

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 120007-EI

ENVIRONMENTAL COST RECOVERY  
CLAUSE.

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PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER  
PARTICIPATING: COMMISSIONER EDUARDO E. BALBIS  
PREHEARING OFFICER

DATE: Wednesday, October 17, 2012

TIME: Commenced at 9:30 a.m.  
Concluded at 10:28 a.m.

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

REPORTED BY: JANE FAUROT, RPR  
Official FPSC Reporter  
(850) 413-6732

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## 1 APPEARANCES:

2 JAMES D. BEASLEY, ESQUIRE and J. JEFFRY  
3 WAHLEN, ESQUIRE, Ausley Law Firm, Post Office Box  
4 391, Tallahassee, Florida 32302, appearing on behalf  
5 of Tampa Electric Company.

6 JEFFREY A. STONE, ESQUIRE, RUSSELL A.  
7 BADDERS, ESQUIRE and STEVEN R. GRIFFIN, ESQUIRE,  
8 Beggs & Lane Law Firm, Post Office Box 12950,  
9 Pensacola, Florida 32591-2950, appearing on behalf  
10 Gulf Power Company.

11 JAMES W. BREW, ESQUIRE and F. ALVIN  
12 TAYLOR, ESQUIRE, c/o Brickfield Law Firm, 1025  
13 Thomas Jefferson Street, NW, Eighth Floor, West  
14 Tower, Washington D.C., 20007, appearing on behalf  
15 of White Springs Agricultural Chemicals, Inc.

16 KAREN WHITE, ESQUIRE, CAPTAIN SAMUEL  
17 MILLER, ESQUIRE, and MAJOR CHRISTOPHER THOMPSON,  
18 ESQUIRE, Federal Executive Agencies, c/o  
19 USAF/AFLOA/JACL/ULFSC, 139 Barnes Drive, Suite 1,  
20 Tyndall AFB, Florida 32403-5319, appearing on behalf  
21 of Federal Executive Agencies.

22 JON C. MOYLE, JR., ESQUIRE, Moyle Law  
23 Firm, 118 North Gadsden Street, Tallahassee, Florida  
24 32301, appearing on behalf of Florida Industrial  
25 Power Users Group.

## 1 APPEARANCES (Continued):

2 JOHN T. BUTLER, ESQUIRE, and KENNETH RUBIN,  
3 ESQUIRE, Florida Power & Light Company, 700 Universe  
4 Boulevard, Juno Beach, Florida 33408-0420, appearing  
5 on behalf of Florida Power & Light Company.

6 GARY V. PERKO, ESQUIRE, Hopping Law Firm, Post  
7 Office Box 6526, Tallahassee, Florida 32314,  
8 appearing on behalf Progress Energy Florida, Inc.  
9 and Progress Energy Service Company.

10 CHARLES REHWINKEL, ESQUIRE, JOSEPH  
11 MCGLOTHLIN, ESQUIRE, and PATTY CHRISTENSEN, ESQUIRE,  
12 Office of Public Counsel, c/o The Florida  
13 Legislature, 111 W. Madison St., Room 812,  
14 Tallahassee, Florida 32399-1400, appearing on behalf  
15 of the Citizens of Florida.

16 JOHN T. BURNETT, ESQUIRE and DIANNE M.  
17 TRIPLETT, ESQUIRE, Progress Energy Service Company,  
18 LLC, Post Office Box 14042, St. Petersburg, Florida  
19 33733-4042, appearing on behalf of Progress Energy  
20 Florida, Inc.

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1 APPEARANCES (continued):

2 CHARLIE MURPHY, ESQUIRE, FPSC General  
3 Counsel's Office, 2540 Shumard Oak Boulevard,  
4 Tallahassee, Florida 32399-0850, appearing on behalf  
5 of the Florida Public Service Commission Staff.

6 MARY ANNE HELTON, Deputy General Counsel,  
7 Florida Public Service Commission, 2540 Shumard Oak  
8 Boulevard, Tallahassee, Florida 32399-0850, Advisor  
9 to the Florida Public Service Commission.

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

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2           **COMMISSIONER BALBIS:** Good morning. I'd like  
3 to call this clause prehearing conference to order.

4           Staff, could you please read the notice.

5           **MS. BROWN:** By notice issued September 18th,  
6 2012, this time and place is set for a prehearing  
7 conference in the following dockets: 120001-EI,  
8 120002-EG, 120003-GU, 120004-GU, 120007-EI. The  
9 purpose of the prehearing conference is set out in the  
10 notice.

11           **COMMISSIONER BALBIS:** Okay. Thank you.

12           We can now take appearances. We have,  
13 obviously, five dockets to address today, and I assume  
14 staff recommends that we take appearances at once, and  
15 all parties should enter their appearances and declare  
16 the dockets that they are entering an appearance for.

17           So we'll start with Florida Power and Light.

18           **MR. BUTLER:** Thank you.

19           Good morning, Commissioner. John Butler and  
20 Ken Rubin appearing on behalf of FPL in the 01, the 02,  
21 and the 07 dockets.

22           **MS. TRIPLETT:** Good morning. Dianne Triplett  
23 on behalf of Progress Energy Florida, and also I would  
24 like to make an appearance for John Burnett also on  
25 behalf of Progress Energy Florida in the 01, 02, and 07

1 docket. And then also in the 07 docket, Gary Perko.

2 **MR. BEASLEY:** Good morning, Commissioner.  
3 James D. Beasley and J. Jeffry Wahlen for Tampa  
4 Electric Company in the 01, 02, and 07 dockets.

5 **MR. GRIFFIN:** Good morning, Commissioner.  
6 Steven Griffin with the law firm of Beggs and Lane on  
7 behalf of Gulf Power. Also appearing in the dockets  
8 with me are Jeffrey Stone and Russell Badders in 01,  
9 02, and 07.

10 **MS. KEATING:** Good morning, Commissioner.  
11 Beth Keating with the Gunster Law Firm. I'm here today  
12 on behalf of FPUC in the 01 and 02 dockets; for FPUC in  
13 the 03 docket, as well as Florida City Gas; and in the  
14 04 docket, FPU, FPU Indiantown, Chesapeake, and Florida  
15 City Gas.

16 **MS. WHITE:** Good morning, Commissioner. I'm  
17 Karen White on behalf of Federal Executive Agencies.  
18 I'm also entering an appearance for Major Christopher  
19 Thompson and Captain Samuel Miller in the 01, 02, and  
20 07 dockets.

21 **MR. BREW:** Good morning, Commissioner. I'm  
22 James Brew of the firm of Brickfield, Burchette, Ritts,  
23 and Stone. I'm here for White Springs Agricultural  
24 Chemicals, PSC Phosphate. I'd like to also make an  
25 appearance for F. Alvin Taylor, and we're here in the

1 01, 02, and 07 dockets.

2 **MR. REHWINKEL:** Good morning, Commissioner.  
3 Charles Rehwinkel with the Office of Public Counsel.  
4 I'd like to enter an appearance in 01, 02, and 07. And  
5 I would also like to enter an appearance for Mr.  
6 McGlothlin, Joe McGlothlin in 01, 02, and 07, and I'll  
7 let Ms. Christensen tell you hers.

8 **MS. CHRISTENSEN:** And Patty Christensen also  
9 on behalf of the Office of Public Counsel in the 01,  
10 02, 03, 04, and 07 dockets.

11 **MR. WRIGHT:** Good morning, Commissioner.  
12 Robert Scheffel Wright, and I'd also like to enter an  
13 appearance for my partner John T. LaVia, III, on behalf  
14 of the Florida Retail Federation in the fuel  
15 cost-recovery docket, 0001. Thank you.

16 **MR. MOYLE:** Good morning. Jon Moyle with the  
17 Moyle Law Firm representing the Florida Industrial  
18 Power Users Group. I'd like to enter an appearance in  
19 the 01, 02, 07, and 09 dockets.

20 **MR. CAVROS:** Good morning, Commissioner.  
21 George Cavros appearing on behalf of Southern Alliance  
22 for Clean Energy in the 02 docket.

23 **MR. HORTON:** Norman H. Horton, Jr., appearing  
24 on behalf of Sebring Gas System, Inc. in the 04 docket.

25 **COMMISSIONER BALBIS:** Okay. Any other

1 parties before I move to staff?

2 **MS. BROWN:** Martha Carter Brown and Michael  
3 Lawson in the 02 docket -- 03 docket, I'm sorry.

4 **MR. MURPHY:** Charles Murphy in the 07 docket.

5 **MS. ROBINSON:** Pauline Robinson in the 04  
6 docket.

7 **MS. TAN:** Lee Eng Tan for the 02 docket.

8 **MS. BARRERA:** Martha Barrera in the 01  
9 docket, and also I would like to enter an appearance  
10 for Lisa Bennett.

11 **MS. HELTON:** And Mary Anne Helton, I'm here  
12 to advise you in all the dockets.

13 \* \* \* \* \*

14 **COMMISSIONER BALBIS:** Okay. We are now into  
15 the 07 ECRC docket. Are there any preliminary matters?

16 **MR. MURPHY:** Yes, sir. I believe that this  
17 case can be stipulated in its entirety.

18 **COMMISSIONER BALBIS:** Okay. That's certainly  
19 good news.

20 **MR. BREW:** Commissioner, I do think we have  
21 some clarifications, though, with respect to Issue 5.

22 **COMMISSIONER BALBIS:** Okay. We will go  
23 through the hearing order and then stop on that  
24 section.

25 Okay. Let's start with Section I, case

1 background. Any questions or comments?

2 Section II, conduct of proceedings.

3 Section III, jurisdiction.

4 Section IV, procedure for handling  
5 confidential information.

6 Section V, prefiled testimony and exhibits.

7 Section VI, order of witnesses.

8 **MR. MURPHY:** Commissioner, as the case can be  
9 stipulated, unless a Commissioner has specific  
10 questions, staff recommends that the witnesses can be  
11 excused. We could take that up under the stipulation;  
12 that was just for purposes of the record.

13 **COMMISSIONER BALBIS:** Okay. All right.

14 Section VII, basic positions.

15 Section VIII, issues and positions.

16 **MR. MURPHY:** Commissioner, it's brought to  
17 staff's attention that the number for Gulf under Issue  
18 4 should be 138,981,347.

19 **COMMISSIONER BALBIS:** Okay. Are there any  
20 other corrections?

21 **MR. MURPHY:** Commissioner, there is a  
22 question on Staff's Issue 5, and the fallout numbers of  
23 that for 3, 4, and 7 as they relate to Progress. I  
24 think if Mr. Brew will look at staff's language, he may  
25 be able to take staff's language that gets to the same

1 point where his language is for Issue 5, and then we  
2 would simply be left with the fallout numbers.

3 **MR. BREW:** Commissioner, let me explain. For  
4 Issue 5, PCS's corrected position should be that the  
5 costs of the Anclote conversion project should be  
6 depreciated over the remaining life of the assets. And  
7 my understanding is that Progress may have some  
8 clarifications with respect to that.

9 **COMMISSIONER BALBIS:** Okay. Progress?

10 **MR. PERKO:** Yes, Commissioner. When this  
11 issue was brought to our attention -- we believe that  
12 there are two reasonable ways to depreciate the Anclote  
13 asset, but when this issue was brought to our attention  
14 we were agreeable to the staff's position. So I think  
15 Ms. Murphy is correct that if all parties were to agree  
16 to staff's language that that would resolve the issue.  
17 There's no need to separate out the Anclote project  
18 from the other assets.

19 **MR. BREW:** Commissioner, I would suggest that  
20 I just follow-up with staff at the break to see if we  
21 can confirm that that is accurate.

22 **COMMISSIONER BALBIS:** Okay. I don't have a  
23 problem with that. We'll take a few minutes after we  
24 finish the other sections of this docket before we move  
25 to the 01 docket, so at that point if you can just

1 confirm.

2 **MR. MURPHY:** Yes.

3 **MR. MOYLE:** Is it accepted that we will come  
4 back after that break and clarify it?

5 **COMMISSIONER BALBIS:** Yes.

6 **MR. REHWINKEL:** Commissioner, Public  
7 Counsel's position will be no position on all issues,  
8 with the very limited caveat that the issue that Mr.  
9 Brew and staff and PEF were working on is  
10 satisfactorily resolved to all parties benefit.

11 **COMMISSIONER BALBIS:** Okay. And just for  
12 staff, I want to make sure I understand staff's  
13 position on this, because at least the draft prehearing  
14 order that I have seems very general, and I want to  
15 make sure I understand it, as well.

16 **MR. MURPHY:** Yes, sir. As I understand this,  
17 Progress' position was that Anclote should be carved  
18 out and treated differently, but staff's position was  
19 that everything should be depreciated over the life of  
20 it unless there is an order saying that it is handled  
21 differently, and that this language would do that. If  
22 we want to add clarifying language with respect to  
23 Anclote, staff does not object to it, but I think we  
24 would still have our language for the rest the matters.

25 **COMMISSIONER BALBIS:** Yes. And that's the

1 language I have from staff, that it's going to be  
2 consistent with all the other assets.

3 **MR. MURPHY:** Yes, sir.

4 **COMMISSIONER BALBIS:** And I just want to make  
5 sure that Progress understands, because I thought you  
6 indicated the five-year depreciation versus the life.

7 **MR. PERKO:** Yes, Commissioner, we would be  
8 agreeable to staff's position that the same  
9 depreciation rates would be used for all assets. There  
10 would be no reason to carve out Anclote.

11 **COMMISSIONER BALBIS:** Okay. I think that's  
12 pretty clear. I don't know if we really need to --

13 **MR. BREW:** To the extent that that is the  
14 position and it's clear, then that would be fine. From  
15 the earlier discussion, Progress had proposed to break  
16 out Anclote, and it wasn't clear to me if staff's  
17 statement of the issue was saying that that would not  
18 happen. And with that clarification, then we can  
19 stipulate to staff's language.

20 **COMMISSIONER BALBIS:** Okay.

21 **MR. MOYLE:** And FIPUG is okay. We have taken  
22 no position on that. I think it might just be useful  
23 if we know what the proposed depreciation now is on  
24 Anclote. If somebody knows that to be seven years or  
25 eight years, you know, it would probably clarify

1 things.

2 **MR. BREW:** Commissioner, my understanding was  
3 that the filing reflected a five-year amortization of  
4 Anclote, and that if staff's language is accepted, then  
5 we will see corrected schedules.

6 **MR. MURPHY:** Yes, sir, there would be  
7 corrected schedules, and staff's position with respect  
8 to Progress would need to be altered for -- the numbers  
9 for 3, 4, and 7. They are fallout numbers that would  
10 need to be late-filed subject to review of whoever  
11 wanted to see them.

12 **MR. BREW:** Right. And that was my  
13 understanding was that adopting staff's language would  
14 result in the corrected schedules being filed.

15 **MR. PERKO:** And, Commissioner, we will be  
16 prepared to circulate those revised schedules this  
17 afternoon.

18 **COMMISSIONER BALBIS:** Okay. I mean, with  
19 that I think everyone is on the same page, so I'm  
20 prepared to move on from the issues section of the  
21 prehearing order since everyone seems to be clear.

22 **MR. REHWINKEL:** With that understanding,  
23 Public Counsel has no position on all issues.

24 **COMMISSIONER BALBIS:** Any other questions or  
25 comments on Section VIII, issues and positions? Moving

1 on to Section IX, exhibit list.

2 **MR. PERKO:** Commissioner, just to make the  
3 record clear, Exhibit TGF-3 would be revised in  
4 accordance with the agreement that we reached this  
5 morning.

6 **MR. MURPHY:** And we have a Comprehensive  
7 Exhibit List, and just for everyone's peace of mind, it  
8 reflects redacted documents in the case of confidential  
9 documents and provided to the parties.

10 **COMMISSIONER BALBIS:** Okay. Moving on to  
11 Section X, proposed stipulations.

12 **MR. MURPHY:** Staff proposes that its position  
13 be adopted for each issue in the case except Issues 3,  
14 4, and 7 as they relate to Progress. Staff's position  
15 is that we would stipulate to whatever the updated  
16 numbers are. Staff also proposes that all testimony  
17 and exhibits be stipulated into the record, and  
18 proposes that all witnesses be excused unless a  
19 Commissioner has a question for a specific witness. It  
20 is staff's understanding that all the utilities agree  
21 to this and that the intervenors do not object to this.

22 **COMMISSIONER BALBIS:** Okay. Moving on to  
23 Section XI, pending motions.

24 **MR. MURPHY:** There are no pending motions at  
25 this time.

1                   **COMMISSIONER BALBIS:** Section XII, pending  
2 confidentiality matters.

3                   **MR. MURPHY:** I apologize, but there are  
4 several outstanding confidentiality requests, and these  
5 will be addressed by separate order.

6                   **COMMISSIONER BALBIS:** And why are they still  
7 outstanding? I'm just -- (Laughter.)

8                   Section XIII, post-hearing procedures.

9                   **MR. MURPHY:** Staff recommends that  
10 post-hearing positions should be no longer than 50  
11 words set off by asterisks, and post-hearing briefs  
12 should be no longer than 40 pages.

13                   **COMMISSIONER BALBIS:** Any objections to that?

14                   **MR. MURPHY:** Although I'm told that there  
15 probably won't be any post-hearing briefs if it's all  
16 stipulated.

17                   **COMMISSIONER BALBIS:** Okay. Rulings. We  
18 might as well address the opening statements. Do  
19 parties waive opening statements? I see nods all  
20 around. Let the record reflect that parties have  
21 waived opening statements. Are there any other  
22 rulings?

23                   **MR. MURPHY:** No, sir.

24                   **COMMISSIONER BALBIS:** Okay. Are there any  
25 other matters to address in this docket?

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**MR. MURPHY:** Staff is not aware of any.

**COMMISSIONER BALBIS:** Okay. We are going to adjourn this 07 docket and take a five-minute break before moving on to the 01 docket.

(The prehearing concluded at 10:28 a.m.)

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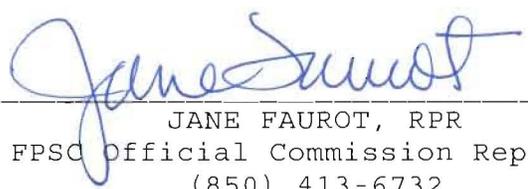
STATE OF FLORIDA     )  
                                  :  
                                  :            CERTIFICATE OF REPORTER  
COUNTY OF LEON     )

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, 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' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 23rd day of October, 2012.

  
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JANE FAUROT, RPR  
FPSC Official Commission Reporter  
(850) 413-6732