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ORIGINAL
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RECORDS AND
REPORTING

October 22, 1998

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 980007-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of the Public Counsel's Preliminary List of Issues and Positions in the above-referenced docket.

Also enclosed is a 3.5 inch diskette containing the Preliminary List of Issues and Positions in WordPerfect for Windows 6.1. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

RECEIVED & FILED


FPSC-BUREAU OF RECORDS

Sincerely,


John Roger Howe
Deputy Public Counsel

ACK _____
AFA 2/Handwei
APP _____
CAF _____
CMU _____
CTR _____
EAG Tew
LEG 1
LIN 3
OPC _____
RCH _____
SEC 1
WAS _____
OTH _____

JRH/dsb

Enclosures

DOCUMENT NUMBER-DATE

11839 OCT 22 98

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.)
)
_____)

DOCKET NO. 980007-EI

FILED: October 22, 1998

**PUBLIC COUNSEL'S PRELIMINARY LIST OF
ISSUES AND POSITIONS**

The Office of Public Counsel hereby submits its preliminary list of issues and positions.

Generic Environmental Cost Recovery Issues

ISSUE 1: What are the appropriate final environmental cost recovery true-up amounts for the period ending September, 1998?

OPC:

FPL: No position at this time.
GULF: No position at this time.
TECO: No position at this time.

ISSUE 2: What are the estimated/actual environmental cost recovery true-up amounts for the period ending December, 1998?

OPC:

FPL: No position at this time.
GULF: No position at this time.
TECO: No position at this time.

ISSUE 3: What are the total environmental cost recovery true-up amounts to be collected/refunded during the period January, 1999, through December, 1999?

OPC:

FPL: No position at this time.
GULF: No position at this time.
TECO: No position at this time.

DOCUMENT NUMBER-DATE

11839 OCT 22 98

FPSC-RECORDS/REPORTING

ISSUE 4: What are the appropriate projected environmental cost recovery amounts to be included in the recovery factors for the period January, 1999, through December, 1999?

OPC:

FPL: No position at this time.
GULF: No position at this time.
TECO: No position at this time

OPC ISSUE: Should the Commission consider whether approval of environmental cost recovery factors will enable electric utilities to earn excessive returns on equity under currently prevailing financial market conditions?

OPC: Yes. Subsection 366.8255(5), Florida Statutes (1997), allows for environmental compliance costs to be considered when establishing base rates and precludes recovery of such costs both in base rates and through the environmental cost recovery clause. The legislative intent was apparently to allow for recovery of environmental costs through a separate cost recovery factor between rate cases so that an electric utility's earnings would not be driven below a reasonable level by expenditures necessitated by newly enacted environmental compliance laws and regulations. The Commission, in Order No. PSC-94-0044-FOF-Ei, specifically found that "if the utility is currently earning a fair rate of return that it should be able to recover, upon petition, prudently incurred environmental compliance costs through the ECRC if such costs were incurred after the effective date of the environmental compliance cost legislation and if such costs are not being recovered through any other cost recovery mechanism." [Emphasis added.] If, however, a base rate proceeding considering environmental costs would likely result in new base rates which would be less than the sum of current base rates plus environmental charges, then customers are effectively paying more than once for environmental costs, and the electric utility is earning more than a "fair" return.

Company Specific Environmental Cost Recovery Issues

FLORIDA POWER & LIGHT COMPANY

ISSUE 5: Should the Commission approve Florida Power & Light Company's request for recovery of costs of the Wastewater/Stormwater Discharge Elimination Project through the Environmental Cost Recovery Clause?

OPC:

FPL: No position at this time.

ISSUE 5A: How should the newly proposed environmental costs for the Wastewater/Stormwater Discharge Elimination Project be allocated to the rate classes?

OPC:

FPL: No position at this time.

GULF POWER COMPANY

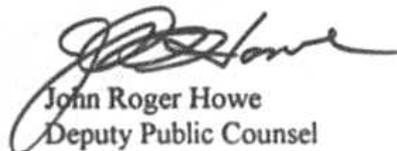
ISSUE 6: What adjustment, if any, should be made to the Environmental Cost Recovery Clause to reflect an amount which may be in base rates for the costs of the underground fuel storage tanks which have been replaced by aboveground fuel storage tanks as reported in Audit Disclosure No. 1 of the Florida Public Service Commission's Environmental Cost Recovery Clause Audit Report for the Period Ended September 30, 1997?

OPC:

GULF: No position at this time.

Respectfully submitted,

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Public Counsel



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Attorneys for the Citizens of
the State of Florida

CERTIFICATE OF SERVICE
980007-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing Public Counsel's Preliminary List of Issues and Positions has been furnished by U.S. Mail or hand-delivery (*) on this 22nd day of October, 1998, to the following:

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