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January 27, 1997

Charles A. Guyton  
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**By Hand Delivery**

Blanca S. Bayo, Director  
Records and Reporting  
Florida Public Service Commission  
4075 Esplanade Way, Room 110  
Tallahassee, Florida 32399-0850

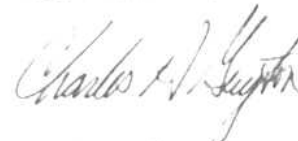
**Re: Conservation Cost Recovery Clause  
Docket No. 970002-EG**

Dear Ms. Bayo

Enclosed for filing on behalf of Florida Power & Light Company are the original and fifteen (15) copies of Florida Power & Light Company's Prehearing Statement in Docket No. 970002-EG. Also enclosed is a 3.5 inch high density diskette using Work Perfect for Windows 6.1 which contains a copy of the the Prehearing Statement.

If you or your Staff have any questions regarding this filing, please contact me

Very truly yours,



Charles A. Guyton

- ACK \_\_\_\_\_
- AFA 1 \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG 1 \_\_\_\_\_
- LIN 3 \_\_\_\_\_
- OPC \_\_\_\_\_ CAG/ld
- RCH 1 \_\_\_\_\_ encls
- SEC 1 \_\_\_\_\_ AL/18348-1
- WAS \_\_\_\_\_ cc All Parties of Record
- OTH \_\_\_\_\_

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Conservation Cost )  
Recovery Clause )

Docket No. 970002-EG  
Filed: January 27, 1997

FLORIDA POWER & LIGHT COMPANY'S  
PREHEARING STATEMENT

Florida Power & Light Company ("FPL") hereby files its Prehearing Statement in Docket No. 970002-EG.

(a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony:

<u>Witness</u>	<u>Subject Matter</u>
Leonor Busto	Projection for April 1997 - March 1998, the Estimated True-Up for October 1996 - March 1997, and the Final True-Up for October 1995 -September 1996

(b) A description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, and the witness sponsoring each:

FPL has prefiled two exhibits that should be identified separately.

<u>Exhibit</u>	<u>Content</u>	<u>Sponsoring Witness</u>
FAA-1	Schedules CT-1 through CT-6	F. A. Avello
LB-1	Schedules C-1 through C-5	L. Busto

(c) A statement of basic position in the proceeding:

FPL's proposed Conservation Cost Recovery Factors for the April 1997 through March 1998 recovery period and true-up amounts for prior periods should be approved.

(d) A statement of each question of fact the party considers at issue, the party's

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position on each such issue, and which of the party's witnesses will address the issue:

**General Issues**

**ISSUE 1:** What is the final end-of-the-period true-up amount for the period October 1995 through September 1996?

**FPL:** \$ 17,063,264 underrecovery (Busto)

**ISSUE 2:** What are the appropriate conservation cost recovery factors for the period April 1997 through March 1998?

<u>FPL:</u>	<u>Rate Class</u>	<u>ECCR Factor</u>	<u>Rate Class</u>	<u>ECCR Factor</u>
	RS1	.00262 \$/kWH	SST1T	.00303 \$/kWH
	GS1	.00240 \$/kWH	SST1D	.00176 \$/kWH
	GSD1	.00220 \$/kWH	CILCD/CILCG	.00205 \$/kWH
	OS2	.00179 \$/kWH	CILCT	.00187 \$/kWH
	GSLD1/CS1	.00216 \$/kWH	MET	.00228 \$/kWH
	GSLD2/CS2	.00207 \$/kWH	OL1/SL1	.00121 \$/kWH
	GSLD3/CS3	.00201 \$/kWH	SL2	.00197 \$/kWH
	ISST1D	.00163 \$/kWH		

(Busto)

**Company-Specific Issues**

**ISSUE 3:** (FPC) Is \$3,808,441 the appropriate Revenue Decoupling overrecovery amount for the years 1995 and 1996?

FPL: No position.

**(e) A statement of each question of law the party considers at issue and the party's position on each such issue:**

FPL is not aware of any questions of law at issue other than legal issues which arise from attempting to disallow costs within the scope of Commission approved programs based upon policy not in effect at the time the expenses were made. Among those issues are whether such a disallowance is inconsistent with FEECA and barred by res judicata, collateral estoppel, laches, due process, estoppel, and the Administrative Procedure Act and the cases implementing it.

(f) A statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue:

**ISSUE 4:** (FPL) Should FPL be allowed to recover costs through the ECCR for studies or analyses comparing natural gas applications to electric applications? (Staff)

FPL: FPL believes this issue is untimely, too general to put FPL on notice as to the costs Staff seeks to contest, and inappropriately raised as to any historic expenditures.

Untimely. FPL has had no opportunity to address this issue in its testimony. This issue has been raised too late and too generally to allow its resolution at the hearing scheduled for February 19-21.

Insufficient Detail. There are insufficient facts presented in the issue to inform FPL just what expenses the Staff seeks to put at issue and why.

Issue Should Be Limited To Prospective Application. There is no existing Commission policy which prohibits ECCR recovery of costs of analyses for electric and gas comparisons. A disallowance of historic expenditures cannot, consistent with the APA and due process, be premised upon violation of a Commission policy which did not exist at the time the expenditures were made. Disallowance of program costs within the scope of programs approved by the Commission are also barred by the doctrines of res judicata and collateral estoppel. Staff should also be barred from contesting such costs because Staff has been aware of such costs since 1994 and has chosen not to contest them in two intervening proceedings.

FPL will seek at the Prehearing Conference to discuss this issue further and explore it being dropped, limited to prospective application only, refined to afford FPL an opportunity to understand what costs are being contested, restated as a policy or legal issue, or spun off. If the issue remains, as a company specific factual issue, FPL may seek leave to raise additional legal issues.

If this issue remains without amendment, then FPL's position is: Yes. Such costs implement approved Commission programs, accomplish FEECA goals, and are not inconsistent with established Commission policy. This issue is insufficiently refined to put FPL on notice of the costs being contested, and FPL has not been provided a meaningful opportunity to address the issue.

(g) A statement of issues that have been stipulated to by the parties:

FPL is not aware of any stipulated issues, although it does not believe its true-ups and factors are contested..

**(h) A statement of all pending motions or other matters the party seeks action upon:**

FPL has no pending motions or other matters upon which it seeks action other than its pending petitions for approval of a final true-up and conservation cost recovery factors. FPL intends to move at the Prehearing Conference that Ms. Busto be substituted for Mr. Avello as the witness sponsoring FPL's true-up filing.

**(I) A statement as to any requirement set forth in the Order On Prehearing Procedure that cannot be complied with, and the reasons therefor.**

FPL believes it has complied with all requirements for orders regarding prehearing procedures.

Respectfully submitted,

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Attorneys for Florida  
Power & Light Company

By:   
Charles A. Guyton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Prehearing Statement was served by Hand Delivery (when indicated with an \*) or mailed this 27th day of January, 1997 to the following:

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