

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 20220007-EI
ORDER NO. PSC-2022-0382-PHO-EI
ISSUED: November 9, 2022

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on November 2, 2022, in Tallahassee, Florida, before Commissioner Mike La Rosa, as Prehearing Officer.

APPEARANCES:

MARIA JOSE MONCADA and JOEL BAKER, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408-2863
On behalf of FLORIDA POWER & LIGHT COMPANY (FPL).

DIANNE M. TRIPLETT, ESQUIRE, 299 First Avenue North, St. Petersburg, Florida 33701 and MATTHEW R. BERNIER, and STEPHANIE CUELLO ESQUIRES, 106 East College Avenue, Suite 800, Tallahassee, Florida 32301
On behalf of DUKE ENERGY FLORIDA, LLC (DEF).

MALCOLM N. MEANS, J. JEFFRY WAHLEN, and VIRGINIA PONDER ESQUIRES, Post Office Box 391, Tallahassee, Florida 32302
On behalf of TAMPA ELECTRIC COMPANY (TECO).

RICHARD GENTRY, CHARLES REHWINKEL, PATRICIA A. CHRISTENSEN, STEPHANIE A. MORSE, and, MARY A. WESSLING, ESQUIRES, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of OFFICE OF PUBLIC COUNSEL (OPC).

JON C. MOYLE, JR. and KAREN PUTNAL, ESQUIRES, 118 North Gadsden Street, Tallahassee, Florida 32312
On behalf of FLORIDA INDUSTRIAL POWER USERS GROUP (FIPUG).

JAMES W. BREW, and LAURA WYNN BAKER, 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).

PETER J. MATTHEIS, MICHAEL K. LAVANGA, and JOSEPH R. BRISCAR, ESQUIRES, 1025 Thomas Jefferson Street, NW, Eighth Floor, West Tower, Washington D.C. 20007

On behalf of Nucor Steel Florida, Inc. (NUCOR).

JACOB IMIG, ESQUIRE and ADRIA HARPER, ESQUIRE, 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 Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

Florida Public Service Commission General Counsel.

I. CASE BACKGROUND

As part of the Florida Public Service Commission's (Commission) continuing Environmental Cost Recovery Clause (ECRC) proceeding, undertaken pursuant to Section 366.8255, Florida Statutes (F.S.), a hearing has been set in this Docket for November 17-18, 2022. The ECRC proceeding allows investor-owned electric utilities to seek recovery of their costs for approved environmental programs on an annual basis.

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.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapters 120 and 366, Florida Statutes (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 Subsection 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.

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, 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. Summaries of testimony 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	1-10, 12, 15
Katharine MacGregor	FPL	1-4, 11, 13
Matthew Valle*	FPL	14
Scott R. Bores*	FPL	14
Gary P. Dean	DEF	1-10, 16-17
Eric Szkolnyj*	DEF	1-3

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Reginald Anderson*	DEF	1-3
Kim Spence McDaniel	DEF	1-3, 16
M. Ashley Sizemore*	TECO	1-9
Byron T. Burrows*	TECO	3

** Indicates witnesses that have been excused with testimony and exhibits to be included in the record*

VII. BASIC POSITIONS

FPL: FPL's 2023 ECRC factors are reasonable and should be approved. The Commission also should approve FPL's (1) proposed CT NESHAP Project; (2) proposal to establish and recover a regulatory asset associated with the early retirement of the Martin Solar Thermal facility; and (3) modification to its National Pollutant Discharge Elimination System Permit Requirements Project.

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 Sizemore and Burrows 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 2021 through December 2021, the actual/estimated environmental cost recovery true-up for the current period January 2022 through December 2022, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2023 through December 2023 using the 2021 Settlement Agreement methodology.

OPC: The utilities bear the burden of proof to justify the recovery of costs they request in this docket. The utilities must carry this burden regardless of whether or not the Interveners provide evidence to the contrary. Further, the utilities bear the burden of proof to support their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought. Even if the Commission has previously approved a program, recovery of a cost, factor, or adjustment as meeting the Commission's own requirements, the utilities still bear the burden of demonstrating that the costs submitted for final recovery meet any statutory test(s) and are reasonable in amount and prudently incurred. Further, recovery of even prudently incurred costs is constrained by the Commission's obligation to set fair, just, and reasonable rates. Pursuant to

Section 366.01, Florida Statutes, the provisions of Chapter 366 must be liberally construed to protect the public welfare.

The Commission must independently determine that each cost submitted for recovery, deferred or new, meets each element of the statutory requirements for recovery through this clause, as set out in Section 366.8255, Florida Statutes. Specifically, each activity proposed for recovery must be legally required to comply with a governmentally imposed environmental regulation that was enacted, became effective, or whose effect was triggered after the company's last test year upon which rates are based, and such costs may not be costs that are recovered through base rates or any other cost recovery mechanism. Any decision by the Commission on a new project submitted for approval and cost recovery must be limited to the scope and documented cost information provided to the Commission in the company filing in this docket.

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 adopts the positions taken by the Florida Office of Public Counsel (“OPC”) unless a differing position is specifically stated.

NUCOR: Nucor’s basic position is that Duke Energy Florida, LLC (“DEF”) bears the burden of proof to justify the costs it seeks to recover through the ECRC and any other relief DEF requests in this proceeding.

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

Type 2 stipulations of Issues 1-10, 12, 14, 15, and 17 are set forth in Section X of this Order.

Company Specific Issues – Florida Power & Light Company

ISSUE 11: Should the Commission approve FPL’s Combustion Turbine National Emission Standards for Hazardous Air Pollutants Project for cost recovery through the Environmental Cost Recovery Clause?

FPL: Yes. On March 9, 2022, the United States Environmental Protection Agency published in the Federal Register, at 87 Fed. Reg. 13,183, a final rule to amend the NESHAP for Stationary Combustion Turbines (“Final Rule”) at 40 C.F.R. Subpart YYYYY, stating that it was taking final action to remove the stay of the standards for new lean premix and diffusion flame gas-fired turbines. The Final Rule requires that FPL conduct emission stack testing of its affected combustion turbines and demonstrate compliance with the emission standards for formaldehyde emissions no later than September 5, 2022. FPL will thereafter be required to conduct annual emission testing of affected units to demonstrate continued compliance with the NESHAP Final Rule. If an affected unit cannot meet the emission standard for formaldehyde it must install pollution control equipment to achieve compliance. FPL has completed initial testing of all affected units and has found them to be in compliance with the newly established standards. FPL did not include any projected capital costs at this time because FPL believes that its combustion turbines will meet the NESHAP standards and will not need to install any capital equipment at this time. Operation and maintenance (O&M) expenses are projected to be approximately \$116,086 for annual testing. (MacGregor)

DEF: No position.

TECO: No position.

OPC: No. The OPC is not in agreement that FPL has demonstrated that it has met its burden to demonstrate that the costs related to this project are reasonable and prudent. Furthermore, FPL has not provided sufficient evidence to allow the Commission to make a decision on the scope of the project beyond the monitoring and related expenses submitted. No detail beyond a broad estimate of possible capital costs has been provided, sufficient for the Commission to approve indeterminate capital expenditures that may be incurred in the future. Any decision on this project should be limited to the specific expenses that have been provided in the filings.

FIPUG: Adopt the position of OPC.

PCS: No position.

NUCOR: No position.

STAFF: Staff has no position at this time.

ISSUE 13: Should FPL be allowed to recover, through the Environmental Cost Recovery Clause, prudently incurred costs associated with its proposed modification to its National Pollutant Discharge Elimination System Permit Requirements Project?

FPL: Yes. On May 10, 2022, the Florida Department of Environmental Protection issued NPDES Permit Renewal No. FL0001562 (“Permit”) to FPL for the Turkey Point Power Plant, which includes a new condition related to the development and implementation of a Best Management Practices Plan (“BMP Plan”). The Permit also includes new requirements for impoundment inspections. The BMP Plan must include a review of industrial wastewater, stormwater, and waste minimization components to prevent or minimize the potential release of pollutants. FPL is required to implement the developed BMP Plan and identify areas for improvement within 30 months of the effective date of the Permit. FPL is also required to submit a summary of the plan three years following the effective date of the Permit and must comply with new requirements for impoundment inspections. The estimated 2022 costs associated with developing the BMP Plan for the Turkey Point plant is \$87,000. (MacGregor)

DEF: No position.

TECO: No position.

OPC: No. The OPC is not in agreement that FPL has demonstrated that it has met its burden to demonstrate that the costs related to this project are reasonable and prudent.

FIPUG: Adopt the position of OPC.

PCS: No position.

NUCOR: No position.

STAFF: Staff has no position at this time.

Company Specific Issues – Duke Energy Florida, LLC

ISSUE 16: Should the Commission approve DEF's National Emission Standards for Hazardous Air Pollutants Project for cost recovery through the Environmental Cost Recovery Clause?

FPL: No position.

DEF: Yes. DEF's proposed NESHAP Compliance project meets the recovery criteria established in Order No. 94-044-FOF-EI, in that:

- a) All expenditures will be prudently incurred after April 13, 1993;
- b) The activities are legally required to comply with a governmentally imposed environmental regulation enacted, became effective, or whose effect was triggered after the Company's last test year which rates are based; and
- c) None of the expenditures are being recovered through some other cost recovery mechanism or through base rates. (McDaniel, Dean)

TECO: No position.

OPC: No. The OPC is not in agreement that DEF has demonstrated that it has met its burden to demonstrate that the costs related to this project are reasonable and prudent. Furthermore, DEF has not provided sufficient evidence to allow the Commission to make a decision on the scope of the project beyond the monitoring and related expenses submitted. No detail beyond a broad estimate of possible capital costs has been provided, sufficient for the Commission to approve indeterminate capital expenditures that may be incurred in the future. Any decision on this project should be limited to the specific expenses that have been provided in the filings.

FIPUG: Adopt the position of OPC.

PCS: Agree with OPC.

NUCOR: Agree with OPC.

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
		<u>Direct</u>
Renaë B. Deaton	FPL	RBD-1 Environmental Cost Recovery Final True-up January 2021 - December 2021 Commission Forms 42-1A through 42-9A – Pre-consolidated FPL
Renaë B. Deaton	FPL	RBD-2 (REVISED) Environmental Cost Recovery Final True-up January 2021 - December 2021 Commission Forms 42-1A through 42-9A – Pre-consolidated Gulf Power Company
Renaë B. Deaton	FPL	RBD-3 (REVISED) Environmental Cost Recovery Actual/Estimated True-up January 2022 - December 2022 Commission Forms 42- 1E through 42-9E
Renaë B. Deaton	FPL	RBD-4 Environmental Cost Recovery Projections - January 2023 - December 2023 Commission Forms 42-1P through 42-8P
Renaë B. Deaton	FPL	RBD-5 Calculation of Stratified Separation Factors
Katharine MacGregor	FPL	KM-1 NPDES Permit No. FL0001562
Scott R. Bores	FPL	SRB-1 CPVRR Benefit of Martin Thermal Solar Retirement
Gary P. Dean	DEF	GPD-1 Forms 42-1A - 42-9A January 2021 – December 2021
Gary P. Dean	DEF	GPD-2 Capital Program Detail January 2021– December 2021

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Gary P. Dean	DEF	GPD-3	Forms 42-1E – 42-9E January 2022 – December 2022
Gary P. Dean	DEF	GPD-4	Forms 42-1P – 42-8P January 2023– December 2023
Eric Szkolnyj	DEF	GPD-4	Form 42-5P, page 23
Reginald Anderson	DEF	GPD-4	Form 42-5P, pages 7 and 20 through 22
Kim Spence McDaniel	DEF	GPD-4	Form 42-5P, pages 1-4, 6, 7, and 8-19
Kim Spence McDaniel	DEF	KSM-1	Review of Integrated Clean Air Compliance Plan
M. Ashley Sizemore	TECO	MAS-1	Final Environmental Cost Recovery Commission Forms 42-1A through 42-9A for the period January 2021 through December 2021
M. Ashley Sizemore	TECO	MAS-2	Environmental Cost Recovery Commission Forms 42-1E through 42-9E for the Period January 2022 through December 2022
M. Ashley Sizemore	TECO	MAS-3	Environmental Cost Recovery Forms 42-1P through 42-8P for the Period January 2023 through December 2023

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

X. PROPOSED STIPULATIONS

As referenced in Section VIII, there are Type 2 proposed stipulations on issues 1-10, 12, 14, 15, and 17. A Type 2 stipulation occurs on an issue when the utility and the staff, or the utility and at least one party adversarial to the utility, agree on the resolution of the issue and the remaining parties (including staff if they do not join in the agreement) do not object to the Commission relying on the agreed language to resolve that issue in a final order. FPL, DEF, TECO, FIPUG, PCS Phosphate, and NUCOR have reached proposed stipulations on issues 1-10, 12, 14, 15 and 17, and OPC states the following:

The OPC takes no position on the issues nor does it have the burden of proof related to them. As such, the OPC represents that it will not contest or oppose the Commission taking action approving the proposed stipulations between the Company and another party or Staff as a final resolution of the issues. No person is authorized to state that the OPC is a participant in, or party to, any of the stipulations on these issues, either in this docket, in an order of the Commission or in a representation to a Court.

FPL, DEF, TECO, FIPUG, PCS Phosphate, NUCOR, and Commission staff support the proposed stipulations.

ISSUE 1: **What are the final environmental cost recovery true-up amounts for the period January 2021 through December 2021?**

STIPULATION: The final environmental cost recovery true-up amounts for the period January 2021 through December 2021 are as follows:

FPL	\$10,886,811	Over-recovery
DEF	\$447,153	Over-recovery
TECO	\$1,187,656	Over-recovery

ISSUE 2: **What are the actual/estimated environmental cost recovery true-up amounts for the period January 2022 through December 2022?**

STIPULATION: The actual/estimated environmental cost recovery true-up amounts for the period January 2022 through December 2022 are as follows:

FPL	\$3,465,963	Under-recovery
DEF	\$1,250,853	Over-recovery
TECO	\$5,382,902	Over-recovery

ISSUE 3: **What are the projected environmental cost recovery amounts for the period January 2023 through December 2023?**

STIPULATION: The projected environmental cost recovery amounts for the period January 2023 through December 2023 are as follows:

FPL	\$374,381,336
DEF	\$9,984,885
TECO	\$23,975,951

ISSUE 4: **What are the environmental cost recovery amounts, including true-up amounts, for the period January 2023 through December 2023?**

STIPULATION: The environmental cost recovery amounts, including true-up amounts, for the period January 2023 through December 2023 are as follows:

FPL	\$366,960,488
DEF	\$8,286,879
TECO	\$17,417,925

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 2023 through December 2023?**

STIPULATION: The depreciation rates used by DEF to calculate depreciation expense shall be the rates that are in effect during the period the allowed capital investment is in service. FPL will use the depreciation rates that are ultimately approved by the Commission in Docket No. 20210015-EI. Depreciation rates agreed to in TECO's 2021 Settlement Agreement were applied to TECO's 2023 projection.

ISSUE 6: **What are the appropriate jurisdictional separation factors for the projected period January 2023 through December 2023?**

STIPULATION: The appropriate jurisdictional separation factors for the period January 2023 through December 2023 are as follows:

FPL:

- Retail Energy Jurisdictional Factor – Base/Solar 95.815941%
- Retail Energy Jurisdictional Factor – Intermediate 94.506291%
- Retail Energy Jurisdictional Factor – Peaking 95.705428 %
- Retail Demand Jurisdictional Factor – Transmission 89.928225%
- Retail Demand Jurisdictional Factor – Base/Solar 96.047826 %
- Retail Demand Jurisdictional Factor – Intermediate 95.402795%

Retail Demand Jurisdictional Factor – Peaking 95.328464%
 Retail Demand Jurisdictional Factor – General Plant 96.727003%
 Retail Demand Jurisdictional Factor – Distribution 100.000000%

DEF: Transmission Average 12 CP Demand – 72.042%
 Distribution Primary Demand – 100.000%

Production Demand:
 Production Base – 97.403%
 Production Intermediate – 92.637 %
 Production Peaking – 95.110%

TECO: Energy: 100.00%
 Demand: 100.00%

ISSUE 7: **What are the appropriate environmental cost recovery factors for the period January 2023 through December 2023 for each rate group?**

STIPULATION: The appropriate environmental cost recovery factors for the period January 2023 through December 2023 for each rate group are as follows:

FPL:

Rate Class	Environmental Cost Recovery Factor (Cents/kWh)
RS1/RTR1	0.312
GS1/GST1	0.323
GSD1/GSDT1/HLFT1/GSD1-EV	0.279
OS2	0.211
GSLD1/GSLDT1/CS1/CST1/HLFT2/GSLD1-EV	0.281
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.244
GSLD3/GSLDT3/CS3/CST3	0.226
SST1T	0.292
SST1D1/SST1D2/SST1D3	0.565
CILC D/CILC G	0.234
CILC T	0.208
MET	0.258
OL1/SL1/SL1M/PL1	0.044
SL2/SL2M/GSCU1	0.207
Total	0.296

DEF:

RATE CLASS	ECRC FACTORS
Residential	0.022 cents/kWh
General Service Non-Demand @ Secondary Voltage @ Primary Voltage @ Transmission Voltage	0.021 cents/kWh 0.021 cents/kWh 0.021 cents/kWh
General Service 100% Load Factor	0.018 cents/kWh
General Service Demand @ Secondary Voltage @ Primary Voltage @ Transmission Voltage	0.020 cents/kWh 0.020 cents/kWh 0.020 cents/kWh
Curtaillable @ Secondary Voltage @ Primary Voltage @ Transmission Voltage	0.016 cents/kWh 0.016 cents/kWh 0.016 cents/kWh
Interruptible @ Secondary Voltage @ Primary Voltage @ Transmission Voltage	0.018 cents/kWh 0.018 cents/kWh 0.018 cents/kWh
Lighting	0.014 cents/kWh

TECO:

Rate Class	Factors by Voltage Level (Cents/kWh)
RS Secondary	0.092
GS, CS Secondary	0.090
GSD, SBF	
Secondary	0.084
Primary	0.083
Transmission	0.082
GSLDPR	0.076
GSLDSU	0.075
LS1, LS2	0.066
Total	0.087

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

STIPULATION: The factors shall be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2023 through December 2023. Billing cycles may start before January 1, 2023 and the last cycle may read after December 31, 2023, 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 9: **Should the Commission approve revised tariffs reflecting the environmental cost recovery amounts and environmental cost recovery factors determined to be appropriate in this proceeding?**

STIPULATION: 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 10: **Should this docket be closed?**

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

Company Specific Issues – Florida Power & Light Company

ISSUE 12: **How should the approved costs related to FPL's Combustion Turbine National Emission Standards for Hazardous Air Pollutants Project be allocated to the rate classes?**

STIPULATION: O&M costs associated with FPL's proposed Combustion Turbine National Emission Standards for Hazardous Air Pollutants Project shall be allocated to rate classes based on 100% coincidental peak (CP) Demand. Capital costs if any, incurred in the future should be allocated on a 12CP&1/13 basis.

ISSUE 14: **Should the Commission approve FPL's proposed treatment for the ECRC assets associated with the retirement of Martin Thermal Solar, as proposed in FPL's 2022 Actual/Estimated Filing?**

STIPULATION: Yes. FPL's proposed treatment for the Martin Thermal Solar assets is consistent with prior Commission Order Nos. PSC-2021-0446-S-EI and

PSC-2021-0446A-S-EI. FPL will establish a regulatory asset for the unrecovered early retired investment associated with Martian Thermal Solar of approximately \$285 million in Account 182.2 – Unrecovered Plant and Regulatory Study Costs and will amortized the regulatory assets to Account 407-Amortization for Property Losses, Unrecovered Plant and Regulatory Study Costs on a straight-line basis over a 20-year period beginning in February 2023.

ISSUE 15: **How should the approved costs related to the regulatory asset for the unrecovered early retired investment associated with the Martin Thermal Solar facility be allocated to the rate classes?**

STIPULATION: Capital costs should be allocated to the rate classes on an average 12 CP demand and 1/13th energy basis.

Company Specific Issues – Duke Energy Florida, LLC:

ISSUE 17: **How should the approved costs related to DEF’s National Emission Standards for Hazardous Air Pollutants Project be allocated to the rate classes?**

STIPULATION: Capital and O&M costs associated with DEF’s National Emission Standards for Hazardous Air Pollutants Project should be allocated to rate classes based on demand.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

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, 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; 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, 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.

It is therefore,

ORDERED by Commissioner Mike La Rosa, 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 Mike La Rosa, as Prehearing Officer, this 9th day of November, 2022.



Mike La Rosa
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.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Subsection 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 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.