

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Environmental Cost Recovery  
Clause

DOCKET NO. 20180007-EI

FILED: October 15, 2018

**PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL**

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2018-0090-PCO-EI issued February 19, 2018, submit this Prehearing Statement.

**APPEARANCES:**

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Associate Public Counsel  
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Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
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On behalf of the Citizens of the State of Florida.

A. **WITNESSES:**

None.

B. **EXHIBITS:**

None.

### C. STATEMENT OF BASIC POSITION

The utilities have the burden of proof to justify and support the recovery of costs, their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed), and any other affirmative relief sought, regardless of whether the Interveners provide evidence to the contrary. Moreover, regardless of whether the Commission has previously approved a program as meeting the Commission's requirements, the utilities must still meet their burden of demonstrating that the costs submitted for final recovery meet the statutory test(s), are reasonable in amount, and prudently incurred. Issues that were deferred from 2016 to the current docket carry no presumption of correctness as to the reasonableness, prudence or retail ratepayer responsibility for the type or category of cost for which recovery is being sought. The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes.

The Commission has previously stated that the ECRC does not automatically require recovery of prudently incurred environmental costs through the clause. Instead, recovery of even prudently incurred costs is a matter of agency discretion and policy. Further, Section 366.01, Florida Statutes, states on its face that the provisions of Chapter 366 are to be liberally construed to protect the public welfare.

### D. STATEMENT OF FACTUAL ISSUES AND POSITIONS

#### GENERIC ISSUES

**ISSUE 1:     What are the final environmental cost recovery true-up amounts for the period January 2017 through December 2017?**

OPC: No position at this time. The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes.

**ISSUE 2: What are the estimated/actual environmental cost recovery true-up amounts for the period January 2018 through December 2018?**

OPC: No position at this time. The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes.

**ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2019 through December 2019?**

OPC: No position at this time. The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes.

**ISSUE 4: What are the environmental cost recovery amounts, including true-up amounts, for the period January 2019 through December 2019?**

OPC: No position at this time. The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes.

**ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2019 through December 2019?**

OPC: No position at this time. The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes.

**ISSUE 6:** What are the appropriate jurisdictional separation factors for the projected period January 2019 through December 2019?

OPC: No position

**ISSUE 7:** What are the appropriate environmental cost recovery factors for the period January 2019 through December 2019 for each rate group?

OPC: No position.

**ISSUE 8:** What should be the effective date of the new environmental cost recovery factors for billing purposes?

OPC: No position.

**ISSUE 9A:** Should DEF be allowed to recover, through the ECRC, prudently incurred costs associated with its proposed Crystal River Flue Gas Desulfurization (FGD) Blowdown Pond Closure project?

OPC: No. The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes.

**ISSUE 9B:** How should costs associated with DEF's proposed Crystal River FGD Blowdown Pond Closure project be allocated to rate classes?

OPC: No Position.

## COMPANY SPECIFIC ISSUES

### FLORIDA POWER & LIGHT

**ISSUE 10A: Should FPL be allowed to recover, through the ECRC, prudently incurred costs associated with its proposed modifications to its Manatee Temporary Heating System project?**

OPC: No. The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes. FPL has not proven that these costs fully meet the statutory test.

**ISSUE 10B: Should FPL be allowed to recover, through the ECRC, prudently incurred costs associated with its proposed modifications to its National Pollution Discharge Elimination System Permit Renewal Requirements project?**

OPC: No. The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes. FPL has not proven that these costs fully meet the statutory test.

**ISSUE 10C: Should FPL be allowed to recover, through the ECRC, prudently incurred costs associated with its proposed Solar Site Avian Monitoring and Reporting project?**

OPC: The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes. FPL has not proven that these costs fully meet the statutory test.

**ISSUE 10D: How should costs associated with FPL's proposed Solar Site Avian Monitoring and Reporting project be allocated to rate classes?**

OPC: The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes. FPL has not proven that these costs fully meet the statutory test.

**ISSUE 10E: Is FPL meeting remediation objectives in the Florida Department of Environmental Protection Consent Order and the Miami-Dade County DERM Consent Agreement in a timely manner? If not, what jurisdictional amounts, if any, should the Commission approve as reasonably projected?**

OPC: At this time, it is too early to tell the success or failure of such activities and any failure to meet the requirements should be considered in any prudence determination of future costs or modifications. This issue should be deferred for consideration to a future clause proceeding but should be maintained as an issue for the pendency of the project and so long as FPL seeks recovery through the clause.

GULF POWER COMPANY

**ISSUE 11A: Should Gulf be allowed to recover, through the ECRC, prudently incurred costs associated with its proposed 316(b) Cooling Water Intake Structure Regulation project?**

OPC: The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes. Gulf has not proven that these costs fully meet the statutory test.

**ISSUE 11B: How should costs associated with Gulf's proposed 316(b) Cooling Water Intake Structure Regulation project be allocated to rate classes?**

OPC: No Position.

**ISSUE 12A** Should TECO be allowed to recover, through the ECRC, prudently incurred costs associated with its proposed Big Bend Unit 1 Section 316(b) Impingement Mortality project?

OPC: The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes. FPL has not proven that these costs fully meet the statutory test.

**ISSUE 12B:** How should costs associated with TECO's proposed Big Bend Unit 1 Section 316(b) Impingement Mortality project be allocated to rate classes?

OPC: No position.

**ISSUE 12C:** Should TECO be allowed to recover, through the ECRC, prudently incurred costs associated with its proposed Big Bend Station Effluent Limitations Guidelines (ELG) Rule Compliance project?

OPC: The Commission must independently determine that each cost submitted for recovery meets each element of the statutory requirements for recovery through this clause as set out in Section 366.8255, Florida Statutes. FPL has not proven that these costs fully meet the statutory test.

**ISSUE 12D:** How should costs associated with TECO's proposed Big Bend Station ELG Rule Compliance project be allocated to rate classes?

OPC: No position.

**ISSUE 13: Should the Commission approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding?**

OPC: Yes, if the cost recovery reflected in such tariffs meet the requirements of the statute and are proven by the respective utility.

**ISSUE 14: Should this docket be closed?**

OPC: No. Position.

E. STIPULATED ISSUES:

None.

F. PENDING MOTIONS:

None.

G. REQUESTS FOR CONFIDENTIALITY

OPC have no pending requests for claims for confidentiality.

H. OBJECTIONS TO WITNESS QUALIFICATIONS AS AN EXPERT

OPC has no objections to any witness' qualifications as an expert in this proceeding.



I. REQUIREMENTS OF ORDER

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 15<sup>th</sup> day of October, 2018.

Respectfully submitted,

JR Kelly  
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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Office of Public Counsel's Prehearing Statement has been furnished by electronic mail on this 15<sup>th</sup> day of October, 2018, to the following:

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