLD-2, CS-2, OS-2, & MET	3.813	0.99330	3.787
E	GSLD-3 & CS-3	3.813	0.95872	3.655
A	RST-1, GST-1, ON-PEAK OFF PEAK	4.305 3.590	1.00171 1.00171	4.312 3.596
B	GSDT-1, CILC-1(G), ON-PEAK HLFT-1 (21-499kW) OFF-PEAK	4.305 3.590	1.00165 1.00165	4.312 3.596
C	GSLDT-1, CST-1 ON-PEAK HLFT-2 (500-1,999 kW) OFF-PEAK	4.305 3.590	1.00087 1.00087	4.309 3.593
D	GSLDT-2, CST-2 ON-PEAK HLFT-3 (2,000+) OFF-PEAK	4.305 3.590	0.99449 0.99449	4.281 3.570
E	GSLDT-3, CST-3, ON-PEAK CILC-1(T) OFF-PEAK & ISST-1(T)	4.305 3.590	0.95872 0.95872	4.127 3.442
F	CILC-1(D) & ON-PEAK ISST-1(D) OFF-PEAK	4.305 3.590	0.99371 0.99371	4.278 3.567

*WEIGHTED AVERAGE 16% ON-PEAK AND 84% OFF-PEAK

FLORIDA POWER & LIGHT COMPANY

DETERMINATION OF SEASONAL DEMAND TIME OF USE RIDER (SDTR)
FUEL RECOVERY FACTORS

ON PEAK: JUNE 2010 THROUGH SEPTEMBER 2010 – WEEKDAYS 3:00 PM TO 6:00 PM
OFF PEAK: ALL OTHER HOURS

(1) Group	(2) Otherwise Applicable Rate Schedule	(3) Average Factor	(4) Fuel Recovery Loss Multiplier	(5) SDTR Fuel Recovery Factor
B	GSD(T)-1 On-Peak	4.395	1.00166	4.402
	Off-Peak	3.628	1.00166	3.634
C	GSLD(T)-1 On-Peak	4.395	1.00085	4.399
	Off-Peak	3.628	1.00085	3.631
D	GSLD(T)-2 On-Peak	4.395	0.99508	4.373
	Off-Peak	3.628	0.99508	3.610

Note: All other months served under the otherwise applicable rate schedule.

PEF:

Fuel Cost Factors (cents/kWh)						
Group	Delivery Voltage Level	First Tier Factor	Second Tier Factors	Levelized Factors	Time of Use	
					On-Peak	Off-Peak
A	Transmission	--	--	4.825	6.929	3.812
B	Distribution Primary	--	--	4.874	6.999	3.850
C	Distribution Secondary	4.611	5.611	4.923	7.069	3.889
D	Lighting	--	--	4.484	--	--

TECO: *The appropriate factors are as follows:*

<u>Metering Voltage Level</u>	<u>Fuel Charge Factor (cents per kWh)</u>	
Secondary	4.517	
Tier I (Up to 1,000 kWh)	4.167	
Tier II (Over 1,000 kWh)	5.167	
Distribution Primary	4.472	
Transmission	4.427	
Lighting Service	4.383	
Distribution Secondary	5.407	(on-peak)
	4.173	(off-peak)
Distribution Primary	5.353	(on-peak)
	4.131	(off-peak)
Transmission	5.299	(on-peak)
	4.090	(off-peak)

ISSUE 28: What are the appropriate capacity cost recovery true-up amounts for the period January 2009 through December 2009?*

* *No stipulation at this time with respect to FPL and PEF, See Section VIII, above.*

Partial

Stipulation: *Staff agrees with GULF and TECO. (See below).*

GULF: *Under recovery of \$1,787,568.*

TECO: *\$20,092,934 under-recovery.*

ISSUE 29: *Intentionally blank*

ISSUE 30: What are the appropriate total capacity cost recovery true-up amounts to be collected/refunded during the period January 2010 through December 2010?*

** No stipulation at this time with respect to FPL and PEF, See Section VIII, above.*

Partial

Stipulation: *Staff agrees with GULF and TECO. (See below).*

GULF: *Collection of \$1,107,410.*

TECO: *\$28,618,100 under-recovery.*

ISSUE 31: What are the appropriate projected net purchased power capacity cost recovery amounts to be included in the recovery factor for the period January 2010 through December 2010?*

** No stipulation at this time with respect to FPL and PEF, See Section VIII, above.*

Partial

Stipulation: *Staff agrees with GULF and TECO. (See below).*

GULF: *\$48,127,856.*

TECO: *The purchased power capacity cost recovery amount to be included in the recovery factor for the period January 2010 through December 2010, adjusted by the jurisdictional separation factor, is \$61,632,996. The total recoverable capacity cost recovery amount to be collected, including the true-up amount and adjusted for the revenue tax factor, is \$90,316,077.*

ISSUE 32: What are the appropriate jurisdictional separation factors for capacity revenues and costs to be included in the recovery factor for the period January 2010 through December 2010?*

** No stipulation at this time with respect to FPL and PEF, See Section VIII, above.*

Partial

Stipulation: *Staff agrees with GULF and TECO. (See below).*

GULF: *96.42160%.*

TECO: *The appropriate jurisdictional separation factor is 0.9639735.*

ISSUE 33: What are the appropriate capacity cost recovery factors for the period January 2010 through December 2010?*

* No stipulation at this time with respect to FPL and PEF, See Section VIII, above.

Partial

Stipulation: Staff agrees with GULF and TECO. (See below).

GULF: See table below:

RATE CLASS	CAPACITY COST RECOVERY FACTORS ¢/KWH
RS, RSVP	0.502
GS	0.460
GSD, GSDT, GSTOU	0.392
LP, LPT	0.339
PX, PXT, RTP, SBS	0.284
OS-I/II	0.118
OSIII	0.306

TECO: The appropriate factors for January 2010 through December 2010 are as follows:

<u>Rate Class and Metering Voltage</u>	<u>Capacity Cost Recovery Factor</u>	
	<u>Cents per kWh</u>	<u>Dollars per kW</u>
RS Secondary	0.539	
GS and TS Secondary	0.526	
GSD, SBF Standard Secondary		1.74
Primary		1.72
Transmission		1.71
GSD Optional Secondary	0.419	
Primary	0.414	
IS, SBI Primary		1.55
Transmission		1.54
LS1 Secondary	0.158	

XI. PENDING MOTIONS

FPL: Motion for Temporary Protective Order dated March 11, 2009 to exempt from Section 119.07(1) confidential information contained in certain FPL documents responsive to OPC's Second Request for PODs No. 6.

Motion for Temporary Protective Order to protect the hedging plan dated August 14, 2009 (DN 08006-09).

Motion for Temporary Protective Order dated September 28, 2009 to exempt from Section 119.07(1) certain confidential information included in FPL's response to Staff's Fifth Set of Interrogatories No. 48.

XII. PENDING CONFIDENTIALITY MATTERS

FPL: Florida Power & Light Company's 1st Request for Extension of Confidential Classification of information provided pursuant to Staff's 8th Set of Interrogatories Nos. 70-76, DN 10039-06, dated January 23, 2009.

Florida Power & Light Company's Request for Confidential Classification of short term capacity payment information, DN 01913-09, dated March 9, 2009.

Florida Power & Light Company's Request for Confidential Classification of Information provided in response to Staff's 3rd Request for PODs, DN 02734-09, dated March 27, 2009.

Florida Power & Light Company's Request for Confidential Classification of fuel hedging information, DN 02948-09, dated April 3, 2009.

Florida Power & Light Company's 2nd Request for Extension of Confidential Classification of materials provided pursuant to Audit No. 05-031-4-1, Confidential DNs 03798-05, 03799-05, and 04083-05, dated April 29, 2009.

Florida Power & Light Company's 3rd Request for Extension of Confidential Classification of materials provided pursuant to Audit No. 02-044-4-1, for DNs 06362-02 and 06955-02, dated May 8, 2009.

Florida Power & Light Company's 2nd Request for Extension of Confidential Classification of materials provided pursuant to Audit No. 05-028-4-1, for DNs 04671-05, 04672-05, and 04864-05, dated May 28, 2009.

Florida Power & Light Company's 1st Request for Extension of Confidential Classification of materials provided pursuant to Audit No. 06-046-4-1, for DNs 04323-06, 04324-06, and 04629-06, dated May 28, 2009.

Florida Power & Light Company's 1st Request for Extension of Confidential classification of materials provided pursuant to Audit No. 06-045-4-1, for DNs 03638-06 and 04040-06, dated May 28, 2009.

Florida Power & Light Company's Request for Confidential Classification of information provided in DN 05482-09, pursuant to Audit Control No. 09-041-4-3, dated June 2, 2009.

Florida Power & Light Company's Request for Confidential Classification of information provided in DN 05485-09, pursuant to Audit Control No. 09-041-4-4, dated June 2, 2009.

Florida Power & Light Company's Supplement to Request for Confidential Classification of information provided pursuant to mid-course correction data Request Nos. 16 and 19, DNs 05113-08 and 05812-08, dated July 13, 2009.

Florida Power & Light Company's Request for Confidential Classification of certain information on 2010 risk management plan, of DN 08006-09, dated August 4, 2009.

Florida Power & Light Company's Request for Confidential Classification of certain information contained in the fuel hedging information report (Exhibit GJY-2), DN 08530-09, dated August 17, 2009.

Florida Power & Light Company's Request for Confidential Classification of short term capacity payment information provided in Schedule E12, of DN 08717-09, dated August 20, 2009.

Florida Power & Light Company's Request for Confidential Classification of information provided in response to Staff's 5th Set of Interrogatory No. 48, DN 09625-09, dated September 16, 2009.

Florida Power & Light Company's Request for Confidential Classification of information provided in response to Staff's 6th Set of Interrogatories No. 54, DN 09695-09, dated September 18, 2009.

Florida Power & Light Company's 1st request for extension of confidential classification of short term capacity payment and corporate security investigative report, DN 07968-07, dated September 23, 2009.

Florida Power & Light Company's Request for confidential classification of information provided in response to Staff's 7th Set of Interrogatories and 5th Request for Production Documents, DN 10211-09, dated October 2, 2009.

FPU: Request for confidential Treatment of portions of exhibits MC 4 and MC 5 filed September 11, 2009, and corrected September 14, 2009.

GULF: Request for extended confidentiality dated January 14, 2008, relating to Gulf Power's Risk Management Plan for Fuel Procurement (DN 00359-08).

Request for confidentiality dated July 28, 2008, relating to items 9 and 10 of Staff's Second Request for Production (DN 06641-08).

Request for confidentiality dated July 28, 2008, relating to item 13 of Staff's Third Midcourse Data Request (DN 06645-08).

Request for confidentiality dated March 9, 2009, relating to Schedules 2 and 5 of Exhibit HRB-1 the direct testimony of H. R. Ball (DN 01886-09).

Request for confidentiality dated March 9, 2009, relating to Schedule CCA-4 of Exhibit RWD-1 the direct testimony of R. W. Dodd (DN 01891-09).

Request for confidentiality dated March 25, 2009, relating to Nos. 1-4 of Gulf's responses to Staff's First Set of Interrogatories (DN 02682-09).

Request for confidentiality dated March 25, 2009, relating to Nos. 2 and 4 of Gulf's responses to Staff's First Request for Production of Documents (DN 02685-09).

Request for extended confidentiality dated May 7, 2009, relating to Gulf Power's Risk Management Plan for Fuel Procurement (DN 04423-09).

Request for confidentiality dated August 4, 2009, relating to Schedule CCE-4 of Exhibit RWD-2 the direct testimony of R. W. Dodd (DN 07967-09).

Request for confidentiality dated August 4, 2009, relating to Gulf Power's Risk Management Plan for Fuel Procurement (DN 07969-09).

Request for confidentiality dated August 13, 2009, relating to Gulf's Hedging Information Report (DN 08486-09).

Request for confidentiality dated September 1, 2009, relating to Schedule CCA-4 of Exhibit RWD-3 the direct testimony of R. W. Dodd (DN 09061-09).

Request for confidentiality dated September 4, 2009, relating to No. 8A of Gulf's responses to Staff's Second Set of Interrogatories (DN 09273-09).

PEF: PEF has the following pending requests for confidential classification:

September 14, 2007 – Responses to OPC’s Second Request for Production of Documents (2-16), specifically responses to Nos. 2, 3, 4 and 9.

November 28, 2007 – 423 Forms for September 2007

January 9, 2008 – 423 Forms for October 2007

January 30, 2008 – 423 Forms for November 2007

March 3, 2008 – Responses to Staff’s First Set of Interrogatories (1-10) and Staff’s First Request for Production of Documents (1-8).

March 10, 2008 – 423 Forms for December 2007

March 26, 2008 – 423 Forms for January 2008

April 23, 2008 – Hedging Audit Work papers associated with Audit Control No. 07-353-2-1.

May 1, 2008 – 423 Forms for February 2008

May 19, 2008 – 423 Forms for March 2008

June 20, 2008 – 423 Forms for April 2008

June 30, 2008 – Response to Staff’s Mid-course Data Request, Question 1 – Attachment titled “E-10 Schedule for 2008 & 2009”.

July 9, 2008 – Response to Staff’s Second Request for Production of Documents

July 17, 2008 – Response to FIPUG’s First Set of Interrogatories (1-21)

July 18, 2008 – 423 Forms for May 2008

August 4, 2008 – Exhibit MO-1 (Part 2 – capacity cost recovery calculations for 2008, page 2 of 2) to the direct testimony of Marcia Olivier.

August 15, 2008 – Hedging Report (Information contained in Attachments A & B for the period January – July 2008).

August 22, 2008 – 423 Forms for June 2008

August 25, 2008 – Response to Staff’s Third Set of Interrogatories (15-19)

August 29, 2008 - Pages 3, 4 & 5 to the direct testimony of Marcia Olivier, Exhibit MO-2 (Schedule E-12 – capacity costs, Part 3, page 3 of 5) to the direct testimony of Marcia Olivier, Exhibit JM-1P (Page 1-2 and Attachments A-H) and Exhibit JM-2P to the direct testimony of Joseph McCallister.

September 24, 2008 – 423 Forms for July 2008

October 15, 2008 – Responses to Staff's 5th Set of Interrogatories (Q. 51)

October 16, 2008 – Responses to Staff's 3rd Request for Production of Documents (Q. 13-17)

October 20, 2008 – Responses to Staff's 6th Set of Interrogatories (53-87)

October 30, 2008 – 423 Forms for August 2008

November 24, 2008 – 423 Forms for September 2008

December 24, 2008 – 423 Forms for October 2008

January 28, 2009 – 423 Forms for November 2008

February 9, 2009 – 423 Forms for December 2008

March 9, 2009 – Exhibit WG-3T, Schedule A12 to the direct testimony of Will Garrett.

March 13, 2009 - 423 Forms for January 2009

March 30, 2009 – Responses to Staff's First Request for Production of Documents (1-8)

April 3, 2009 – Exhibit JM-1T (2002 – 2008 Hedging information) to the direct testimony of Joseph McCallister.

April 16, 2009 - 423 Forms for February 2009

April 30, 2009 - 423 Forms for March 2009

May 26, 2009 - 423 Forms for April 2009

July 6, 2009 - 423 Forms for May 2009

July 31, 2009 - 423 Forms for June 2009

August 4, 2009 – Exhibit MO-1, Schedule E12, Part 2 to the direct testimony of Marcia Olivier and portions of the 2010 Risk Management Plan.

August 14, 2000 – Hedging Report (Jan. – July 2009), Attachments A and B.

September 2, 2009 - 423 Forms for July 2009

September 14, 2009 – Exhibit MO-2, Schedule E12, Part 3 to the projection testimony of Marcia Olivier.

September 15, 2009 – Response to Staff’s Third Set of Interrogatories (22-25).

TECO: Tampa Electric has pending several requests for confidential treatment of information relating to hedging practices, risk management strategies and fuel and fuel transportation contract matters.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, 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 this 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, F.A.C., 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 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed five minutes per party.


Tampa Electric Company’s motion to file supplemental direct testimony is granted.

Issue 2C shall be spun-out and addressed in a separate proceeding as early as practicable in 2010 calendar year. In addition, FPL shall comply with all outstanding discovery requests served by OPC and Staff related to this issue within 30-days of October 20, 2009.

It is therefore,

ORDERED by Commissioner Nathan A. Skop, 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 Nathan A. Skop, as Prehearing Officer, this 30th day of October, 2009.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

LCB

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.

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; 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 or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.