

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 20180007-EI
ORDER NO. PSC-2018-0515-PHO-EI
ISSUED: October 31, 2018

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 23, 2018, in Tallahassee, Florida, before Commissioner Gary F. Clark, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD, MARIA J. MONCADA, and JOEL BAKER, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408
On behalf of Florida Power & Light Company (FPL)

DIANNE M. TRIPLETT, ESQUIRE, Deputy General Counsel, 299 First Avenue North, St. Petersburg, Florida 33701, and MATTHEW R. BERNIER, ESQUIRE, Associate General Counsel, 106 East College Avenue, Suite 800, Tallahassee, Florida 32301
On behalf of Duke Energy Florida, LLC. (DEF)

JAMES D. BEASLEY and J. JEFFRY WAHLEN, ESQUIRES, Ausley and McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO)

JEFFREY A. STONE, ESQUIRE of Gulf Power Company, One Energy Place, Pensacola, FL 32520-0100
RUSSELL A. BADDERS, ESQUIRE and STEVEN R. GRIFFIN, ESQUIRE, of Beggs & Lane, P.O. Box 12950, Pensacola, FL 32591-2950
On behalf of Gulf Power Company (GULF)

STEPHANIE A. MORSE, ESQUIRE, Associate Public Counsel, PATRICIA A. CHRISTENSEN, ESQUIRE, Associate Public Counsel, CHARLES REHWINKEL, 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)

JON C. MOYLE, JR. and KAREN PUTNAL, ESQUIRES, Moyle Law Firm,
P.A., 118 North Gadsden Street, Tallahassee, Florida 32312
On behalf of Florida Industrial Power Users Group (FIPUG)

JAMES W. BREW and LAURA A. WYNN, ESQUIRES, 1025 Thomas
Jefferson Street, NW., Eighth Floor, West Tower, Washington, D.C. 20007
On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate –
White Springs (PCS)

GEORGE S. CAVROS, ESQUIRE, 120 E. Oakland Park Boulevard, Suite 105,
Fort Lauderdale, Florida 33334
On behalf of Southern Alliance for Clean Energy (SACE)

CHARLES W. MURPHY and ASHLEY WEISENFELD, ESQUIRES, Florida
Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida
32399-0850
On behalf of the Florida Public Service Commission (Staff)

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public
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Florida Public Service Commission General Counsel

PREHEARING ORDER

I. CASE BACKGROUND

As part of the Florida Public Service Commission's (Commission) continuing
Environmental Cost Recovery Clause proceedings, undertaken pursuant to Section 366.8255,
Florida Statutes (F.S.), a hearing has been set in this docket for November 5-7, 2018.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and
to promote the just, speedy, and inexpensive determination of all aspects of this case. Issues for
hearing were established by separate order.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366 and 120, F.S. This hearing will be governed by said Chapters and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., 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, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

While it is the policy of this Commission for all Commission hearings be open to the public at all times, the Commission also recognizes its obligation pursuant to Section 366.093, F.S., 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, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, 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 Office of Commission Clerk's 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), F.A.C., 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 and 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 timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand, which shall be limited to three minutes.

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. After all parties and Staff have had the opportunity to cross-examine the witness, 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.

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.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Rena B. Deaton*	FPL	1-8, 10D, 13
Michael W. Sole	FPL	1-4, 10A-10C, 10E
Christopher Menendez*	DEF	1-9A, 9B, 13
Timothy Hill*	DEF	1-3, 9A

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Jeffrey Swartz*	DEF	1-3
Patricia Q. West*	DEF	1-3
Penelope A. Rusk*	TECO	1, 2, 3, 4, 5, 6, 7, 8, 12 A-D, 13
Paul L. Carpinone*	TECO	3, 12A, 12C
R. M. Markey*	GULF	1, 2, 3, 11A
C. S. Boyett*	GULF	1, 2, 3, 4, 5, 6, 7, 8, 11B, 13, 14

*Excused with testimony and exhibits to be included in the record.

VII. BASIC POSITIONS

FPL: FPL's 2019 ECRC factors, including prior period true-ups, are reasonable and should be approved. The Commission also should approve FPL's Solar Site Avian Monitoring and Reporting Project and modifications to FPL's Manatee Temporary Heating System and National Pollution Discharge Elimination System Permit Renewal Requirement Projects as proposed.

DEF: DEF's positions to specific issues are listed below.

TECO: The Commission should approve the compliance programs described in the testimony and exhibits of Tampa Electric witnesses Rusk and Carpinone for environmental cost recovery. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period January 2017 through December 2017, the actual/estimated environmental cost recovery true-up for the current period January 2018 through December 2018, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2019 through December 2019.

GULF: It is the basic position of Gulf Power Company that the environmental cost recovery factors proposed by the Company present the best estimate of Gulf's environmental compliance costs recoverable through the Environmental Cost Recovery Clause (ECRC) for the period January 2019 through December 2019, including the true-up calculations and other adjustments allowed by the Commission.

OPC: 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.

FIPUG: Only costs legally authorized should be recovered through the environmental cost recovery clause. FIPUG maintains that the respective utilities must satisfy their burden of proof for any and all monies or other relief sought in this proceeding.

PCS: PCS Phosphate generally accepts and adopts the positions taken by the Florida Office of Public Counsel ("OPC") unless a differing position is stated with respect to an issue.

SACE: The respective utilities have the burden of proof to justify and support the recovery of costs, and their proposal(s) seeking the Commission's adoption of policy statements or other affirmative relief sought, regardless of whether the Interveners provide evidence to the contrary. Regardless of whether the Commission has previously approved a program as meeting the Commission's requirements, the utilities must still meet their burden of showing that costs submitted for final recovery meet the statutory test for recovery and are prudently incurred and that projected costs are reasonable.

In reference to Florida Power and Light's ("FPL's") request for continued recovery for compliance costs related to the Turkey Point Cooling Canal Management Plan Project ("TPCCMP"): FPL knew or should have known in 1978, or by 1992 at the latest, that its cooling canal system at the Turkey Point plant was causing an underground hyper-saline contamination plume spreading well beyond the cooling canal system ("CCS") boundary and harming adjacent waters and the Biscayne Aquifer. FPL's imprudent operation of the CCS violated drinking water standards which has led to environmental compliance

requirements being placed upon it by the Department of Environmental Protection (“DEP”) and Miami-Dade County Division of Environmental Resources Management (“DERM”) to remediate the hyper-saline plume. It seeks to recover those compliance costs from customers – the price tag is over \$200 million. FPL customers should not have to pay for FPL’s legacy of negligence in the operation of the CCS. Nevertheless, the Commission last year approved rate recovery from families and businesses served by FPL in Order No. PSC-2018-0014-FOF-EI. The Commission’s order is appropriately being appealed by the Office of Public Counsel. As such, SACE, in this docket, maintains its position from the 2017 Environmental Cost Recovery Clause (“ECRC”) docket that costs from FPL’s CCS remediation activities should not be recoverable from FPL customers.

The Commission, while not having jurisdiction over DEP and DERM environmental compliance requirements, does have jurisdiction over rate recovery for the costs of FPL’s compliance actions intended to meet the DEP Consent Order and DERM Consent Agreement provisions. In this year’s ECRC docket, FPL is not only requesting a prudency determination for already-incurred CCS remediation costs, but asking for rate recovery for projected costs for remediation activities to take place next year, in 2019. Yet, FPL provides no testimony on whether it is making timely progress towards meeting provisions in the DEP Consent Order, or the DERM Consent Agreement. This information is an integral piece of a reasonableness determination;¹ without which, the Commission is effectively providing a blank check to FPL. FPL has clearly not met its evidentiary burden to show that projected remediation costs are reasonable. In fact, FPL is not in compliance with the DERM Consent Agreement as it continues to exceed applicable surface water ammonia standards, and could face the assessment of penalties as outlined in the Consent Agreement. Therefore, rate recovery for TPCCMP remediation activities, should be denied for the above stated reasons.

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

All issues are stipulated for TECO, Gulf, and DEF. Generic Issues 1, 2, 3, 4, and 7 for FPL and FPL’s Company–Specific Issues 10A-D are not stipulated. *See* Section X of this Order for Proposed Stipulations.

¹ Order No. PSC-2018-0014-FOF-EI at p. 12 (The test used by this Commission for projected costs is “a reasonableness test for cost recovery, with prudency to be determined in a future ECRC proceeding as part of the traditional true-up mechanism.”)

GENERIC ISSUES

ISSUE 1: What are the final environmental cost recovery true-up amounts for the period January 2017 through December 2017? See Section X. Proposed stipulation for all companies except for FPL.

POSITIONS

FPL: \$31,560,081 over-recovery. (Deaton, Sole)

OPC: No position.

FIPUG: No position.

PCS: No position.

SACE: For FPL, the Commission should not approve any cost recovery for TPCCMP remediation activities.

STAFF: Staff has no position at this time.

ISSUE 2: What are the estimated/actual environmental cost recovery true-up amounts for the period January 2018 through December 2018? See Section X. Proposed stipulation for all companies except for FPL.

POSITIONS

FPL: \$5,614,420 under-recovery. (Deaton, Sole)

OPC: No position.

FIPUG: No position.

PCS: No position.

SACE: For FPL, the Commission should not approve any cost recovery for TPCCMP remediation activities.

STAFF: Staff has no position at this time.

ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2019 through December 2019? See Section X. Proposed stipulation for all companies except for FPL.

POSITIONS

FPL: \$187,365,910. (Deaton, Sole)

OPC: No position.

FIPUG: No position.

PCS: No position.

SACE: For FPL, the Commission should not approve any cost recovery for projected costs related to TPCCMP remediation activities.

STAFF: Staff has no position at this time.

ISSUE 4: **What are the environmental cost recovery amounts, including true-up amounts, for the period January 2019 through December 2019?** *See* Section X. Proposed stipulation for all companies except for FPL.

POSITIONS

FPL: \$161,536,472, including prior period true-up amounts and revenue taxes. (Deaton)

OPC: No position.

FIPUG: No position.

PCS: No position.

SACE: For FPL, the amount should not include any cost recovery for remediation activities related to the TPCCMP.

STAFF: Staff has no position at this time.

ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2019 through December 2019 for each rate group? See Section X. Proposed stipulation for all companies except for FPL.

POSITIONS

FPL:

RATE CLASS	Environmental Cost Recovery Factor (cents/kWh)
RS1/RTR1	0.159
GS1/GST1	0.157
GSD1/GSDT1/HLFT1	0.142
OS2	0.086
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.139
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.121
GSLD3/GSLDT3/CS3/CST3	0.121
SST1T	0.108
SST1D1/SST1D2/SST1D3	0.138
CILC D/CILC G	0.121
CILC T	0.112
MET	0.130
OL1/SL1/SL1M/PL1	0.035
SL2/SL2M/GSCU1	0.113
Total	0.149

(Deaton)

OPC: No position.

FIPUG: No position.

PCS: No position.

SACE: For FPL, the factor amount should not include any cost recovery for remediation activities related to the TPCCMP.

STAFF: Staff has no position at this time.

COMPANY-SPECIFIC ISSUES

Florida Power & Light Company:

ISSUE 10A: Should the Commission approve FPL's Petition for Approval of Modification to Manatee Temporary Heating System Project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.?

POSITIONS

FPL: Yes. FPL is requesting to modify its existing, approved Manatee Temporary Heating System ("MTHS") Project to include an MTHS at its Fort Myers Plant site ("PFM"). Previously, this Commission has approved the MTHS Project to allow recovery of costs incurred to meet permit requirements for providing warm water manatee refuges at FPL's Cape Canaveral, Riviera Beach, Port Everglades and Fort Lauderdale plants while they were shut down during modernization. The inclusion of a MTHS for PFM is being undertaken in order to comply with a similar permit requirement, during periods when PFM is shut down for extended outages or because it is not being economically dispatched. Installation of the proposed MTHS at PFM is a cost-effective way to meet the permit requirement. (Sole)

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.

FIPUG: No position.

PCS: No position.

SACE: No position.

STAFF: Staff has no position at this time.

ISSUE 10B: Should the Commission approve FPL's Petition for Approval of Modification to National Pollution Discharge Elimination System Permit Renewal Requirement Project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.?

POSITIONS

FPL: Yes, once the requirement is incorporated in Plant Scherer's environmental permit. Georgia Power and FPL anticipate that the Environmental Protection

Division of Georgia's Department of Natural Resources will impose conditions in Plant Scherer's NPDES permit requiring that copper discharges be addressed. FPL requests recovery of costs associated with repacking Scherer Unit 4's cooling tower fill medium, which is a cost-effective way to meet the permit requirements. FPL proposes to recover those costs only after issuance of the renewed NPDES permit with a requirement to address copper discharges. Prior to that, FPL will exclude the costs incurred for the repacking activity from ECRC recovery. (Sole)

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.

FIPUG: No position.

PCS: No position.

SACE: No position.

STAFF: Staff has no position at this time.

ISSUE 10C: **Should the Commission approve FPL's Petition for Approval of the Solar Site Avian Monitoring Project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.?**

POSITIONS

FPL: Yes. FPL is required to obtain a siting permit from the Alachua County Department of Growth Management ("Alachua DGM") for its Horizon Solar Energy Center ("HSEC"). Pursuant to the Development Review Committee Order DR-17-04 issued by the Alachua DGM on February 16, 2017, FPL is required to conduct avian mortality monitoring and report the results of that monitoring as a permit condition for the HSEC. (Sole)

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.

FIPUG: No position.

PCS: No position.

SACE: No position.

STAFF: Staff has no position at this time.

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

POSITIONS

FPL: O&M costs associated with FPL's proposed Solar Site Avian Monitoring and Reporting project should be allocated to rate classes based 100% on Energy. FPL does not expect to incur any capital costs associated with this project. (Deaton)

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.

FIPUG: No position.

PCS: No position.

SACE: No position.

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
	<u>Direct</u>		
Michael W. Sole	FPL	MWS-1	FPL Supplemental CAIR/MATS/CAVR Filing
Michael W. Sole	FPL	MWS-2	Conceptual Location of Fort Myers Plant Manatee Heating System
Michael W. Sole	FPL	MWS-3	FDEP NPDES Permit for PFM
Michael W. Sole	FPL	MWS-4	PFM Manatee Protection Plan

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Michael W. Sole	FPL	MWS-5	Environmental Protection Division of the Georgia Department of Natural Resources Permit NPDES Permit Number GA00035564 for Plant Scherer
Michael W. Sole	FPL	MWS-6	Application for EPD NPDES Permit GA00035564 Renewal for Plant Scherer
Michael W. Sole	FPL	MWS-7	Letter from Georgia Power to Plant Scherer Co-Owners
Michael W. Sole	FPL	MWS-8	Alachua County Development Review Committee Order DR-17-04
Michael W. Sole	FPL	MWS-9	FWC Protocol for Monitoring Avian Mortality at Solar Energy Facilities
Michael W. Sole	FPL	RBD-4	Appendix I - Environmental Cost Recovery Projections - January 2019 – December 2019 Commission Forms 42-5P
Rena B. Deaton	FPL	RBD-1	Environmental Cost Recovery Final True-up January 2017 - December 2017 Commission Forms 42-1A through 42-9A
Rena B. Deaton	FPL	RBD-2	Appendix I - Environmental Cost Recovery Actual/Estimated True-up January 2018 – December 2018 - Commission Forms 42-1E through 42-9E

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Renae B. Deaton	FPL	RBD-3	Appendix II – Schedules reflecting calculation of revised Environmental Cost Recovery Final True-up amount January 2017-December 2017
Renae B. Deaton	FPL	RBD-4	Appendix I - Environmental Cost Recovery Projections - January 2019 – December 2019 Commission Forms 42-1P through 42-8P Appendix II - Calculation of Stratified Separation Factors
Christopher Menendez	DEF	CAM-1	Forms 42-1A - 42-9A January 2017 – December 2017
Christopher Menendez	DEF	CAM-2	Capital Program Detail January 2017– December 2017
Christopher Menendez	DEF	CAM-3	Forms 42-1E – 42-9E January 2018– December 2018
Christopher Menendez	DEF	CAM-4	Capital Program Detail January 2018 – December 2018
Christopher Menendez	DEF	CAM-5	Forms 42-1P – 42-8P January 2019– December 2019
Christopher Menendez	DEF	CAM-6	Capital Program Detail January 2019 – December 2019
Timothy Hill	DEF	CAM-5	Form 42-5P, page 23 of 23
Jeffrey Swartz	DEF	JS-1	Crystal River Clean Air Projects Organizational Chart
Jeffrey Swartz	DEF	CAM-5	Form 42-5P, pages 7, 21 and 22 of 23

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Patricia Q. West	DEF	PQW-1	Integrated Clean Air Compliance Plan
Patricia Q. West	DEF	CAM-5	Form 42-5P, pages 1-4 and 6-20 of 23
Penelope A. Rusk	TECO	PAR-1	Final Environmental Cost Recovery Commission Forms 42-1A through 42-9A for the period January 2017 through December 2017
Penelope A. Rusk	TECO	PAR-2	Environmental Cost Recovery Commission Forms 42-1E through 42-9E for the Period January 2018 through December 2018
Penelope A. Rusk	TECO	PAR-3	Environmental Cost Recovery Calculation of Factors and Select Forms for the Period January 2018 through December 2018 Without the Company's Two New Projects
Penelope A. Rusk	TECO	PAR-4	Environmental Cost Recovery Forms 42-1P through 42-8P Forms for the Period January 2019 through December 2019
Penelope A. Rusk	TECO	PAR-5	Environmental Cost Recovery Calculation of Factors and Select Forms for the Period January 2019 through December 2019 Without the Company's Two New Projects
C. S. Boyett	GULF	CSB-1	Calculation of Final True-up 1/17 – 12/17
C. S. Boyett	GULF	CSB-2	Calculation of Estimated True-up 1/18 – 12/18

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
C. S. Boyett	GULF	CSB-3	Calculation of Projection 1/19 – 12/19
R. M. Markey	GULF	RMM-1	Schedule 5P - Description and Progress Report of Environmental Compliance Activities and Projects
R. M. Markey	GULF	RMM-2	316(b) Cooling Water Intake Structure Regulation

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

X. PROPOSED STIPULATIONS

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

FPL		
DEF	\$4,814,791	Over-Recovery
TECO	\$1,498,666	Over-Recovery
GULF	\$3,179,666	Over-Recovery

No agreement with respect to FPL

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

FPL		
DEF	\$4,444,194	Over-Recovery
TECO	\$13,472,483	Over-Recovery
GULF	\$9,436,937	Over-Recovery

No agreement with respect to FPL.

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

FPL	
DEF	\$65,034,322
TECO	\$57,919,982
Gulf	\$184,156,532

No agreement with respect to FPL.

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

FPL	
DEF	\$55,815,494
TECO	\$42,980,454
Gulf	\$171,663,438

No agreement with respect to FPL.

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?

The depreciation rates used to calculate depreciation expense shall be the rates that are in effect during the period the allowed capital investment is in service, with the following exception: TECO -- Big Bend Fuel Oil Tanks I & 2, which were retired in 2016, will be depreciated over a five-year period from the date of retirement.

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

The appropriate jurisdictional separation factors for the period January 2019 through December 2019 are as follows:

FPL:	Retail Energy Jurisdictional Factor - Base/Solar	95.9309%
	Retail Energy Jurisdictional Factor - Intermediate	94.4167%
	Retail Energy Jurisdictional Factor - Peaking	95.5155%
	Retail Demand Jurisdictional Factor - Transmission	89.2071%
	Retail Demand Jurisdictional Factor - Base/Solar	95.7589%
	Retail Demand Jurisdictional Factor - Intermediate	94.2474%
	Retail Demand Jurisdictional Factor - Peaking	95.3443%
	Retail Demand Jurisdictional Factor - General Plant	96.9214%
	Retail Demand Jurisdictional Factor - Distribution	100.0000%

DEF: The Energy separation factor is calculated for each month based on retail kWh sales as a percentage of projected total kWh sales. The remaining separation factors are below and are consistent with DEF’s 2017 Second Revised and Restated Stipulation and Settlement Agreement (“2017 Agreement”) approved in Order No. PSC-2017-0451-AS-EU.

Transmission Average 12 CP Demand –	70.203%
Distribution Primary Demand –	99.561%

Production Demand:	
Production Base –	92.885%
Production Intermediate –	72.703%
Production Peaking –	95.924%
Production A&G –	93.221%

TECO: Energy: 100.00%
Demand: 100.00%

GULF: The demand jurisdictional separation factor is 97.18277%. Energy jurisdictional separation factors are calculated each month based on projected retail kWh sales as a percentage of projected total territorial kWh sales

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

The appropriate environmental cost recovery factors for the period January 2019 through December 2019 for each rate group are as follows:

FPL: No agreement with respect to FPL.

DEF:

RATE CLASS	ECRC FACTORS
Residential	0.143 cents/kWh
General Service Non-Demand @ Secondary Voltage	0.143 cents/kWh
@ Primary Voltage	0.142 cents/kWh
@ Transmission Voltage	0.140 cents/kWh
General Service 100% Load Factor	0.141 cents/kWh
General Service Demand @ Secondary Voltage	0.141 cents/kWh
@ Primary Voltage	0.140 cents/kWh
@ Transmission Voltage	0.138 cents/kWh
Curtable @ Secondary Voltage	0.137 cents/kWh
@ Primary Voltage	0.136 cents/kWh
@ Transmission Voltage	0.134 cents/kWh
Interruptible @ Secondary Voltage	0.138 cents/kWh
@ Primary Voltage	0.137 cents/kWh
@ Transmission Voltage	0.135 cents/kWh
Lighting	0.138 cents/kWh

TECO:

<u>Rate Class</u>	<u>Factor (¢/kWh)</u>
RS	0.222
GS, CS	0.221
GSD, SBF	
Secondary	0.220
Primary	0.218
Transmission	0.216
IS	
Secondary	0.217
Primary	0.214
Transmission	0.212
LS1	0.217
Average Factor	0.221

GULF:

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/kWh
RS, RSVP, RSTOU	1.810
GS	1.669
GSD, GSDT, GSTOU	1.483
LP, LPT	1.327
PX, PXT, RTP, SBS	1.272
OS-I/II	0.511
OS-III	1.172

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

The factors shall be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2019 through December 2019. Billing cycles may start before January 1, 2019 and the last cycle may read after December 31, 2019, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. These charges will continue in effect until modified by the Commission.

ISSUE 9A: Should the Commission approve DEF's FGD Blowdown Pond Closure Project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.?

Yes. In Order No. PSC-2015-0536-FOF-EI, the Commission found that DEF's Coal Combustion Residual Rule ("CCR") Program (Project 18) met the criteria for recovery through the Environmental Cost Recovery Clause ("ECRC"). DEF's FGD Blowdown Pond Closure Project is reasonable, meets the CCR rule requirements for the Crystal River facility, and complies with the requirements of section 366.8255, Florida Statutes and Order No. PSC-1994-0044-FOF-EI.

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

Consistent with CCR O&M costs approved in Order No. PSC-2015-0536-FOF-EI, O&M costs associated with the FGD Blowdown Pond Closure shall be allocated to rate classes on an energy basis.

ISSUE 11A: Should the Commission approve Gulf's 316(b) Cooling Water Intake Structure Regulation Project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.?

Yes, the 316(b) Cooling Water Intake Structure Regulation project meets the criteria for recovery through the Environmental Cost Recovery Clause. Recovery of related costs through the ECRC shall be approved.

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

Capital costs for the 316(b) Cooling Water Intake Structure Regulation program shall be allocated to the rate classes on an average 12-MCP demand and 1/13th energy basis. O&M cost for the program should be allocated on a demand basis.

ISSUE 12A: Should the Commission approve TECO's petition for approval of the Big Bend Unit 1 Section 316(b) Impingement Mortality project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.?

Yes, the Big Bend Unit 1 Section 316(b) Impingement Mortality project meets the criteria for recovery through the Environmental Cost Recovery Clause. Recovery of related costs through the ECRC shall be approved.

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?

The capital expenditures should be allocated to rate classes on a demand basis, and operation and maintenance expenses shall be allocated to rate classes on an energy basis. For 2018 and 2019, only capital expenditures are projected, so all costs will be allocated on a demand basis.

ISSUE 12C: Should the Commission approve TECO's petition for approval of the Big Bend Station Effluent Limitations Guidelines (ELG) Rule Compliance project and the recovery of the associated costs through the ECRC pursuant to Section 366.8255, F.S.?

Yes, the Big Bend Station effluent Limitations Guidelines (ELG) Rule Compliance project meets the criteria for recovery through the Environmental Cost Recovery Clause. Recovery of related costs through the ECRC shall be approved.

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

The capital expenditures should be allocated to rate classes on a demand basis, and operation and maintenance expenses should be allocated to rate classes on an

energy basis. For 2018 and 2019, only capital expenditures are projected, so all costs will be allocated on a demand basis.

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?**

Yes. The Commission shall approve revised tariffs reflecting the environmental cost recovery factors determined to be appropriate in this proceeding. Staff shall verify that the revised tariffs are consistent with the Commission's decision.

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

No. While a separate docket number is assigned each year for administrative convenience, this is a continuing docket and shall remain open.

XI. PENDING MOTIONS

There are no pending motions.

XII. PENDING CONFIDENTIALITY MATTERS

FPL's Third Request for Extension of Confidential Classification of Audit No. 13-015-4-1 is pending.

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 this Prehearing Order, the post-hearing statement may simply restate the prehearing position; 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, F.A.C., 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 three minutes per party. Briefs, if needed, will be limited to 40 pages and shall be due on November 16, 2018.

Proposed Issue 10E shall not be included in this proceeding. The recovery of FPL's costs associated with both the Florida Department of Environmental Protection Consent Agreement, and the Miami-Dade County Division of Environmental Resources Management Consent Agreement may be addressed under existing issues.

Because FIPUG failed to comply with requirements of the Order Establishing Procedure related to expert witnesses, FIPUG shall not be permitted to challenge the expertise of witnesses or conduct voir dire.

It is therefore,

ORDERED by Commissioner Gary 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 Gary F. Clark, as Prehearing Officer, this 31st day of October, 2018.



GARY F. CLARK
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

AJW/CWM

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.

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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.