

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 080007-EI
ORDER NO. PSC-08-0775-FOF-EI
ISSUED: November 24, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

APPEARANCES:

JOHN T. BUTLER and R. WADE LITCHFIELD, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408-0420
On behalf of FLORIDA POWER & LIGHT COMPANY (FPL)

R. ALEXANDER GLENN and JOHN T. BURNETT, ESQUIRES, Progress Energy Service Company, LLC, Post Office Box 14042, St. Petersburg, Florida 33733-4042; GARY V. PERKO, ESQUIRE, Hopping, Green & Sams, P.A., P.O. Box 6526, Tallahassee, Florida 32314-6526
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)

JEFFREY A. STONE, RUSSELL A. BADDERS, and STEVEN R. GRIFFIN, ESQUIRES, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32591-2950 and CHARLES A. GUYTON, ESQUIRE, of Squire, Sanders & Dempsey, L.L.P., 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301
On behalf of Gulf Power Company (Gulf)

JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter, Reeves & Davidson, P.A., 400 North Tampa Street, Suite 2450, Tampa, Florida 33602
On behalf of Florida Industrial Power Users Group (FIPUG)

PATRICIA A. CHRISTENSEN, JOSEPH A. MCGLOTHLIN, and J.R. KELLY, ESQUIRES, Office of Public Counsel, 111 W. Madison St., Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC)

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FPSC-COMMISSION CLERK

KAREN S. WHITE and CAPTAIN SHAYLA L. MCNEILL, ESQUIRES,
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On behalf of the Federal Executive Agencies (FEA)

MARTHA CARTER BROWN and ERIK L. SAYLER, ESQUIRES, Florida
Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida
32399-0850

On behalf of the FLORIDA PUBLIC SERVICE COMMISSION (Staff)

**FINAL ORDER APPROVING PROJECTED EXPENDITURES AND TRUE-UP
AMOUNTS FOR ENVIRONMENTAL COST RECOVERY FACTORS**

BY THE COMMISSION:

I. BACKGROUND

As part of our ongoing environmental cost recovery proceedings, a hearing was held on November 4, 2008, in this docket. At the hearing, the parties addressed the issues set out in Order No. PSC-08-0716-PHO-EI, the Prehearing Order. Part II of this Order addresses the stipulated generic issues in the case and Part III addresses the stipulated company-specific issues in the case. We have authority pursuant to Section 366.8255, Florida Statutes (F.S.).

II. STIPULATED GENERIC ENVIRONMENTAL COST RECOVERY ISSUES

A. We approve as reasonable the following final environmental cost recovery true-up amounts for the period ending December 31, 2007:

FPL: \$3,174,379 over-recovery including interest.

PEF: \$5,553,115 over-recovery.

TECO: \$12,464,395 over-recovery.

Gulf: \$1,470,471 over-recovery.

OPC took no position.

B. We approve as reasonable the following estimated environmental cost recovery true-up amounts for the period January 2008 through December 2008:

FPL: \$5,728,576 under-recovery including interest.

PEF: \$9,872,429 under-recovery.

TECO: \$7,753,224 under-recovery.

Gulf: \$2,810,290 under-recovery.

OPC took no position.

- C. We approve as reasonable the following projected environmental cost recovery amounts for the period January 2009 through December 2009:

FPL: \$91,077,343.

PEF: \$132,908,857.

TECO: \$50,107,327.

Gulf: \$84,761,585.

OPC took no position.

- D. We approve as reasonable the following environmental cost recovery amounts, including true-up amounts for the period January 2009 through December 2009:

FPL: The total environmental cost recovery amount, adjusted for prior period true-ups and revenue taxes, is \$93,698,955.

PEF: \$137,326,975.

TECO: The total environmental cost recovery amount, including true-up amounts, for the period January 2009 through December 2009 is \$45,428,841 after the adjustment for taxes.

Gulf: Recovery of \$86,101,404 (excluding revenue taxes).

OPC took no position.

- E. We approve as reasonable the determination that the depreciation rates to be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2009 through December 2009 shall be the depreciation rates that are in effect during the period the allowed capital investment is in service.

- F. We approve as reasonable the following jurisdictional separation factors for the projected period January 2009 through December 2009:

<u>FPL:</u> Energy Jurisdictional Factor	98.69261%
CP Demand Jurisdictional Factor	98.76729%

GCP Demand Jurisdictional Factor 100.00000%

PEF: The jurisdictional energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total system kWh sales.
Transmission Average 12 CP demand jurisdictional factor - 70.597%
Distribution Primary demand jurisdictional factor - 99.597%
Jurisdictional Separation Study factors were used for production demand
Jurisdictional factor as Production Base – 93.753%,
Production Intermediate – 79.046%, and Production Peaking – 88.979%.

TECO: The demand jurisdictional separation factor is 95.87232%. The energy jurisdictional separation factors are calculated for each month based on projected retail kWh sales as a percentage of projected total system kWh sales.

Gulf: The demand jurisdictional separation factor is 96.42160%. The energy jurisdictional separation factors are calculated each month based on retail kWh sales as a percentage of projected total territorial kWh sales.

OPC took no position.

G. We approve as reasonable the following environmental cost recovery factors for the period January 2008 through December 2008:

<u>FPL:</u>	<u>Rate Class</u>	<u>Environmental Recovery Factor (\$/kWh)</u>
	RS-1/RST1	0.00094
	GS-1/GST1/WIES1	0.00095
	GSD1/GSDT1/HLFT1 (21-499 kW)	0.00084
	OS2	0.00077
	GSLD1/GSLDT1/CS1/CST1/ HLFT2 (500-1,999 kW)	0.00081
	GSLD2/GSLDT2/CS2/CST2/ HLFT3 (2,000 +)	0.00075
	GSLD3/GSLDT3/CS3/CST3	0.00071
	ISST1D	0.00067
	ISST1T	0.00068
	SST1T	0.00068
	SST1D1/SST1D2/SST1D3	0.00067
	CILC D/CILC G	0.00074
	CILC T	0.00070
	MET	0.00085
	OL1/SL1/PL1	0.00038
	SL2/GSCU-1	0.00066

PEF: The appropriate factors are as follows:

RATE CLASS	ECRC FACTORS
Residential	0.368 cents/kWh
General Service Non-Demand @ Secondary Voltage @ Primary Voltage @ Transmission Voltage	0.343 cents/kWh 0.340 cents/kWh 0.336 cents/kWh
General Service 100% Load Factor	0.291 cents/kWh
General Service Demand @ Secondary Voltage @ Primary Voltage @ Transmission Voltage	0.307 cents/kWh 0.304 cents/kWh 0.301 cents/kWh
Curtaileable @ Secondary Voltage @ Primary Voltage @ Transmission Voltage	0.287 cents/kWh 0.284 cents/kWh 0.281 cents/kWh
Interruptible @ Secondary Voltage @ Primary Voltage @ Transmission Voltage	0.296 cents/kWh 0.293 cents/kWh 0.290 cents/kWh
Lighting	0.252 cents/kWh

TECO:

<u>Rate Class</u>	<u>Factor at Secondary *</u> <u>Voltage (¢/kWh)</u>
RS, RST Secondary	0.229
GS, GST, TS Secondary	0.229
GSD, GSDT	
Secondary	0.228
Primary	0.225
Transmission	0.223
GSLD, GSLDT, SBF	
Secondary	0.226
Primary	0.224
Transmission	0.222
IS1, IST1, SBI1, IS3, IST3, SBI3	
Secondary	0.223
Primary	0.221
Transmission	0.219
SL, OL Secondary	0.225
Average Factor	0.228

* The factors are subject to change pending the resolution of certain rate design modifications in TECO's pending base rate proceeding in Docket No. 080317-EI.

Gulf: See table below:

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RSVP	.735
GS	.729
GSD, GSDT, GSTOU	.720
LP, LPT	.703
PX, PXT, RTP, SBS	.690
OS-I/II	.686
OSIII	.710

OPC took no position.

- H. For billing purposes, the new environmental cost recovery factors shall be effective beginning with the first billing cycle for January 2009, and thereafter through the last billing cycle for December 2009. The first billing cycle may start before January 1, 2009, and the last billing cycle may end after December 31, 2009, so long as each customer is billed for twelve months regardless of when the factors became effective.

III. STIPULATED COMPANY-SPECIFIC ISSUES

OPC took no position on the company-specific issues addressed below.

Florida Power & Light (FPL)

- A. We approve the following stipulation regarding whether FPL's petition to modify the scope of its CWA 316(b) Phase II Rule Project shall be granted:

Yes. On July 9, 2007, several key provisions of the Clean Water Act (CWA) 316(b) Phase II Rule were remanded to the U.S. Environmental Protection Agency by the U.S. Court of Appeals for the Second Circuit for further rulemaking. On March 31, 2008, FPL petitioned the Commission for approval to modify the scope of its CWA Phase II Rule project to encompass additional activities undertaken to minimize the compliance cost impact of the Second Circuit Court of Appeals' remand of certain portions of the rule in July 2007. FPL is requesting to recover costs associated with legal support to help limit the compliance cost impact of a revision to the Phase II Rule, which could potentially require FPL to install cumbersome and very expensive compliance technologies on the cooling water intake structures at eight FPL power plants. Initial estimates indicate that compliance costs for FPL to retrofit its eight facilities with cooling towers would exceed \$1.5 billion.

The Operation & Maintenance (O&M) cost estimate for funding these additional legal and consulting activities is \$525,000. FPL has asserted that this amount of litigation and consulting costs will not be covered in FPL's base rates for 2008. FPL states that the EPA is proposing to issue a draft rule by December 2008, with a final rule published by late 2009.

FPL has engaged in similar actions, i.e. participating in the EPA rulemaking process and educating government agencies, associated with the Clean Air Interstate Rule (CAIR). Recovery of FPL's costs associated with the technical analysis and legal challenges to CAIR was approved in Order No. PSC-05-1251-FOF-EI, issued December 22, 2005, in Docket No. 050007-EI, In re: Environmental Cost Recovery Clause (ECRC); and the related costs are currently being recovered through the ECRC. Utilities are expected to take steps to control the level of costs that must be incurred for environmental compliance. An effective way to control the costs of complying with a particular

environmental law or regulation can be participation in the regulatory and legal processes involved in defining compliance.

The definition of environmental compliance costs in Section 366.8255, Florida Statutes, includes the estimated prudently incurred litigation costs associated with FPL's complying with Section 316(b) of Clean Water Act. FPL's petition to modify the scope of its CWA 316(b) Phase II Rule project shall be granted. FPL shall be allowed to recover the reasonable litigation and consulting costs associated with compliance with Section 316(b) of the Clean Water Act.

- B. We approve the following stipulation regarding reasonable environmental cost recovery amounts for FPL's three Next Generation Solar Energy Centers for the period January 2008 through December 31, 2008:

The Commission granted FPL's petition for approval of the eligibility of three Next Generation Solar Energy Centers for recovery through the ECRC, in Order No. PSC-08-0491-PAA-EI, issued August 4, 2008, in Docket 080281-EI, In re: Petition for approval of Solar Energy Projects for Recovery through Environmental Cost Recovery Clause, by Florida Power & Light Company. The environmental cost recovery amount of \$115,688 in return on investment for capital costs associated with FPL's three Next Generation Solar Energy Centers is reasonable for the period January 2008 through December 31, 2008.

- C. We approve the following stipulation regarding reasonable environmental cost recovery amounts for FPL's three Next Generation Solar Energy Centers for the period January 2009 through December, 2009:

The Commission granted FPL's petition for approval of the eligibility of three Next Generation Solar Energy Centers for recovery through the ECRC, in Order No. PSC-08-0491-PAA-EI, issued August 4, 2008, in Docket 080281-EI, In re: Petition for approval of Solar Energy Projects for Recovery through Environmental Cost Recovery Clause, by Florida Power & Light Company. The environmental cost recovery amounts of \$24,521,316 in return on investment for capital costs, and \$487,475 for operations and maintenance costs (totaling \$25,008,791) associated with FPL's three Next Generation Solar Energy Centers are reasonable for the period January 2009 through December, 2009.

- D. We approve the following stipulation regarding how to allocate the costs associated with the three Next Generation Solar Energy Centers to the rate classes:

Capital costs for the three Next Generation Solar Energy Centers should be allocated to the rate classes on an average 12 CP demand and 1/13th energy basis. Operating and maintenance costs should be allocated to the rate classes on an average 12 CP demand basis.

- E. We approve the following stipulation regarding whether FPL's request to recover the costs associated with its proposed Greenhouse Gas (GHG) Reduction Program shall be approved:

Yes. The Florida Climate Protection Act, Section 403.44, F.S., requires major GHG emitters to register and report GHG emissions. It also requires FDEP to implement a GHG Cap and Trade program to address required reductions. The Act also includes provisions allowing recovery of the costs and expenses prudently incurred to comply with the Act and FDEP's rule through the ECRC.

FPL shall be allowed to recover costs, beginning in 2009, associated with participation in the Climate Registry, including the development of a GHG reporting and tracking system.

- F. We approve the following stipulation regarding how to allocate the costs associated with the GHG Reduction Program to the rate classes:

Capital costs for the GHG Reduction Program shall be allocated to the rate classes on an average 12 CP demand and 1/13th energy basis. O&M costs shall be allocated to the rate classes on an energy basis.

- G. We approve the following stipulation regarding whether FPL shall continue to recover Capital and O&M costs associated with its CAVR, CAIR and CAMR compliance projects in light of the vacatur of CAMR and potential vacatur of CAIR:

Yes. It is prudent and necessary for FPL to continue these projects. On July 11, 2008, the D.C. Circuit Court of Appeals vacated CAIR in its entirety and remanded it to EPA for further action consistent with the court's opinion. CAIR will, however, remain in effect until the court issues its mandate. On September 24, 2008, EPA and other parties petitioned for rehearing of the D.C. Circuit's decision. On February 2, 2008, the D.C. Circuit Court of Appeals vacated EPA's CAMR. The vacatur became effective with the issuance of the court's mandate on March 14, 2008. FPL's CAIR, CAMR and CAVR compliance plans were approved in Order No. PSC-07-0922-FOF-EI, issued on November 16, 2007, in Docket 070007-EI, In re: Environmental Cost Recovery Clause. Per that order, FPL updated its compliance projects on April 2, 2008, in light of the vacated CAMR. In its August 4, 2008, Estimated True-up filing and August 29 2008, Projection filing, FPL further updated the compliance projects in light of the potential vacatur of CAIR.

FPL also has obligations to comply with environmental requirements other than CAIR and CAMR that include: (1) the Clean Air Visibility Rule (CAVR); (2) the 8-hours Ozone National Ambient Air Quality Standards (NAAQS); and (3) the Georgia Multi-Pollutant Rule that applies to FPL Co-owned Plant Scherer. FPL's updated plans appear reasonable at this time.

FPL shall file, as part of its annual ECRC final true-up testimony or as a separate filing if necessary, a review of the efficiency of its CAIR and CAMR and CAVR plans, and the cost-effectiveness of its retrofit options for each generating unit in relation to expected changes in environmental regulations and ongoing federal CAIR legal challenges. The reasonableness and prudence of individual expenditures, and the prudence of future decisions on the compliance plans made in light of subsequent developments, shall continue to be subject to the Commission's review in future proceedings on these matters.

Progress Energy Florida (PEF)

- A. We approve the following stipulation regarding whether PEF shall be allowed to recover the costs associated with its proposed Crystal River Thermal Discharge Compliance Project:

Yes. By Order No. PSC-07-0722-FOF-EI, issued September 5, 2007, in Docket No. 060162, In re: Petition by progress Energy Florida, Inc. for approval to recover modular cooling tower costs through the Environmental Cost Recovery Clause, the Commission approved recovery of costs associated with the installation and operation of leased Modular Cooling Towers to maintain compliance with thermal discharge limits in the FDEP industrial wastewater discharge permit for Crystal River Units 1, 2, and 3 (CR1,2&3). PEF has continued to evaluate the long term nature and extent of the issue associated with increased inlet water temperatures that triggered the need for additional cooling capacity to maintain compliance with its FDEP permit while minimizing derates of CR1 and 2. The Project's study phase recommendation is to install a 12 cell circular cooling tower and expand the number of Helper Cooling Tower cells because such a permanent solution makes more sense from both a technical and financial perspective, compared to continuation of the current lease. PEF shall be permitted to recover the capital and operating costs it will incur in implementing a permanent solution to ensure thermal discharge compliance. The costs for this project meet the requirements of Section 366.8255, F.S., for recovery through the ECRC, and they are not recovered in base rates or through any other cost recovery mechanism.

- B. We approve the following stipulation regarding how to allocate the newly proposed environmental costs for the Crystal River Thermal Discharge Compliance Project to the rate classes:

O&M costs shall be allocated on an energy basis and capital costs shall be allocated on a demand basis.

- C. We approve the following stipulation regarding whether PEF's request for recovery through the ECRC of costs for its GHG Inventory and Reporting Program shall be approved:

Yes. The Florida Climate Protection Act, section 403.44, Florida Statutes, requires major GHG emitters to register and report GHG emissions. It also requires FDEP to implement

a GHG Cap and Trade program to address required reductions. The Act also includes provisions allowing recovery of the costs and expenses prudently incurred to comply with the Act and FDEP's rule through the ECRC.

PEF shall be allowed to recover the O&M costs incurred in 2008 associated with the GHG inventory and reporting project, including training and inventory development. PEF shall also be allowed to recover the O&M costs associated with the GHG inventory and reporting project, including continued inventory development, third party verification and reporting to FDEP projected for the period January 2009 through December 2009. The costs for this program meet the requirements of Section 366.8255, for recovery through the ECRC.

- D. We approve the following stipulation regarding how to allocate the costs of the GHG Inventory and Reporting Program to the rate classes:

Capital costs for the Greenhouse Gas Inventory and Reporting Program shall be allocated to the rate classes on an average 12 CP demand and 1/13th energy basis. O&M costs should be allocated to the rate classes on an energy basis.

- E. We approve the following stipulation regarding whether PEF shall continue to recover Capital and O&M costs associated with its CAVR, CAIR and CAMR compliance projects in light of the vacatur of CAMR and potential vacatur of CAIR:

Yes. It is prudent and necessary for PEF to continue these projects. PEF's CAIR, CAMR and CAVR compliance plans were approved by the Commission in Order No. PSC-07-0922-FOF-EI, issued on November 16, 2007, in Docket 070007-EI, In re: Environmental Cost Recovery. On July 11, 2008, the D.C. Circuit Court of Appeals vacated CAIR in its entirety and remanded it to the EPA for further action consistent with the court's opinion. CAIR will, however, remain in effect until the court issues its mandate. On February 2, 2008, the D.C. Circuit Court of Appeals vacated CAMR. The vacatur became effective with the issuance of the court's mandate on March 14, 2008.

PEF has obligations to comply with environmental requirements other than CAIR and CAMR that include: (1) the Clean Air Visibility Rule (CAVR); and (2) the 8-hours Ozone National Ambient Air Quality Standards (NAAQS).

On April 2, 2008, PEF filed its Review of Integrated Clean Air Compliance Plan in light of the vacatur of CAMR. PEF's updated Integrated Clean Air Compliance Plan represents the most cost-effective alternative for achieving and maintaining compliance with CAIR, CAVR, and other environmental requirements. PEF shall file as part of its true-up testimony in the ECRC a yearly review of the efficiency of its plan and the cost-effectiveness of PEF's retrofit options for each generating unit in relation to expected changes in environmental regulations.

Gulf Power Company (Gulf)

- A. We approve the following stipulation regarding whether Gulf shall be allowed to recover the costs associated with its proposed Plant Smith SPCC Compliance Project:

Yes. The Plant Smith SPCC project is required as a result of the revisions to Title 40 Code of Federal Regulation (CFR) Part 112.8(c), which is commonly referred to as the Spill Prevention Control Countermeasures (SPCC) regulation. Facilities that were in operation on or before August 16, 2002, are required to amend and implement their SPCC plans in accordance with the new regulations no later than July 1, 2009. As a result, Plant Smith will modify the drum storage containment areas and install secondary containment for a small fuel tank. Gulf shall be allowed to recover prudently incurred costs associated with this proposed SPCC Compliance Project.

- B. We approve the following stipulation regarding how to allocate the costs associated with the Plant Smith SPCC Compliance Project to the rate classes:

Capital costs for the Plan Smith SPCC Compliance Project shall be allocated to the rate classes on an average 12 CP and 1/13 Average Demand basis.

- C. We approve the following stipulation regarding whether Gulf shall be allowed to recover the costs associated with its proposed Plant Crist Water Conservation Project:

Yes. This project is the additional part of the water conservation measures at Plant Crist that the Commission approved for cost recovery in Order No. PSC-05-1251-FOF-EI, issued December 22, 2005, in Docket No. 050007, In re: Environmental Cost Recovery Clause. The Northwest Florida Water Management District Individual Water Use Permit No. 19850074 issued January 27, 2005 requires Plant Crist to implement measures to increase water conservation and efficiency at the facility. Gulf has entered into negotiations with Emerald Coast Utilities Authority to utilize reclaimed water from their new wastewater treatment plant. This water use will increase groundwater and surface water conservation as required in the Consumptive Use Permit. The newly proposed capital project will include the necessary engineering and infrastructure for Gulf to connect to the local reclaimed water source. Gulf shall be allowed to recover prudently incurred costs associated with the Plan Crist Water Conservation Project.

- D. We approve the following stipulation regarding how to allocate the costs associated with the Plant Crist Water Conservation Project to the rate classes:

The proposed capital and operation and maintenance costs associated with this project shall be allocated to the rate classes on a 12 CP and 1/13 Average Demand basis.

- E. We approve the following stipulation regarding whether Gulf shall be allowed to recover the costs associated with its proposed Impaired Waters Rule (IWR) Project:

Yes. The Impaired Water Rule (IWR) adopted by the Environmental Regulation Commission in 2001, Chapter 62-203, Florida Administrative Code, calls for the evaluation of whether waters meet their designed uses based upon specific criteria. The FDEP has proposed listing waters in watersheds surrounding Gulf's generating facilities for nutrients and mercury. The IWR project will enable Gulf to conduct necessary modeling and evaluations to determine if a permitted discharge will contribute to a water body listing and whether additional wastewater reductions are required to meet new total daily maximum load requirements. Gulf shall be allowed to recover prudently incurred costs associated with the IWR Project.

- F. We approve the following stipulation regarding how to allocate the costs associated with the IWR Project to the rate classes:

The O&M costs associated with this project shall be allocated to the rate classes on a 12 CP and 1/13 Average Demand basis.

- G. We approve the following stipulation regarding whether Gulf shall be allowed to recover the costs associated with its proposed Annual Climate Registry Project:

Yes. The Florida Climate Protection Act, Section 403.44, F.S., requires major GHG emitters to register and report GHG emissions. It also requires FDEP to implement a GHG Cap and Trade program to address required reductions. The Act also includes provisions allowing recovery of the costs and expenses prudently incurred to comply with the Act and FDEP's rule through the ECRC.

Gulf shall be allowed to recover prudently incurred costs associated with joining the Climate Registry during 2009, as well as future expenses for monitoring and reporting GHG emissions.

- H. We approve the following stipulation regarding how to allocate the costs associated with the Annual Climate Registry Project to the rate classes:

Capital costs for the Annual Climate Registry Project shall be allocated to the rate classes on an average 12 CP demand and 1/13th energy basis. O&M costs shall be allocated to the rate classes on an energy basis.

- I. We approve the following stipulation regarding whether Gulf shall continue to recover Capital and O&M costs associated with its CAVR, CAIR and CAMR compliance projects in light of the vacatur of CAMR and potential vacatur of CAIR:

Yes. It is prudent and necessary for Gulf to continue these projects. On July 11, 2008, the D.C. Circuit Court of Appeals vacated CAIR in its entirety and remanded it to the EPA for further action consistent with the court's opinion. CAIR will, however, remain in effect until the court issues its mandate. On February 2, 2008, the D.C. Circuit Court of

Appeals vacated CAMR. The vacatur became effective with the issuance of the court's mandate on March 14, 2008.

Gulf has obligations to comply with environmental requirements other than CAIR and CAMR that include: (1) the Clean Air Visibility Rule (CAVR); (2) the 8-hours Ozone National Ambient Air Quality Standards (NAAQS); and (3) the Mississippi Regional Haze State Implementation Plan (SIP) which applies to Plant Daniel.

On September 18, 2008, Gulf filed its Environmental Compliance Program Update in light of the vacatur of CAMR and the potential vacatur of CAIR. Gulf's Updated Program represents the most cost-effective alternative for achieving and maintaining compliance with CAVR, and with CAIR, which remains in effect at this time, and the NAAQs, Mississippi SIP and related regulatory requirements. It is reasonable for Gulf to continue to recover prudently incurred costs to implement the program. Gulf shall file as part of its true-up testimony in the ECRC a yearly review of the efficiency of its program and the cost-effectiveness of Gulf's retrofit options for each generating unit in relation to expected changes in environmental regulations.

Tampa Electric Company (TECO)

- A. We approve the following stipulation regarding whether TECO shall continue to recover Capital and O&M costs associated with its CAVR, CAIR and CAMR compliance projects in light of the vacatur of CAMR and potential vacatur of CAIR:

Yes. To honor its Clean Air Act Settlement and Consent Decree with the EPA, TECO must continue its emission control projects. It is reasonable for TECO to continue to recover prudently incurred costs associated with these environmental compliance projects.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the stipulations and findings set forth in the body of this order are hereby approved. It is further

ORDERED that each utility that was a party to this docket shall abide by the stipulations and findings herein which are applicable to it. It is further

ORDERED that the utilities named herein are authorized to collect the environmental cost recovery amounts and use the factors approved herein beginning with the specified environmental cost recovery cycle and thereafter for the period of January 2009 through December 2009. Billing cycles may start before January 1, 2009, and the last cycle may be read after December 31, 2009, so that each customer is billed for 12 months regardless of when the adjustment factor became effective.

By ORDER of the Florida Public Service Commission this 24th day of November, 2008.



ANN COLE
Commission Clerk

(S E A L)

MCB

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.