

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 060002-EG
ORDER NO. PSC-06-0909-PHO-EG
ISSUED: November 1, 2006

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on October 23, 2006, in Tallahassee, Florida, before Commissioner Matthew M. Carter II, as Prehearing Officer.

APPEARANCES:

JOHN T. BUTLER, ESQUIRE, Steel Hector & Davis, LLP, 200 South Biscayne Blvd., Suite 4000, Miami, Florida 33131-2398; R. WADE LITCHFIELD, ESQUIRE, AND NATALIE F. SMITH, ESQUIRE, 700 Universe Boulevard, Juno Beach, Florida 33408

On behalf of Florida Power & Light Company (FPL).

NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello & Self, P.A., P. O. Box 15579, Tallahassee, Florida 32317

On behalf of Florida Public Utilities Company (FPUC).

JEFFREY A. STONE, ESQUIRE, RUSSELL A. BADDERS, ESQUIRE AND STEVEN R. GRIFFIN, ESQUIRE, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32591-2950

On behalf of Gulf Power Company (Gulf).

R. ALEXANDER GLENN, DEPUTY GENERAL COUNSEL – FLORIDA, AND JOHN T. BURNETT, ESQUIRE, Associate General Counsel, Progress Energy Service Co., LLC, Post Office Box 14042, St. Petersburg, Florida 33733-4042

On behalf of Progress Energy Florida (PEF).

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).

PATRICIA A. CHRISTENSEN, Esquire, Associate Public Counsel, JOSEPH A. MCGLOTHLIN, Esquire, Associate Public Counsel, CHARLES J. BECK, Esquire, 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).

DOCUMENT NUMBER-DATE

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PSC-COMMISSION CLERK

JOHN W. MCWHIRTER, JR., ESQUIRE, McWhirter, Reeves & Davidson, P.A.,
400 North Tampa Street, Suite 2450, Tampa, Florida 33601-3350
On behalf of the Florida Industrial Power Users Group (FIPUG).

KATHERINE E. FLEMING, ESQUIRE, Florida Public Service Commission,
2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of 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 6-8, 2006. 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, Florida Administrative Code, this 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. This hearing will be governed by said Chapter and Chapters 25-17, 25-22, and 28-106, Florida Administrative Code.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 119.07(1), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, shall be treated by the Commission 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 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, Florida Statutes. 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, Florida

Statutes, 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, Florida Statutes, 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 Division of the Commission Clerk and Administrative Services' 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), Florida Administrative Code, 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. 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. Summaries of testimony shall be limited to five minutes. 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.

VI. ORDER OF WITNESSES

As a result of discussions at the prehearing conference, each witness whose name is preceded by an asterisk (*) has been excused from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified by Wednesday, November 1, 2006, as to whether any such witness shall be required to be present at the hearing. The testimony of excused witnesses will be inserted into the record as though read, and all exhibits submitted with those witnesses' testimony shall be identified as shown in Section IX of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*Kenneth Getchell	FPL	1, 2, 3
*Marc S. Seagrave	FPUC	1, 2, 3, 5
*William D. Eggart	GULF	1, 2, 3
*John A. Masiello	PEF	1, 2, 3, 4
*Howard T. Bryant	TECO	1, 2, 3, 4

VII. BASIC POSITIONS

FPL: FPL's proposed Conservation Cost Recovery Factors for the January 2007 through December 2007 recovery period and true-up amounts for prior periods should be approved.

FPUC: FPUC has properly projected its costs and calculated its true-up amounts and conservation costs recovery factors. Those amounts and factors should be approved by the Commission.

GULF: It is the basic position of Gulf Power Company that the proposed ECCR factors present the best estimate of Gulf's Conservation expense for the period January 2007 through December 2007, including the true-up calculations and other adjustments allowed by the Commission.

PEF: None necessary.

TECO: The Commission should determine that Tampa Electric has properly calculated its conservation cost recovery true-up and projections and that the appropriate conservation cost recovery factor to be applied by Tampa Electric during the period January 2007 through December 2007 is 0.061 cents per KWH for Interruptible, 0.073 cents per KWH for Residential, 0.071 cents per KWH for General Service Non-Demand and Temporary Service, 0.063 cents per KWH for General Service Demand – Secondary, 0.062 cents per KWH for General Service Demand – Primary, 0.056 cents per KWH for General Service Large Demand and Firm Standby – Secondary, 0.056 cents per KWH for General Service Large Demand and Firm Standby – Primary, 0.055 cents per KWH for General Service Large Demand and Firm Standby – Subtransmission, and 0.026 cents per KWH for Lighting.

The Commission should also approve the \$7.78 per KW Contracted Credit Value Tampa Electric has calculated for the GSLM-2 and GSLM-3 rate riders for use during the period January 2007 through December 2007.

OPC: No position.

FIPUG: No position.

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.

VIII. ISSUES AND POSITIONS

STIPULATED

ISSUE 1: What are the appropriate final conservation cost recovery true-up amounts for the period January 2005 through December 2005?

POSITIONS:

Florida Power & Light (FPL)	\$11,521,004	Overrecovery
Florida Public Utilities (FPUC)	\$106,997	Overrecovery
Gulf Power Company (Gulf)	\$863,487	Overrecovery
Progress Energy Florida (PEF)	\$9,598,366	Overrecovery
Tampa Electric Company (TECO)	\$2,614,594	Overrecovery

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 2: What are the appropriate conservation cost recovery factors for the period January 2007 through December 2007?

POSITIONS:

FPL	Rate Class	ECCR Factor
	RS1/RST1	0.169 cents/Kwh
	GS1/GST1	0.162 cents/Kwh
	GSD1/GSDT1/HLTF (21-499 kW)	0.148 cents/Kwh
	OS2	0.125 cents/Kwh
	GSLD1/GSLDT1/CS1/CST1/HLTF (500-1,999 kW)	0.150 cents/Kwh
	GSLD2/GSLDT2/CS2/CST2/HLTF (2,000+kW)	0.138 cents/Kwh
	GSLD3/GSLDT3/CS3/CST3	0.131 cents/Kwh
	ISST1D	0.144 cents/Kwh
	ISST1T	0.096 cents/Kwh
	SST1T	0.096 cents/Kwh
	SST1D1/SST1D2/SST1D3	0.144 cents/Kwh
	CILC D/CILC G	0.135 cents/Kwh
	CILC T	0.127 cents/Kwh
	MET	0.152 cents/Kwh
	OL1/SL1/PL1	0.081 cents/Kwh
	SL2, GSCU1	0.132 cents/Kwh

FPUC	Rate Class	ECCR Factor
	(Consolidated)	0.060 cents/Kwh

GULF	Rate Class	ECCR Factor
	RS, RSVP	0.088 cents/Kwh
	GS	0.087 cents/Kwh
	GSD, GSDT, GSTOU	0.083 cents/Kwh
	LP, LPT	0.079 cents/Kwh
	PX, PXT, RTP, SBS	0.074 cents/Kwh
	OSI, OSII	0.070 cents/Kwh
	OSIII	0.077 cents/Kwh

PEF	Rate Class	ECCR Factor
	Residential	0.196 cents/Kwh
	General Svc. Non-Demand	0.176 cents/Kwh
	@ Primary Voltage	0.174 cents/Kwh
	@ Transmission Voltage	0.172 cents/Kwh
	General Svc. 100% Load Factor	0.141 cents/Kwh
	General Svc. Demand	0.158 cents/Kwh
	@ Primary Voltage	0.156 cents/Kwh
	@ Transmission Voltage	0.155 cents/Kwh
	Curtable	0.131 cents/Kwh
	@ Primary Voltage	0.130 cents/Kwh
	@ Transmission Voltage	0.128 cents/Kwh
	Interruptible	0.144 cents/Kwh
	@ Primary Voltage	0.143 cents/Kwh
	@ Transmission Voltage	0.141 cents/Kwh
	Lighting	0.084 cents/Kwh

TECO	Rate Class	ECCR Factor
	Interruptible	0.061 cents/Kwh
	Residential	0.073 cents/Kwh
	General Svc., TS	0.071 cents/Kwh
	General Svc. Demand - Secondary	0.063 cents/Kwh
	@ Primary Voltage	0.062 cents/Kwh
	General Svc. LD, SBF	0.056 cents/Kwh
	@ Primary Voltage	0.056 cents/Kwh
	@ Subtransmission Voltage	0.055 cents/Kwh
	SL, OL	0.026 cents/Kwh

OPC: No position.

FIPUG: No position.

STIPULATED

ISSUE 3: What should be the effective date of the new conservation cost recovery factors for billing purposes?

POSITION: The factors should be effective beginning with the specified conservation cost recovery cycle and thereafter for the period January 2007 through December 2007. Billing cycles may start before January 1, 2007, and the last cycle may be read after December 31, 2007, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

OPC: No position.

FIPUG: No position.

COMPANY SPECIFIC CONSERVATION COST RECOVERY ISSUES

Tampa Electric Company

STIPULATED

ISSUE 4: What is the Contracted Credit Value for the GSLM-2 and GSLM-3 rate riders for Tampa Electric Company for the period January 2007 through December 2007?

POSITION: In accordance with 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 will be \$7.78 per KW for the period January 2007 through December 2007.

OPC: No position.

FIPUG: No position.

Florida Public Utilities Company

STIPULATED

ISSUE 5: What adjustments should be made to Florida Public Utility Company's current period true-up (January 2006 thru December 2006) to limit recovery of the cost of promotional items distributed at fairs, festivals, conferences, and other similar events, for the year ended December 31, 2005?

POSITION: The 2005 over-recovery amount should be increased by \$1774.71 (including interest) and retained earnings debited. This adjusted over-recovery amount should be used as the beginning balance in the 2006 filing.

OPC: No position.

FIPUG: No position.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Kenneth Getchell	FPL	<u>KG-1</u>	Schedules CT-1 through CT-6, Appendix A
Kenneth Getchell	FPL	<u>KG-2</u>	Schedules C-1 through C-5
Marc S. Seagrave	FPUC	<u>MSS-1 (Composite)</u>	True-up calculations and Schedules CT-1, CT-2, CT-3, CT-4, CT-5, and CT-6
Marc S. Seagrave	FPUC	<u>MSS-2 (Composite)</u>	Projections calculations and Schedules C-1, C-2, C-3, C-4, and C-5
William D. Eggart	GULF	<u>WDE-1</u>	Schedules CT-1 through CT-6
William D. Eggart	GULF	<u>WDE-2</u>	Schedules C-1 through C-5
John A. Masiello	PEF	<u>JAM-1T</u>	ECCR Adjusted Net True-Up for January - December 2005, Schedules CT1 - CT5
John A. Masiello	PEF	<u>JAM-1P</u>	Estimated/Actual True-Up, January – December 2006 and ECCR Factors for Billings in January - December 2007, Schedules C1 - C5
Howard T. Bryant	TECO	<u>HTB-1</u>	Schedules supporting cost recovery factor, actual January 2005 - December 2005
Howard T. Bryant	TECO	<u>HTB-2</u>	Schedules supporting conservation costs projected for the period January 2007 - December 2007

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

X. PROPOSED STIPULATIONS

There are proposed stipulations on all issues, noting that OPC and FIPUG have taken no position on Issues 1-5.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are two pending confidentiality requests: Document Nos. 06113-06 and 09657-06.

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 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. 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, Florida Administrative Code, 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

Opening statements, if any, shall not exceed ten minutes per party.

It is therefore,

ORDERED by Commissioner Matthew M. Carter II, 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 Matthew M. Carter II, as Prehearing Officer, this 1st
day of November, 2006.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

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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 Director, Division of the Commission Clerk and Administrative Services, 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.