

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost
Recovery Clause.

DOCKET NO. 980007-EI
ORDER NO. PSC-98-0312-PHO-EI
ISSUED: February 23, 1998

Pursuant to Notice, a Prehearing Conference was held on Monday, January 16, 1998, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

JEFFREY A. STONE, Esquire and RUSSELL A. BADDERS, Esquire, Beggs & Lane, 700 Blount Building, 3 West Garden Street, Post Office Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company (Gulf).

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

JOHN W. MCWHIRTER, JR., Esquire, McWhirter Reeves McGlothlin Davidson Rief & Bakas, P.A., 100 North Tampa Street, Suite 2800, Post Office Box 3350, Tampa, Florida 33601-3350; JOSEPH A. MCGLOTHLIN, Esquire and VICKI GORDON KAUFMAN, Esquire, McWhirter Reeves McGlothlin Davidson Rief & Bakas, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301
On behalf of Florida Industrial Power Users Group (FIPUG).

JOHN ROGER HOWE, Esquire, 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).

LESLIE J. PAUGH, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff (STAFF).

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Commission's continuing fuel cost, energy conservation cost, purchased gas cost, and environmental cost recovery proceedings, a hearing is set for February 25 - 27, 1998,

DOCUMENT NUMBER-DATE
02486 FEB 23 1998
FPSC-RECORDS/REPORTING

in this docket and in Docket Nos. 980001-EI, 980002-EG, and 980003-GU. All of the issues in this Docket have been stipulated.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.

- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. 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.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) 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 Division of Records and Reporting's confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to 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 the 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. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

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 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case 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 appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and staff have had the opportunity to object and cross-examine, 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.

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.

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.

IV. ORDER OF WITNESSES

Witnesses whose names are preceded by an asterisk (*) have been excused. The parties have stipulated that the testimony of all of the witnesses will be inserted into the record as though read and cross-examination will be waived. The parties have also stipulated that all exhibits submitted with those witnesses' testimony shall be identified as shown in Section VII of this Prehearing Order and admitted into the record.

<u>Witness</u>	<u>Appearing For</u>	<u>Issue #</u>
<u>Direct</u>		
* S. D. Cranmer	Gulf	16
* Karen O. Zwolak	TECO	1 - 16

V. BASIC POSITIONS

Gulf: See Issue 16.

TECO: The Commission should approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period June 1997 through September 1997, its actual/estimated true-up amount for the period October 1997 through March 1998, and its projected ECRC revenue requirement and ECRC cost recovery factors for the period April 1998 through September 1998.

FIPUG: None at this time.

OPC: None necessary.

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.

VI. ISSUES AND POSITIONS

Generic Environmental Cost Recovery Issues

STIPULATED

ISSUE 1: What are the appropriate final environmental cost recovery true-up amounts for the period ending September 30, 1997?

POSITION: An overrecovery of \$616,353.

STIPULATED

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period October, 1997, through March, 1998?

POSITION: An underrecovery of \$478,790.

STIPULATED

ISSUE 3: What are the total environmental cost recovery true-up amounts to be collected during the period April, 1998, through September, 1998?

POSITION: An overrecovery of \$137,563.

STIPULATED

ISSUE 4: What are the appropriate projected environmental cost recovery amounts for the period April, 1998, through September, 1998?

POSITION: \$2,748,383.

STIPULATED

ISSUE 5: What should be the effective date of the new environmental cost recovery factors for billing purposes?

POSITION: The factor should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period April 1998 through September 1998. Billing cycles may start before April 1, 1998, and the last cycle may be read after September 30, 1998, so that each customer is billed for six months regardless of when the adjustment factor became effective.

STIPULATED

ISSUE 6: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery true-up amounts to be collected during the period April, 1998, through September, 1998?

POSITION: The company should use the Commission approved depreciation rates applicable to each asset according to the company's last depreciation rate order, Order No. PSC-96-0399-FOF-EI, issued on March 21, 1996 in Docket No. 950499-EI.

ORDER NO. PSC-98-0312-PHO-EI
DOCKET NO. 980007-EI
PAGE 7

STIPULATED

ISSUE 7: How should the newly proposed environmental costs be allocated to the rate classes?

POSITION: The costs of the Gannon Ignition Oil Tank Upgrade should be allocated on a demand (12 CP and 1/13 AD) basis.

The costs of the Big Bend Fuel Oil Tank Number 1 Upgrade should be allocated on a demand (12 CP and 1/13 AD) basis.

The costs of the Big Bend Fuel Oil Tank Number 2 Upgrade should be allocated on a demand (12 CP and 1/13 AD) basis.

The costs of the Phillips Tank Number 1 Upgrade should be allocated on a demand (12 CP and 1/13 AD) basis.

The costs of the Phillips Tank Number 4 Upgrade should be allocated on a demand (12 CP and 1/13 AD) basis.

STIPULATED

ISSUE 8: What are the appropriate Environmental Cost Recovery Factors for the period April, 1998, through September, 1998, for each rate group?

<u>POSITION:</u> RS, RST	0.033
GS, GST, TS	0.033
GSD, GSDT	0.033
GSLD, GSLDT, SBF, SBFT	0.032
IS1, IST1, SBI1, SBIT1,	
IS3, IST3, SBI3, SBIT3	0.031
SL, OL	0.032

Company - Specific Environmental Cost Recovery Issues

STIPULATED

ISSUE 9: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Gannon Ignition Oil Tank Upgrade through the Environmental Cost Recovery Clause?

POSITION: Yes. Costs associated with the Gannon Ignition Oil Tank Upgrade project were projected on the basis of meeting the requirements of Florida Department of Environmental Protection (DEP) Rule 62-762, which pertains to existing field erected above ground storage tanks that contain a regulated pollutant, diesel fuel in this case. The DEP requirements call for various modifications including the installation of spill and secondary containment as well as the completion of tank integrity inspections by the compliance deadline of December 31, 1999.

All costs requested for recovery were projected for the period beginning December 1997. Tampa Electric Company maintains that the costs of this project are not currently being recovered through base rates or any other cost recovery mechanism. However, Tampa Electric Company noted that one project, entitled Gannon 1-5A Tank Underground Piping, was included in the company's last rate case at an estimated cost of \$266,000. To eliminate the possibility of double recovery of this amount, Tampa Electric should make a \$266,000 adjustment in every month it projects capital costs for the Gannon Ignition Oil Tank Upgrade project. With this adjustment, staff believes the project and prudently incurred costs are appropriate for recovery through the Environmental Cost Recovery Clause. Final disposition of the costs incurred in this activity will be subject to audit.

STIPULATED

ISSUE 10: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Big Bend Fuel Oil Tank Number 1 Upgrade through the Environmental Cost Recovery Clause?

POSITION: Yes. Costs associated with the Big Bend Fuel Oil Tank Number 1 Upgrade project were projected on the basis of

meeting the requirements of Florida Department of Environmental Protection (DEP) Rule 62-762, which pertains to existing field erected above ground storage tanks that contain a regulated pollutant, diesel fuel in this case. The DEP requirements call for various modifications including the installation of spill and secondary containment as well as the completion of tank integrity inspections by the compliance deadline of December 31, 1999.

All costs requested for recovery were projected for the period beginning January 1998. In addition, Tampa Electric Company maintains that the costs of this project are not currently being recovered through base rates or any other cost recovery mechanism. Therefore, the project and prudently incurred costs are appropriate for recovery through the Environmental Cost Recovery Clause. Final disposition of the costs incurred in this activity will be subject to audit.

STIPULATED

ISSUE 11: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Big Bend Fuel Oil Tank Number 2 Upgrade through the Environmental Cost Recovery Clause?

POSITION: Yes. Costs associated with the Big Bend Fuel Oil Tank Number 2 Upgrade project were projected on the basis of meeting the requirements of Florida Department of Environmental Protection (DEP) Rule 62-762, which pertains to existing field erected above ground storage tanks that contain a regulated pollutant, diesel fuel in this case. The DEP requirements call for various modifications including the installation of spill and secondary containment as well as the completion of tank integrity inspections by the compliance deadline of December 31, 1999.

All costs requested for recovery were projected for the period beginning January 1998. In addition, Tampa Electric Company maintains that the costs of this project are not currently being recovered through base rates or any other cost recovery mechanism. Therefore, the project and prudently incurred costs are appropriate for

recovery through the Environmental Cost Recovery Clause. Final disposition of the costs incurred in this activity will be subject to audit.

STIPULATED

ISSUE 12: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Phillips Tank Number 1 Upgrade through the Environmental Cost Recovery Clause?

POSITION: Yes. Costs associated with the Phillips Tank Number 1 Upgrade project were projected on the basis of meeting the requirements of Florida Department of Environmental Protection (DEP) Rule 62-762, which pertains to existing field erected above ground storage tanks that contain a regulated pollutant, diesel fuel in this case. The DEP requirements call for various modifications including the installation of spill and secondary containment as well as the completion of tank integrity inspections by the compliance deadline of December 31, 1999.

All costs requested for recovery were projected for the period beginning January 1998. In addition, Tampa Electric Company maintains that the costs of this project are not currently being recovered through base rates or any other cost recovery mechanism. Therefore, the project and prudently incurred costs are appropriate for recovery through the Environmental Cost Recovery Clause. Final disposition of the costs incurred in this activity will be subject to audit.

STIPULATED

ISSUE 13: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Phillips Tank Number 4 Upgrade through the Environmental Cost Recovery Clause?

POSITION: Yes. Costs associated with the Phillips Tank Number 4 Upgrade project were projected on the basis of meeting the requirements of Florida Department of Environmental Protection (DEP) Rule 62-762, which pertains to existing field erected above ground storage tanks that contain a regulated pollutant, diesel fuel in this case. The DEP requirements call for various modifications including the installation of spill and secondary containment as well

as the completion of tank integrity inspections by the compliance deadline of December 31, 1999.

All costs requested for recovery were projected for the period beginning January 1998. In addition, Tampa Electric Company maintains that the costs of this project are not currently being recovered through base rates or any other cost recovery mechanism. Therefore, the project and prudently incurred costs are appropriate for recovery through the Environmental Cost Recovery Clause. Final disposition of the costs incurred in this activity will be subject to audit.

STIPULATED

ISSUE 14: What adjustment for SO₂ Allowances, if any, should be made to Tampa Electric Company's Environmental Cost Recovery Factor as a result of the Commission's decision in Docket No. 970171-EU?

POSITION: In Order No. PSC-97-1047-FOF-EI, this issue was deferred from the August 1997 Environmental Cost Recovery Clause hearing to the subsequent August 1998 hearing in order to implement the Commission's vote in Docket No. 970171-EU, which subsequently took place on September 23, 1997. Since Order No. PSC-97-1273-FOF-EU, which encompasses the Commission's decision in Docket No. 970171-EU, is now final, staff and the parties agreed to take this issue up in this earlier proceeding.

Order No. PSC-97-1273-FOF-EU required that incremental SO₂ Allowance costs incurred as a result of the Lakeland and FMPA wholesale sales be credited to the retail ratepayers through the Environmental Cost Recovery Clause. A retail rate class credit of \$160,429 was made to Tampa Electric Company's final true-up amount to adjust for the Lakeland and FMPA wholesale sales for the period December 1996 through September 1997. To adjust for the Lakeland and FMPA wholesale sales for the October 1997 through March 1998 period, a retail rate class credit of \$68,190 was made to Tampa Electric Company's estimated true-up amount.

Staff believes that these true-up adjustments made by Tampa Electric Company to comply with the Commission's

decision in Docket No. 970171-EU are reasonable to ensure that the retail ratepayers are credited for the costs of SO₂ Allowances incurred as a result of the Lakeland and FMPA wholesale sales.

STIPULATED

ISSUE 15: What is the appropriate methodology for determining the credit to the Environmental Cost Recovery Clause for the incremental SO₂ Allowance costs incurred as a result of the Lakeland and FMPA wholesale sales?

POSITION: The appropriate methodology for determining the credit to the Environmental Cost Recovery Clause for the incremental SO₂ Allowance costs incurred as a result of the Lakeland and FMPA wholesale sales should be to record on an actual basis the number of allowances required at the time the sales occur. Those allowances should be priced at the monthly average spot prices as reported by Clean Air Compliance Review, Air Daily, or Coal Weekly. The product of these two quantities, the number of allowances required at the time the sales occur and the reported monthly average spot price, shall result in the amount of the credit and should be shown as a separate line item from other SO₂ Allowance costs in the Environmental Cost Recovery Clause schedules.

Other Issues

ISSUE 16: Should the Commission approve a change in the frequency of the environmental cost recovery clause hearings from semi-annual hearings to annual hearings? If the change is approved, what 12 month period (fiscal or calendar) should be used and how should the change be implemented?

POSITION: Pursuant to the ruling of the Prehearing Officer, this issue will be addressed in a separate docket.

VII. EXHIBIT LIST

Witnesses whose names are preceded by an asterisk (*) have been excused. All exhibits submitted with those witnesses' testimony shall be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
* Zwolak	TECO	<u> </u> (KOZ - 1)	Final true-up April 1997 - September 1997
		<u> </u> (KOZ - 1)	Environmental cost r e c o v e r y actual/estimated true- up amount for the period October 1997 through March 1998, and projected ECRC revenue requirement and billing factor for the period April 1998 through September 1998.

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

VIII. PROPOSED STIPULATIONS

All issues are stipulated.

All parties are willing to stipulate that the testimony of all witnesses whom no one wishes to cross examine be inserted into the record as though read, cross examination be waived, and the witness's attendance at the hearing be excused.

IX. PENDING MOTIONS

There are no pending motions at this time.

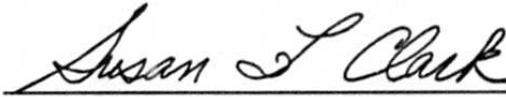
x. RULINGS

The Commission will establish a separate docket to consider a change in the frequency of the hearings as well as the period to be used and the manner of implementation in this Docket and Docket Nos. 980001-EI, 980002-EG and 980003-GU.

It is therefore,

ORDERED by Commissioner Susan F. Clark, 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 Susan F. Clark, as Prehearing Officer, this 23rd day of February, 1998.



SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

LJP

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.

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 25-22.038(2),

ORDER NO. PSC-98-0312-PHO-EI
DOCKET NO. 980007-EI
PAGE 15

Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, 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.