

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 120002-EG
ORDER NO. PSC-12-0576-PHO-EG
ISSUED: October 24, 2012

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 17, 2012, in Tallahassee, Florida, before Commissioner Eduardo Balbis, as Prehearing Officer.

APPEARANCES:

JOHN T. BUTLER AND KENNETH RUBIN, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida, 33408-0420
On behalf of Florida Power & Light Company (FPL)

BETH KEATING, ESQUIRE, Gunster Law Firm, 215 South Monroe Street, Suite 618, Tallahassee, Florida 32301
On behalf of Florida Public Utilities Company (FPUC).

JEFFREY A. STONE, RUSSELL A. BADDERS, and STEVEN R. GRIFFIN, ESQUIRES, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32591-2950
On behalf of Gulf Power Company (Gulf).

JOHN T. BURNETT, Associate General Counsel, and DIANNE M. TRIPLETT, Associate General Counsel, Progress Energy Service Co., LLC, Post Office Box 14042, St. Petersburg, Florida 33733-4042
On behalf of Progress Energy Florida, Inc. (PEF).

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

PATRICIA A. CHRISTENSEN, Associate Public Counsel, JOSEPH A. MCGLOTHLIN, Associate Public Counsel and CHARLES REHWINKEL, Deputy Public Counsel, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC).

JON MOYLE, JR. and VICKI GORDON KAUFMAN, ESQUIRES, The Moyle Law Firm, P.A., 118 North Gadsden Street, Tallahassee, Florida 32312
On behalf of the Florida Industrial Power Users Group (FIPUG).

DOCUMENT NUMBER-DATE

07237 OCT 24 2012

FPSC-COMMISSION CLERK

JAMES W. BREW and F. ALVIN TAYLOR, ESQUIRES, Brickfield, Burchette, Ritts and Stone, P.C., 1025 Thomas Jefferson St., N.W., Eighth Floor, West Tower, Washington, D.C. 20007

On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS PHOSPHATE or PCS).

KAREN S. WHITE and CAPTAIN SAMUEL MILLER, ESQUIRES, USAF Utility Law Field Support Center, 139 Barnes Drive, Tyndall Air Force Base, Florida 32403

On behalf of the Federal Executive Agencies (FEA)

GEORGE CAVROS, ESQUIRE, 120 East Oakland Park Boulevard, Suite 105, Fort Lauderdale, Florida 33334

On behalf of Southern Alliance for Clean Energy (SACE)

Lee Eng Tan, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission (Staff).

Mary Anne Helton, Deputy 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 Commission's continuing energy conservation cost recovery proceedings, an administrative hearing is set for November 5-7, 2012. The parties have reached agreement concerning all issues identified for resolution at this hearing. Staff is prepared to present the panel with a recommendation at the hearing for approval of the stipulated positions set forth herein. The Commission may render a bench decision in this matter.

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.), including Chapter 366.04, 366.05, and 366.06, F.S. This

hearing will be governed by said Chapter and Chapters 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

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Name	Utility/Staff	
Terry J. Keith	FPL	1, 3, 4
Anita Sharma	FPL	2
Curtis Young	FPUC	1, 2, 3, 4
Jennifer L. Todd	GULF	1, 2, 3, 4, 7

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Helena T. Guthrie	PEF	1, 2, 3, 4
Howard T. Bryant	TECO	1, 2, 3, 4, 5, 6

VII. BASIC POSITIONS

FPL: FPL's proposed Conservation Cost Recovery Factors for the January 2013 through December 2013 recovery period and true-up amounts for the prior period should be approved.

FPUC: The Commission should approve Florida Public Utilities Company's final net true-up for the period January through December 2011, the estimated true-up for the period January through December, 2012, and the projected conservation program expenses for the period January through December, 2013.

GULF: It is the basic position of Gulf Power Company that the proposed ECCR factors present the best estimate of Gulf's Conservation expense at this time for the period January 2013 through December 2013, including the true-up calculations and other adjustments allowed by the Commission.

PEF: The Commission should determine that PEF has properly calculated its conservation cost recovery true-up and projections and the conservation cost recovery factors set forth in the testimony and exhibits of witness Helena T. Guthrie during the period January 2013 through December 2013.

TECO: The Commission should determine that Tampa Electric has properly calculated its conservation cost recovery true-up and projections and the conservation cost recovery factors set forth in the testimony and exhibits of witness Howard T. Bryant during the period January 2013 through December 2013.

The Commission should also approve the Contracted Credit Value Tampa Electric has calculated for the GSLM-2 and GSLM-3 rate riders for use during the period January 2013 through December 2013, also set forth in witness Bryant's testimony and exhibits.

OPC: None.

FIPUG: FIPUG maintains that the respective utilities must satisfy their burden of proof for any and all monies sought in this proceeding.

PCS: At this time, PCS Phosphate generally accepts and adopts the positions taken by the Florida Industrial Power Users Group (“FIPUG”).

FEA: FEA’s positions are preliminary and based on materials filed by the parties and on discovery. FEA’s final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

SACE: SACE’s positions are preliminary and based on materials filed by the parties and discovery received thus far by SACE. SACE’s final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

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 stated herein.

VIII. ISSUES AND POSITIONS

PROPOSED

STIPULATED ISSUE 1: What are the final conservation cost recovery true-up amounts for the period January 2011 through December 2011?

The appropriate final conservation cost recovery true-up amounts for the period January 2011 through December 2011 are as follows:

Florida Power & Light (FPL)	\$8,586,294	Overrecovery
Florida Public Utilities (FPUC)	\$236,897	Underrecovery
Gulf Power Company (GPC)	\$4,404,080	Overrecovery
Progress Energy Florida, Inc. (PEF)	\$4,391,708	Overrecovery
Tampa Electric Company (TECO)	\$597,093	Overrecovery

PROPOSED

STIPULATED ISSUE 2: What are the total conservation cost recovery amounts to be collected during the period January 2013 through December 2013?

The appropriate total conservation cost recovery amounts to be collected during the period of January 2013 through December 2013 are as follows:

Florida Power & Light (FPL)	\$226,820,100
Florida Public Utilities (FPUC)	\$1,066,236
Gulf Power Company (GPC)	\$24,765,353
Progress Energy Florida, Inc. (PEF)	\$101,274,893
Tampa Electric Company (TECO)	\$49,588,590

PROPOSED

STIPULATED SSUE 3: What are the conservation cost recovery factors for the period January 2013 through December 2013?

The appropriate conservation cost recovery factors for the period January 2013 through December 2013 are as follows:

FPL	Rate Class	ECCR Factor
	RS1/RST1/RTR1/RSDPR1*	0.00233 \$/kWh
	GS1/GST1	0.00212 \$/kWh
	GSD1/GSDT1/HLTF (21-499kW)	0.80 \$/kW
	OS2	0.00211 \$/kWh
	GSLD1/GSLDT1/CS1/CST1/HLTF (500-1,999 kW)	.85 \$/kW
	GSLD2/GSLDT2/CS2/CST2/HLTF (2,000+kW)	0.95 \$/kW
	GSLD3/GSLDT3/CS3/CST3	1.03 \$/kW
	CILC D/CILC G	1.06 \$/kW
	CILC T	1.03 \$/kW
	MET	0.96 \$/kW
	OL1/SL1/PL1	0.00149 \$/kWh
	SL2, GSCU1	0.00192 \$/kWh

* For RSDPR-1 ECCR charge, see Tariff Sheet No. 8.030.2

	Demand Charge (\$/kW)	Sum of Daily Demand Charge (\$/kW)
ISST1D	\$0.11	\$0.05
ISST1T	\$0.11	\$0.05
SST1T	\$0.11	\$0.05
SST1D1/SST1D2/SST1D3	\$0.11	\$0.05

FPUC	Rate Class (Consolidated)	ECCR Factor
		0.00155 \$/kWh

GULF

Rate Class	ECCR Factor
RS	0.00226 \$/kWh
GS	0.00223 \$/kWh
GSD, GSDT, GSTOU	0.00219 \$/kWh
LP, LPT	0.00210 \$/kWh
PX, PXT, RTP, SBS	0.00204 \$/kWh
OSI, OSII	0.00204 \$/kWh
OSIII	0.00212 \$/kWh

PEF

Rate Class	ECCR Factor
Residential	0.00306 \$/kWh
General Svc. Non-Demand	0.00265 \$/kWh
@ Primary Voltage	0.00262 \$/kWh
@ Transmission Voltage	0.00260 \$/kWh
General Svc. 100% Load Factor	0.00210 \$/kWh
General Svc. Demand	0.90 \$/kW
@ Primary Voltage	0.89 \$/kW
@ Transmission Voltage	0.88 \$/kW
Curtable	0.86 \$/kW
@ Primary Voltage	0.85 \$/kW
@ Transmission Voltage	0.84\$/kW
Interruptible	0.80 \$/kW
@ Primary Voltage	0.79 \$/kW
@ Transmission Voltage	0.78 \$/kW
Standby Monthly	0.089 \$/kW
@ Primary Voltage	0.088 \$/kW
@ Transmission Voltage	0.087 \$/kW
Standby Daily	0.042 \$/kW
@ Primary Voltage	0.042 \$/kW
@ Transmission Voltage	0.041 \$/kW
Lighting	0.00123 \$/kWh

TECO

Rate Class	ECCR Factor
Residential	0.00298 \$/kWh
General Svc., TS	0.00284 \$/kWh

General Svc. Demand - Secondary	1.06 \$/kW
@ Primary Voltage	1.05 \$/kW
@ Subtransmission Voltage	1.04 \$/kW
Standby Firm - Secondary	1.06 \$/kW
@ Primary Voltage	1.05 \$/kW
@ Subtransmission Voltage	1.04 \$/kW
Interruptible – Secondary	0.93 \$/kW
@ Primary Voltage	0.92 \$/kW
@ Subtransmission Voltage	0.91 \$/kW
General Svc. Demand Optional - Secondary	0.00250 \$/kWh
@ Primary Voltage	0.00248 \$/kWh
@ Subtransmission Voltage	0.00245 \$/kWh
Lighting	0.00160 \$/kWh

STIPULATED

PORPOSED ISSUE 4: What should be the effective date of the new conservation cost recovery factors for billing purposes?

The new factors should be effective beginning with the specified conservation cost recovery cycle and thereafter for the period January 2013 through December 2013. Billing cycles may start before January 1, 2013, and the last cycle may be read after December 31, 2013, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. The new factors should continue in effect until modified by the Commission.

COMPANY SPECIFIC CONSERVATION COST RECOVERY ISSUES

Tampa Electric Company

PROPOSED

STIPULATED ISSUE 5: What is the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric Company for the period January 2013 through December 2013?

In accordance with the program requirement and methodology established by Order No. PSC-99-1778-FOF-EI, issued September 10, 1999, in Docket No. 990037-EI, the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders should be \$6.81 per kW for the period January 2013 through December 2013.

PROPOSED

STIPULATED ISSUE 6: What are the residential Price Responsive Load Management (RSVP -1) rate tiers for Tampa Electric Company for the period January 2013 through December 2013?

In accordance with the program requirement and methodology established by Order No. PSC-07-0740-TRF-EG, issued September 17, 2007, in Docket No. 070056-EG, the rate tiers for RSVP-1 should be as follows:

Rate Tier	\$/kWh
P4	0.3146
P3	0.0725
P2	(0.00774)
P1	(0.02274)

Gulf Power Company

PROPOSED

STIPULATED ISSUE 7: What are the Residential Service Variable Pricing (RSVP) rate tiers for Gulf Power Company for the period January 2013 through December 2013?

The RSVP rate tiers for January 2013 through December 2013 should be as follows:

Rate Tier	\$/kWh
P1	(0.0255)
P2	(0.01367)
P3	.05553
P4	.49485

PROPOSED GENERIC ISSUES

Southern Alliance for Clean Energy

ISSUE 8: Does the utility have a measurement plan in place to ensure that energy savings associated with its ECCR factors are accurate?

This issue will not be included in this proceeding. See ruling on this issue in Section XIV.

ISSUE 9: Does the utility have a verification plan in place to ensure that energy savings associated with its ECCR factors are accurate?

This issue will not be included in this proceeding. See ruling on this issue in Section XIV.

ISSUE 10: Does the utility have an evaluation plan in place to ensure optimal program impacts and performance?

This issue will not be included in this proceeding. See ruling on this issue in Section XIV.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
<u>Direct</u>		
Name	Utility/Staff	ABC-1
Terry J. Keith	FPL	AS-1 Schedules CT-1
Terry J. Keith	FPL	AS-1 Schedules CT-2, CT-3
Terry J. Keith	FPL	AS-1 Schedule CT-4
Terry J. Keith	FPL	AS-2 Schedule C-1, C-4
Terry J. Keith	FPL	AS-2 Schedule C-2 , C-3
Anita Sharma	FPL	AS-1 Schedules CT-2, CT-3
Anita Sharma	FPL	AS-1 Schedules CT-5, CT-6, Appendix A
Anita Sharma	FPL	AS-2 Schedule C-2, C-3
Anita Sharma	FPL	AS-2 Schedule C-5
Curtis D. Young	FPUC	CDY1 Schedules CT-1, CT-2, CT-3, CT-4, CT-5, CT-6 (composite)
Curtis D. Young	FPUC	CDY-2 Schedules C-1, C-2, C-3, C-4, C-5 (composite) ²

Jennifer L. Todd	GULF	(JLT-1)	Schedules CT - 1 through CT - 6
Jennifer L. Todd	GULF	(JLT-2)	Schedules C - 1 through C - 6
Helena T. Guthrie	PEF	(HTG-1T)	ECCR Adjusted Net True-Up for January - December 2011, Schedules CT1 - CT5.
Helena T. Guthrie	PEF	(HTG-1P)	Estimated/Actual True-Up, January - December 2012 and ECCR Factors for Billings in January - December 2013, Schedules C1 - C5
Howard T. Bryant	TECO	(HTB-1)	Schedules supporting cost recovery factor, actual January 2011 - December 2011.
Howard T. Bryant	TECO	(HTB-2)	Schedules supporting conservation costs projected for the period January 2013 - December 2013

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

X. PROPOSED STIPULATIONS

The parties have stipulated to issues 1-7, with OPC, FIPUG, FEA, PCS, and SACE taking no position.

XI. PENDING MOTIONS

None.

XII. PENDING CONFIDENTIALITY MATTERS

There are four pending requests for confidential classification which will be addressed in separate orders.

FPUC's Request for extension of Confidential Classification of Materials Provided Pursuant to Audit No. 09-350-4-2 (Document Nos. 04846-10 and 05250-10), dated May 30, 2012.

FPL's Request for Confidential Classification (Document No. 02798-12), dated May 2, 2012.

FPL's Request for Confidential Classification of Materials Provided Pursuant to Audit No. 12-010-4-3 (Document No. 05085-12), dated July 30, 2012.

FPL's Request for Confidential Classification of Materials Provided Pursuant to Audit No. 09-350-4-1 (Document No. 06537-12, X-Ref Document Nos. 04844-10 and 05373-10), dated September 28, 2012

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 40 pages and shall be filed at the same time.

XIV. RULINGS


Parties have waived opening statements.

Issues 8-10 are not appropriate for this docket and shall not be considered in this proceeding.

It is therefore,

ORDERED by Commissioner Eduardo E. Balbis, 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 Eduardo E. Balbis, as Prehearing Officer, this 24th day
of October, 2012.



EDUARDO E. BALBIS
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

TLT

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.