BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Conservation Cost Recovery Clause.	DOCKET NO. 890002-EG ORDER NO. 21317 ISSUED: 6-2-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
JOHN T. HERNDON

Pursuant to Notice, a hearing was held in this docket and in Dockets Nos. 890001-EI and 890003-GU on February 22, 1989, in Tallahassee, Florida.

APPEARANCES:

CHARLES GUYTON, Esquire, Steel, Hector and Davis, 310 W. College Avenue, Tallahassee, Florida 31301-1406
On behalf of Florida Power and Light Company.

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On behalf of Florida Power Corporation.

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On behalf of Tampa Electric Company and City Gas Company.

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On behalf of the Coalition of Local Governments.

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On behalf of the Florida Public Utilities Corporation, Gainesville Gas Company, and West Florida Natural Gas Company.

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PRENTICE PRUITT, Esquire, and WILLIAM H. HARROLD, Florida Public Service Commission, General Counsel's Office, Tallahassee, Florida 32399-0861
Appearing as Counsel to the Commissioners.

ORDER APPROVING AND DISALLOWING CERTAIN ENERGY CONSERVATION COST RECOVERY

As part of the Commission's continuing fuel cost recovery, oil backout cost recovery, conservation cost recovery, and purchased gas cost recovery proceedings, a hearing was held on February 22, 1989, in this docket and in Dockets Nos. 890001-EI and 890003-GU. The following subjects were noticed for hearing in these dockets:

1. Determination of the Proposed Levelized Fuel Adjustment Factors for all investor-owned electric utilities for the period April, 1989 through September, 1989;

2. Determination of the Estimated Fuel Adjustment True-Up Amounts for all investor-owned electric utilities for the period October, 1988 through March, 1989, which are to be based on actual data for the period October, 1988 through November, 1988, and revised estimates for the period December, 1988 through March, 1989;

3. Determination of the Final Fuel Adjustment True-Up Amounts for all investor-owned electric utilities for the period April, 1988 through September, 1988, which are to be based on actual data for that period;

4. Determination of the Projected Conservation Cost Recovery Factors for certain investor-owned electric and gas utilities for the period April, 1989 through September, 1989;

5. Determination of the Estimated Conservation True-Up Amounts for certain investor-owned electric and gas utilities for the period October, 1988 through March, 1989, which are to be based on actual data for the period October, 1988 through November, 1988, and revised estimates for the period December, 1988 through March, 1989;

6. Determination of the Final Conservation True-Up Amounts for certain investor-owned electric and gas utilities for the period April, 1988 through September, 1988, which are to be based on actual data for that period;

7. Determination of any Projected Oil Backout Cost Recovery Factors for the period April, 1989 through September, 1989, for the cost of approved oil backout projects to be recovered pursuant to the provisions of Rule 25-17.16, Florida Administrative Code;

8. Determination of the Estimated Oil Backout Cost Recovery True-Up Factors for the period October, 1988 through March, 1989, for the costs of approved oil backout projects to be recovered pursuant to the provisions of Rule 25-17.16, Florida Administrative Code, which are to be based on actual data for the period October, 1988 through March, 1989;

9. Determination of the Final Oil Backout True-Up Amounts for the period April, 1988 through September, 1988, which are to be based on actual data for that period;

10. Determination of Generating Performance Incentive Factor Targets and Ranges for the period April, 1989 through September, 1989;

11. Determination of Generating Performance Incentive Factor Rewards and Penalties for the period April, 1988 through September, 1988; and

12. Determination of the Purchased Gas Adjustment True-Up Amounts for the period April, 1988 through September, 1988, to be recovered during the period April, 1989 through September, 1989.

PROCEDURAL MATTERS

Florida Power Corporation (FPC), Florida Power & Light Company (FPL), Florida Public Utilities Company (FPUC), Gulf Power Company (Gulf), Tampa Electric Company (TECO), Central Florida Gas Company (CFGC), City Gas Company of Florida (City Gas), Gainesville Gas Company (GGC), Peoples Gas Company (PGS), and West Florida Natural Gas Company (WFNG) submitted testimony and exhibits in support of their proposed net true-up and projected end-of-period net true-up amounts and their conservation cost recovery factors. In most cases, Staff, the Office of Public Counsel (OPC) and the utility agreed upon the correct figures, which were then stipulated at hearing.

Additionally, Staff, FPL, Gulf, and FPC submitted testimony on whether certain conservation programs should be eliminated.

ENERGY CONSERVATION COST RECOVERY

The parties stipulated to the appropriate energy conservation cost recovery adjustment true-up amounts for the period April, 1988 through September, 1988 and the appropriate projected end-of-period total net true-up amounts for the period October, 1988 through March, 1989 as follows:

	Energy Conservation Cost Recovery Adjusted Net True-up Amounts for April, 1988 - Sept. 1988	Projected End-of-Period Total Net True-up Amounts for Oct., 1988 -
FPC:	$531,349 overrecovery	$1,070,552 overrecovery
FPUC:		
Marianna	300 underrecovery	365 underrecovery
Fernandina	3,983 overrecovery	11,068 overrecovery
GULF:	66,612 overrecovery	254,335 underrecovery
TECO:	474,178 overrecovery	770,849 overrecovery
CFGC:	21,795 overrecovery	51,962 overrecovery
CGC:	285,748 overrecovery	489,614 overrecovery
G'VILLE:	14,075 underrecovery	5,353 underrecovery
PGS:	15,828 underrecovery	88,930 overrecovery
SJNG:	2,065 underrecovery	1,001 overrecovery
WFNG:	33,002 underrecovery	35,939 underrecovery

The parties further stipulated to the appropriate conservation cost recovery factors for the period April, 1989 through September, 1989:

	Conservation Cost Recovery Factor for April, 1989 - Sept. 1989
FPC:	0.153¢/KWH overrecovery
FPUC:	
Marianna	0.028¢/KW
Fernandina	0.018¢/KW
GULF:	0.040¢/KWH
TECO:	.111¢/KWH
CFGC:	.265¢/therm
CGC:	(.004)¢/therm
G'VILLE:	(.004)¢/therm
PGS:	.706¢/therm
SJNG:	.305¢/therm
WFNG:	2.075¢/therm

The stipulated revenue tax factor is 1.01652. The stipulated public authority factor for the period April, 1989 through September, 1989 is .261¢/therm for Central Florida and .696¢/therm for Peoples.

FPL proposed an adjusted net true-up amount for April, 1988 through September, 1988 of $156,031 overrecovery, a projected end-of-period total net true-up amount for October, 1988 through March, 1989 of $843,016 overrecovery, and a conservation cost recovery factor for April, 1989 through September, 1989 of 0.042 cents per KWH.

Staff proposed the amounts for these periods as $1,288,052 overrecovery, $2,005,808 overrecovery and .039 cents per KWH, respectively. OPC and the Coalition of Local Governments agreed with Staff's positions.

The difference between Staff's and FPL's proposed figures results from Staff's proposed disallowance of certain conservation advertising expenses. At hearing, we therefore issued a bench ruling that FPL use its ECCR factor, subject to our ruling on the disputed advertising expenses. Any changes resulting from this ruling will then be trued-up at the next hearing in this docket.

CONSERVATION PROGRAMS AND ADVERTISING

Florida Power & Light

The parties stipulated that FPL's Passive Home Program and Street Lighting Conversion Program be eliminated because they have accomplished their original objectives. FPL's Pool Pump Program shall also be eliminated because it has accomplished its original objectives, and activity in the program is minimal, with costs currently allocated from costs for the audit program. The elimination shall be effective, and no further expenses shall be charged to these programs, upon issuance of this Order.

Staff challenged certain of FPL's conservation recovery advertising costs. This issue was raised but not disposed of in the August, 1988 conservation cost recovery hearing. For the period April, 1987 through September, 1987, Staff initially proposed a disallowance of $574,837.01, for the period October, 1987 through March, 1988, a disallowance of $222,946.82, and for the period April, 1988 through September, 1988, a disallowance of $282,948.38. OPC agreed with Staff.

During the period April, 1987 through September, 1988 FPL sought recovery of $4,062,079 for advertising expenses. Of this amount, Staff originally recommended $1,084,732 be disallowed because certain ads did not comply with the requirements of Order No. 11583 and subsequent orders which outline four basic criteria that conservation advertising should meet to qualify for reimbursement through ECCR. Mr. Roland Floyd, testifying on behalf of Staff, indicated the ads did not meet the criteria specified in Order No. 17281 and similar orders. Moreover, he concluded that each ad challenged by staff overly enhanced the utility's image and in many cases encouraged additional energy use instead of promoting conservation.

FPL sponsored testimony of Mr. Peter A. England, who argued that the ads may not strictly meet the criteria outlined in Commission orders but that FPL was entitled to reimbursement for the ads because they conveyed useful conservation information. This standard was articulated in Order No. 17281 which does permit each utility to defend advertising which does not meet the specific criteria. Mr. England stated that FPL had performed market research which determined that the ads in question conveyed conservation information. He further stated that the overall ad campaign "motivated customers into thinking about and acting on the conservation message for reasons of enlightened self-interest."

We are not persuaded by Mr. England's testimony that the company has met the burden of proof on all challenged advertisements, as required by Order No. 17281. This order stated the four criteria for recoverable conservation advertising, but also stated that "a company whose ads do not meet the criteria will be given an opportunity to demonstrate that the ads do convey useful conservation information and should nonetheless be approved." Clearly, where ads do not meet the four criteria, the utility must demonstrate that such ads convey useful conservation information.

FPL's ads can be divided into four categories. The first category is referred to as their "Lifestyle" campaign. In these ads, customers explain that they saved so much electricity due to participating in one of FPL's conservation program that they can now run some other appliance. The total costs of these ads is approximately $289,000.

Similarly, FPL used a "Short Lifestyle" campaign. This is an abbreviated version of the Lifestyle campaign. For example, a short media ad would say something like "Can insulation run your outdoor lights?", and then provide an FPL telephone number. The total cost of these ads is approximately $11,489 for the period in question.

The third category of ads falls under a "Competitive Edge" theme. These ads typically showed businessmen looking at some type of new equipment. The accompanying text explains that FPL has many services that can help businesses. The total disputed amount of these ads is approximately $745,801.

Finally, the last category is referred to as "Multi-purpose". These ads usually list the customer services available from FPL such as budget billing, life sustaining equipment, social service assistance, and an occasional energy conservation service. Total cost of these ads is $38,273.

We approve the Lifestyle and Short Lifestyle ads for recovery. We base our approval on two grounds. First, conservation and energy savings are the predominant theme of these ads. While it is clear that the ads promote usage of other electrical consuming appliances (e.g., security lighting, VCRs, stereos), the utility's testimony established electrical usage of these other appliances was always less than the amount of electricity saved by participating in the program. Clearly, the ads message is that participation in a conservation program can produce savings which can be used for other desirable benefits.

While we are troubled that FPL apparently encourages its customers to consume more electricity, each ad does encourage a net conservation saving.

In contrast, the Competitive Edge ads simply enhance the image of FPL. For example, several ads simply discuss the many services provided by FPL, after which the customer is told that FPL's expert staff can put the customer on the right rate schedule, advise on thermal storage, and minimize power interruptions. We note that FPL does not have a rate review program approved for cost recovery, the thermal energy storage program was denied approval by this Commission, and minimization of power interruptions is not an approved FEECA program. We cannot identify any conservation message or theme in this ad campaign, despite Mr. England's claims that such a campaign is "more effective in today's environment than trying to convey the details of energy conservation information in the advertisements themselves."

Finally, we come to the last group of ads identified as the Multi-purpose ads. One such ad discusses "Six ways to make your life easier". Of the six FPL services identified, only the free energy survey is related to energy conservation. The rest of the ad is simply image enhancing. Merely mentioning a conservation service in a multipurpose ad does not itself constitute the type of advertising envisioned for ECC recovery. This ad would not be approved based on ninety percent of the contents of the ad, and adding a ten percent conservation message does not remedy the defect. This is an obvious case of piggybacking image enhancing advertising onto the conservation clause.

FPL's principal defense for its Competitive Edge advertisements is that market research had shown them to be effective in addressing identified consumer attitudes and producing the desired results, and that consumers identified conservation as the predominant theme.

In Order No. 17281, the Commission set forth clear criteria defining acceptable advertisement. Utilities departing from these criteria must "demonstrate that the ads do convey useful conservation information." See Order No. 17281. We reject the notion that market research should be used to evaluate the appropriateness of conservation advertising. Market research cannot be substituted for the judgment of this Commission regarding appropriate conservation advertising. To do so would invite debate by competing "advertising experts" who will testify that a particular campaign is or is not effective. It is neither acceptable nor desirable to cede regulatory judgment to advertising specialists.

Ratepayers reimburse utilities 100% for advertising approved for energy conservation cost recovery. Because of this special treatment, utilities are under a special obligation to carefully scrutinize and evaluate advertisements to ensure that such advertising clearly comports with the purpose of the ECCR clause. In this context, it is especially inappropriate for the utility to "piggyback" image-enhancing or other non-conservation related advertising and asks ratepayers to pay the bill.

Gulf

Staff recommended the elimination of Gulf's Super Good Cents Existing Home Program for several reasons. Gulf has not been able to perform field evaluations to determine if anticipated KW and KWH savings have been realized as a result of the program. Further, based on Gulf's own analysis, the program yields a marginal benefit-to-cost ratio for participating customers. Gulf's own data indicates an 18year payback for participating customers. We are concerned that the remainder of Gulf's ratepayers may never realize savings from this program.

Gulf's witness Mr. J. F. Young agreed that a rigid, statistical analysis of this program had not been performed because there are many reasons why customers purchase conservation measures including comfort, value, and savings. He stated that KWH savings from the program may not be measurable and that such savings should not be the sole basis for evaluating the program. Mr. Young further argued that while KWH savings may not be important, this program provides a KW demand reduction for each participant and the value of avoided capacity results in an overall benefit to cost ratio for Gulf's customers of 3.4 to 1.

Upon cross-examination, Mr. Young admitted the company does not have data on what efficiency equipment would be installed without the Good Cents program, nor does it know with precision what efficiency equipment is being replaced by this program. This leads us to conclude that even the demand savings Gulf claims for this program may be overly optimistic, and perhaps even non-existent.

We find that Gulf has not demonstrated that enough demand and energy savings result from the program to provide residual benefits to all of the utility's ratepayers. The utility has done no retrofit analyses. Side-by-side demand metering of participating and non-participating homes would be prohibitively expensive. Further, without reference to this program, the marketplace is rapidly improving equipment efficiencies. As landable as Gulf's program objectives may be, we cannot permit the utility to subsidize participating customers' comfort or value. We therefore order that this program be phased out by May 1, 1990.

Florida Power Corporation

The parties stipulated that FPC's Voltage Regulation Program be eliminated. All eligible sub-stations have been retrofitted and all new sub-stations have voltage regulation incorporated in their initial design. The program has accomplished the objective listed in the original program approval. No new charges may be made to this account, effective upon issuance of this Order.

The parties also stipulated that FPC's Street Lighting Program be eliminated. Rather than set a date certain for the completion of this program, we direct Staff, OPC, and FPC to work out an effective date, such that the conversion program is completed before it is terminated.

The Coalition of Local Governments (CLG) raised the issue of whether FPC has properly evaluated the KWH and KW demand savings of its conservation programs (excluding load management) to determine if savings have been realized. The Coalition further proposed that FPC's Commercial/Industrial Audit program be modified to require that the audit recipient bear the entire audit cost. CLG did not sponsor a witness on this subject. FPC's witness, Mr. T. J. Gelvin, testified that FPC has not re-assessed the assumptions used in evaluating the Commercial/Industrial Energy Audit since the filing of the original program in the early 1980's. Based on studies performed for FPC by Eckerd College in 1985, FPC claims that each participant in its Home Energy Fixup program saves between 141 and 211 annual KWH. While we feel that FPC has, in the past, properly evaluated the KWH and KW demand savings of its conservation programs, we are concerned that neither of these programs has been evaluated recently. Relying on pre-1980 data for estimates of savings in the Commercial/Industrial Energy Audit program is not acceptable. Further, a savings of 211 KWH annually, as shown in FPC's 1985 Study, is so small that it is questionable whether it could be measured, given uncertainty in consumer behavior and usage patterns. We therefore order FPC to re-evaluate these two programs. We intend to examine these programs in the future, and FPC must then demonstrate that the programs continue to be cost-effective.

With regard to the audit programs, CLG questioned the appropriateness of FPC's current Commercial/Industrial (C/I) Audit program and the fee system used to charge for the audits. FPC has two levels of C/I audits: One is a free walk-through audit, and the other is a more thorough audit where the customers pay a portion of the costs based on their KWH usage. The maximum fee for this audit is $500. CLG argues that since the actual cost of the audit is approximately $1,200, the ratepayers are subsidizing the C/I audit customer. We agree that there is such a subsidy, but do not agree that it should be eliminated. All conservation programs involve some form of subsidy in the form of a cost recovery charge. Not everyone directly participates in

these programs but all customers pay for them. We allow this recovery if benefits accrue to the general body of ratepayers. That is, demand and energy savings associated with the program should defer capacity and avoid enough fuel to afford residual benefits to all ratepayers. We have adopted a formal cost-effectiveness test to perform such evaluations.

At this point, we find that FPC's Commercial/Industrial Audit program is cost-effective. However, we hereby order FPC to perform a more rigorous evaluation of this program, using updated information. As discussed above, the original assumptions are still being used in FPC's evaluation of this program.

Conservation Awareness and Education Programs

Staff recommended elimination of FPL's Conservation Awareness Program, FPC's Energy Education Program, Gulf's Energy Education Program, and Gulf's Presentation/Seminars Program. These programs are all general education type conservation programs which provide general information not related to a specific conservation program area. We are concerned that these programs are neither quantifiable nor are there any limits as to what expenses can be charged to them. The utilities do not dispute that these programs cannot be quantified, but argue that such advertising is an important part of their overall conservation efforts.

There are no factual issues in dispute here. The basic question is whether general purpose education progams should be given the benefit of recovery through the ECCR clause. We find that it should not. Perhaps providing that this kind of information eight years ago warranted special cost recovery consideration. Then, the notion that the local utility was a provider of information about insulation, heating and cooling equipment, and other energy services and products was novel. Utilities had just begun to encourage customer conservation and demand management to improve load factors and defer the need for new generating equipment. Now, however, we believe programs of this kind are a fundamental part of the customer service responsibility of such utilities and, therefore, do not require special recovery. For example, Tampa Electric Company provides such information as an on-going part of its customer service function. If the FEECA statute and ECCR were abolished tomorrow, customers would still call utility service offices to inquire about energy efficient products and uses. Utilities should and would provide such information on how to use its product wisely. The need for special treatment of such information services has long since passed, so we hereby order the elimination of these programs for ECCR purposes.

Staff witnesses Mr. Roland Floyd and Mr. Richard Shine also expressed concern that since these programs were not quantifiable, no limit currently exists as to how much educational expense can be recovered. Staff Exhibit No. 1314 shows expenses for these programs of $.13 customer per year for FPC, $1.00 per customer for FPL, and $2.44 per customer per year for Gulf. Gross expenditures range from $297,000 for Gulf to $3 million for FPL. Without standards and quantifiable benefits, it is difficult to review this type expense. As Mr. Floyd noted, there is no effective cap on these expenditures. Therefore, if a utility wanted to double or triple its budget for educational programs, our Staff would have no standard to review the propriety of such expenses. Obviously, education is desirable, but utilities should not be given an automatic pass-through for such expenses.

Eliminating these programs does not eliminate conservation education or advertisement. The utilities will continue to provide information on specific approved programs, but will not be permitted to recover general advertising expenses through the ECCR clause. Thus, we hereby order that no additional expenses be charged to these programs after October 1, 1989.

In consideration of the above, it is

ORDERED that the findings and stipulations set forth in the body of this Order are hereby approved. It is further

ORDERED that Florida Power & Light Company's Passive Home Program, Street Lighting Conversion Program and Pool Pump Program be eliminated, and no further charges be made to these programs, effective upon issuance of this Order. It is further

ORDERED that Florida Power & Light Company's advertising expenditures of $745,801 for its "Competitive Edge" campaign is hereby disapproved for energy conservation cost recovery. It is further

ORDERED that Gulf's Super Good Cents Existing Home Program be phased out by May 1, 1990. It is further

ORDERED that Florida Power Corporation's Voltage Regulation Program be eliminated effective upon issuance of this Order, and that Florida Power Corporation's Street Lighting Program be eliminated with an effective date to be agreed upon by the parties such that the conversion program is completed before it is eliminated. It is further

ORDERED that Florida Power Corporation perform an evaluation of its Commercial/Industrial Audit Program, using updated data, with such evaluation to be completed at a time to be agreed upon between Florida Power & Light Company and Staff. It is further

ORDERED that Florida Power & Light Company's Conservation Awareness Program and Florida Power Corporation's Energy Education Program, Gulf's Energy Education Program, and Gulf's Presentation/Seminars Program be eliminated for energy conservation cost recovery purposes and that no further expenses be charged to these programs on or after October 1, 1989.

By ORDER of the Florida Public Service Commission, this 2nd day of June, 1989.

STEVE TRIBBLE, Director
Division of Records and Reporting

By: Kay Flynn
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 Director, Division of Records and Reporting 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 or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.