

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost
recovery clause.

DOCKET NO. 980007-EI
ORDER NO. PSC-98-1540-PHO-EI
ISSUED: November 20, 1998

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on Monday, November 16, 1998, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

MATTHEW M. CHILDS, ESQUIRE, Steel Hector & Davis, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301
On behalf of Florida Power & Light Company (FPL).

JEFFREY A. STONE, ESQUIRE, and RUSSELL A. BADDERS, Esquire, Beggs & Lane, Post Office Box 12950, Pensacola, Florida 32576
On behalf of Gulf Power Company (GULF).

LEE L. WILLIS, ESQUIRE, and JAMES D. BEASLEY, ESQUIRE, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

JOHN W. McWHIRTER, ESQUIRE, McWhirter Reeves McGlothlin Davidson Decker Kaufman Arnold & Steen, P.A., Post Office Box 3350, Tampa, Florida, 33601-3350; and JOSEPH A. MCGLOTHLIN, ESQUIRE, and VICKI GORDON KAUFMAN, ESQUIRE, McWhirter Reeves McGlothlin Davidson Decker Kaufman Arnold & Steen, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301
On behalf of Florida Industrial Power Users Group (FIPUG).

JOHN ROGER HOWE, ESQUIRE, 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).

LESLIE J. PAUGH, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

DOCUMENT NUMBER-DATE

13101 NOV 20 88

FPSO-RECORDS/REPORTING

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

As part of the Commission's continuing fuel cost, conservation cost recovery, purchased gas adjustment and environmental cost recovery proceedings, a hearing is set for November 23, 24 and 25, 1998, in this docket and in Docket Nos. 980001-EI, 980002-EG, and 980003-GU. The hearing will address the issues set out in the body of this Prehearing Order. The parties have stipulated to Issue Nos. 1, 1A, 3, 4, 5, 8A, 9A, 9C, 10A, 10C, 10E, 10G, 10I, 10K, 10M, 10O.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. 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.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

- * As a result of discussions at the prehearing conference, each witness whose name is preceded by an asterisk (*) has been excused if no Commissioner assigned to hear this case seeks to cross-examine the particular witness. Parties shall be notified by the close of business on Friday, November 20, 1998, as to whether each witness shall be required to be present at hearing. The testimony of excused witnesses will be inserted into the record as though read and all exhibits submitted with those witnesses' testimony shall be identified as shown in Section IX of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*K.M. Dubin	FPL	1, 2-6, 8A
*R.R. LaBauve	FPL	7, 7A, 8
*J.O. Vick	GULF	1, 2, 7, 7A, 9, 9B, 9D, 9E
*S.D. Cranmer	GULF	1, 2, 3, 4, 5, 6, 7, 7A, 9A, 9C, 9E
*Karen O. Zwolak	TECO	1, 2, 3, 4, 5, 6,7, 7A, 10, 10A, 10B, 10C, 10D, 10F, 10G, 10H, 10I, 10J, 10K, 10L, 10M, 10N, 10O
*Gregory M. Nelson	TECO	10, 10B, 10D, 10F, 10H, 10J, 10L, 10N

VII. BASIC POSITIONS

POSITIONS

FPL: None necessary.

GULF: It is the basic position of Gulf Power Company that the proposed environmental cost recovery factors present the best estimate of Gulf's environmental compliance costs recoverable through the environmental cost recovery

clause for the period January 1999 through December 1999 including the true-up calculations and other adjustments allowed by the Commission.

TECO: The Commission should approve for environmental cost recovery the new compliance programs described in the testimony and exhibits of Tampa Electric Witnesses Nelson and Zwolak. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period April 1998 through December 1998, the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 1999 through December 1999.

FIPUG: None at this time.

OPC: None necessary.

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

Generic Environmental Cost Recovery Issues

STIPULATED

ISSUE 1:

What are the estimated environmental cost recovery true-up amounts for the period October, 1997, through December, 1998? (for Florida Power & Light Company and Gulf Power Company only)

POSITION:

FPL: \$886,387 overrecovery.
GULF: \$3,673,682 overrecovery.

STIPULATED

ISSUE 1A:

What are the estimated environmental cost recovery true-up amounts for the period April, 1998, through December, 1998? (for Tampa Electric Company only)

POSITION:

TECO: \$ 1,259,595 overrecovery.

ISSUE 2: **What are the appropriate projected environmental cost recovery amounts for the period January, 1999, through December, 1999?**

POSITIONS

FPL: Agree with Staff.

GULF: Agree with Staff.

TECO: Agree with Staff.

FIPUG: Agree with OPC.

OPC: The projected environmental cost recovery amounts should not be approved. See OPC position on Issue 11.

STAFF: FPL: \$17,070,550.
 GULF: \$8,438,207.
 TECO: \$4,464,300.

STIPULATED
ISSUE 3:

What is the appropriate recovery period to collect the total environmental cost recovery true-up amounts?

POSITION: The appropriate recovery period to collect the total environmental cost recovery true-up amounts (the sum of the final true-up amounts as approved in Order No. PSC-98-1224-FOF-EI and the estimated true-up amounts) is the twelve month period from January 1999 through December 1999.

STIPULATED
ISSUE 4:

What should be the effective date of the environmental cost recovery factors for billing purposes?

POSITION The factor should be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January, 1999, through December, 1999. Billing cycles may start before January 1, 1999, and the last cycle may be read

after December 31, 1999, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

STIPULATED
ISSUE 5:

What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery true-up amounts to be collected?

POSITION:

The depreciation rates used to calculate the depreciation expense should be the rates that are in effect during the period the allowed capital investment is in service.

ISSUE 6:

What are the appropriate Environmental Cost Recovery Factors for the period January, 1999, through December, 1999, for each rate group?

POSITIONS:

FPL: Agree with Staff.

GULF: Agree with Staff.

TECO: Agree with Staff.

FIPUG: Agree with OPC.

OPC: The proposed environmental cost recovery factors should not be approved. See OPC position on Issue 11.

STAFF:

FPL:	Rate Class	Environmental Recovery Factor (\$/KWH)
	RS1	0.00022
	GS1	0.00021
	GSD1	0.00019
	OS2	0.00026
	GSLD1/CS1	0.00019
	GSLD2/CS2	0.00018
	GSLD3/CS3	0.00014
	ISST1D	0.00025
	SST1T	0.00013
	SST1D	0.00019
	CILC D/CILC G	0.00018
	CILC T	0.00014
	MET	0.00019
	OL1/SL1	0.00017
	SL2	0.00017

GULF:

RATE CLASS	ENVIRONMENTAL COST RECOVERY FACTORS ¢/KWH
RS, RST	0.096
GS, GST	0.096
GSD, GSdT	0.086
LP, LPT	0.077
PX, PXT, RTP, SBS	0.072
OSI, OSII	0.057
OSIII	0.076
OSIV	0.128

<u>TECO:</u>	<u>Rate Class</u>	<u>Factor (\$/kWh)</u>
	RS, RST	0.029
	GS, GST, TS	0.028
	GSD, GSDT, EVX	0.028
	GSLD, GSLDT, SBF, SBFT	0.027
	IS1, IST1, SBI1, SBIT1, IS3, IST3, SBI3, SBIT3	0.026
	SL, OL	0.027

ISSUE 7: Should the Commission require utilities to petition for approval of recovery of new projects through the Environmental Cost Recovery Clause at least three months prior to the due date for projection filing testimony?

POSITION: By agreement of the parties, this issue has been withdrawn, and a staff workshop will be conducted.

ISSUE 7A: Should the Commission set minimum filing requirements for utilities upon a petition for approval of recovery of new projects through the Environmental Cost Recovery Clause?

POSITION: By agreement of the parties, this issue has been withdrawn, and a staff workshop will be conducted.

Company - Specific Environmental Cost Recovery Issues

Florida Power & Light Company

ISSUE 8: 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?

POSITIONS:

FPL: Agree with Staff.

FIPUG: Agree with OPC.

OPC: No. An increase in FPL's rates is not appropriate at this time. See position statement on Issue 11.

STAFF: Yes. In Order No. PSC-98-1224-FOF-EI, this issue was deferred from the August 1998 Environmental Cost Recovery Clause hearing. After conducting a deposition of FPL Witness LaBauve and receiving the appropriate supporting documentation through discovery, staff determined that the proposed Wastewater/Stormwater Discharge Elimination Project meets the criteria for recovery through the ECRC, as established in Order No. PSC-94-0044-FOF-EI. As explained below, the estimated operation and maintenance (O&M) expense amount should be \$2,149,000 for the purpose of setting FPL's 1999 ECRC factors. In addition, if the final SPDES permits at any of the remaining six affected plants are not issued by December 31, 1999 or do not require BMP3 Plans as expected, then the respective portion of the amount approved for recovery at those plants should be refunded with interest to FPL's ratepayers in 2000.

Project Description

According to FPL Witness LaBauve's Late-Filed Deposition Exhibit No. 3, Attachment 3, this project involves activities such as ash basin lining, installation of retention tanks, tank coating, sump construction, installation of pumps, motor, and piping, boiler blowdown recovery, site preparation, separation of stormwater and ashwater systems, separation of potable and service water systems, and engineering and design work.

Legally Required

Witness LaBauve states that this project is legally required to comply with environmental regulations imposed by the Environmental Protection Agency (EPA). Pursuant to 33 U.S.C. Section 1342 (Federal Water Pollution Control Act Section 402) and Title 40 Code of Federal Regulations Section 122, FPL is required to obtain National Pollutant Discharge Elimination System (NPDES) permits for each of its power plant facilities. Under current law, these permits must be renewed every five years.

According to FPL, each new permit issued will require them to develop and implement a Best Management Practice Pollution Prevention Plan (BMP3 Plan) to minimize or eliminate, whenever feasible, the discharge of regulated pollutants, including fuel oil and ash, to surface waters. These BMP3 Plans are to be submitted to the Florida Department of Environmental Protection (FDEP) since the EPA delegated administration of the NPDES permit program to the state. Under state implementation of the program, these permits are referred to as State Pollutant Discharge Elimination System (SPDES) permits.

As shown in response to a staff interrogatory, final SPDES permits, which contain BMP3 Plan requirements, have been issued at the Port Everglades, Fort Lauderdale, Riviera, and Fort Myers plants, but final SPDES permits have not been issued at the remaining six affected FPL plants. (Mr. LaBauve's Deposition Transcript p. 61-2) Witness LaBauve expects that BMP3 Plans will be required upon the issuance of the final SPDES permits at these remaining six locations as well; therefore, FPL has taken steps to comply with expected BMP3 Plan requirements at these plants. (Mr. LaBauve's Deposition Transcript p. 70) If the final SPDES permits at the remaining six affected plants do not require BMP3 Plans as expected, the costs of implementing such plans should be refunded with interest to FPL's ratepayers in the year 2000.

According to FPL, this project also meets two other environmental requirements which were applied to FPL in 1997. First, the Federal Ambient Water Quality Criteria requires FPL to meet surface water standards for any wastewater discharges to groundwater. For many pollutants, the surface water standards are more stringent than current groundwater standards. Second, the Dade County Department of Environmental Resource Management (DERM) requires FPL to obtain multi-source permits for its Cutler and Turkey Point plants, the only FPL plants located in Dade County. DERM considers the cooling canals at Turkey Point to be waters of

Dade County and thus requires the plant's wastewater discharges into the canals to meet water quality standards in Section 24-11, Code of Metropolitan Dade County.

Double Recovery

According to FPL's November 10, 1998 testimony, all costs requested for recovery are projected for the period beginning January 1999. Therefore, the costs requested for recovery will be incurred after April 13, 1993. In addition, Witness LaBauve stated that the costs are not being recovered through some other recovery mechanism. (Mr. LaBauve's June 29, 1998 Direct Testimony p. 10)

Project Cost Estimate

FPL has requested recovery of \$3,145,000 of operation and maintenance (O&M) expenses projected to be incurred in calendar year 1999. No capital costs were projected for this period. According to Witness LaBauve's Late-Filed Deposition Exhibit No. 3, Attachment 3, FPL estimates that the total cost of this project will be approximately \$13 million, further broken down into approximately \$8 million in capital costs and approximately \$5 million in O&M expenses over the life of the project. Staff also notes that Witness LaBauve summarized the alternatives evaluated by FPL and demonstrated why the chosen option was the most viable, cost-effective means for compliance. (Mr. LaBauve's June 29, 1998 Direct Testimony pp. 7-9)

Staff recommends the estimated project costs to be incurred for calendar year 1999 should be reduced by an amount of \$996,000 (not jurisdictionalized). As shown in the table below, FPL provided two different total cost estimates of the proposed project, one as a response to Staff's First Request for Production of Documents No. 8, Attachment 1, and a later one as Mr. LaBauve's Late-Filed Deposition Exhibit No. 3, Attachment 3.

Source	Description	Capital (\$000)	O&M (\$000)	Total (\$000)
FPL Response to Staff's 1st Request for PODs, No. 8, Attachment 1, p. 1 (date: 8/19/98)	Subtotal	\$6,200	\$4,204	\$10,404
	Engineering	\$525	\$200	\$725
Late-Filed Depo. Exh. 3, Attachment 3 (date: 9/30/98)	Subtotal	\$6,200	\$3,004	\$9,204
	Engineering	\$525	\$1,196	\$1,721

FPL removed \$1.2 million of O&M expenses for organo clay filters from the first O&M cost estimate of \$4,204,000 to arrive at the later O&M estimate of \$3,004,000. Despite this decrease in O&M expenses, engineering expenses attributed to the O&M portion of the total project cost estimate increased significantly, from \$200,000 to \$1,196,000. This increase in engineering expenses has not been justified by FPL at this time. Therefore, the difference of \$996,000 between the engineering cost estimates in the two total project cost estimates provided by FPL should be credited to the estimated project costs of \$3,145,000 for the upcoming calendar year. This reduction of projected costs will result in a revised estimate of \$2,149,000 in expenses to be incurred in 1999 for FPL's proposed project.

Conclusion

For the reasons stated above, staff believes the Wastewater/Stormwater Discharge Elimination Project and prudently incurred costs are appropriate for recovery through the ECRC. Witness LaBauve stated that FPL would notify the Commission of any changes in scope to the project. (Mr. LaBauve's Deposition Transcript p. 88) The project is expected to be completed by approximately December 2000. (Mr. LaBauve's Deposition Transcript p. 89) Final disposition of the costs incurred in this activity will be subject to audit.

STIPULATED

ISSUE 8A:

What is the appropriate method for calculating the return on average net investment for Environmental Cost Recovery Clause projects as established by Order No. PSC-97-1047-FOF-EI?

POSITION:

Due to the Commission's decision to have utilities file projected costs for recovery through the ECRC on an annual, calendar year basis in Order No. PSC-98-0691-FOF-PU, the appropriate method for calculating FPL's return on average net investment for ECRC projects should be changed. The currently prescribed methodology was established in Order No. PSC-97-1047-FOF-EI. Staff believes that FPL's use of the June 1998 capital cost rates for its October 5, 1998 projection filing for calendar year 1999 was appropriate since the June 1998 rates were the most recent actual capital cost rates before the filing of the projected period data. Staff proposes use of these same rates for both the estimated/actual true-up and the final true-up for the calendar year 1999 period.

On a going forward basis, FPL should use the current year's June cost of capital rates for both the debt and equity components for the projection filing for the upcoming calendar year. The same cost of capital rates for both debt and equity should be used for the estimated/actual true-up filing and the final true-up filing which represent costs for the same calendar year. The use of the same capital cost rates for the projected period, the estimated/actual period, and the final true-up period should facilitate comparison and explanation of cost variances. The appropriate cost of capital rates are reported on a 13-month average, FPSC-adjusted basis as filed in the monthly Earnings Surveillance Reports filed with the Commission. The relative ratios of capital components are consistent with the capital structure approved in FPL's last rate case in Order Nos. 13537 and 13948 (Docket No. 830465-EI).

Gulf Power Company

ISSUE 9: **Should the Commission approve Gulf Power Company's request for recovery of costs of the Crist Units 4-7 Ash Pond Diversion Curtains project through the Environmental Cost Recovery Clause?**

POSITIONS:

GULF: Agree with Staff.

FIPUG: Agree with OPC.

OPC: No. An increase in Gulf's rates is not appropriate at this time. See position statement on Issue 11.

STAFF: Yes. The proposed project is a budgeted item to address the potential costs due to new requirements which are expected in the new Plant Crist National Pollutant Discharge Elimination System (NPDES) permit which will be issued by the Florida Department of Environmental Protection (FDEP). The estimated O&M cost for the project should be \$66,000. However, if the final permit is not issued by December 31, 1999 or does not contain any of the expected new requirements, then any amount approved for recovery plus interest should be refunded to Gulf's customers in 2000.

Project Description

The proposed project titled "Plant Crist Units 4-7 Ash Pond Diversion Curtains" consists of adding three flow obstructions or curtains to the ash pond. (Memorandum to Rachel Allen Terry from John M. Dominey dated October 22, 1998; Mr. Vick's Deposition Transcript p. 53) The new curtains create a maze which is intended to slow the flow of industrial wastewater through the pond. Slowing the effluent provides for more time for suspended solids to precipitate out and settle to the bottom of the pond.

Legally Required

The environmental compliance issue Gulf is addressing is lower quantification limits for metal analysis of the waste water discharges from the Crist ash pond which are expected to be included in the new NPDES permit. The FDEP is expected to issue the permits by year end. (Mr. Vick's Direct Testimony p. 4; Mr. Vick's Deposition Transcript pp. 26, 28, 29, and 46) Gulf has been in the permit renewal process for about two years. (Mr. Vick's Deposition Transcript p. 46) Therefore, staff believes Gulf should be well-informed of the changes which are likely to appear in the new permit.

However, staff also recommends that all costs for this project which are recovered through the ECRC be refunded with interest to the ratepayers if the permit is not issued by year-end 1999. In addition, project costs should be refunded with interest if the issued permit does not contain any of the expected new requirements. Granting cost recovery during 1999 should be contingent on having an environmental law or regulation as defined in Section 366.8255(1)(c), Florida Statutes. Absent a legal requirement there are no environmental compliance costs to be allocated to the ratepayers.

Double Recovery

The scope and the costs of this project are defined by changes in technologies and rule changes since Gulf's 1990 rate case test year. (Mr. Vick's Direct Testimony p. 4; Mr. Vick's Late-Filed Deposition Exhibit 1) Therefore, staff believes recovery of the proposed project costs would not cause Gulf to recover the same costs through the ECRC and base rates or any other rate-adjustment clause.

Project Cost Estimate

Staff recommend the estimated cost for the project should be \$66,000 based on the following statement found in a Gulf Power Company internal memorandum to Rachel Allen Terry from John M. Dominey dated October 22, 1998:

When the Plant's Draft NPDES Permit recently came out requiring new MDLs and PQLs for metals, I decided that we needed to budget for the installation of three more curtains that would further lower metals concentrations. The \$100,000 we budgeted in 1999's Capital Budget was based on the one curtain installed in 1994 costing just over \$22,000.

While it is prudent for GULF to budget and plan for potential costs, the estimate in this case is not appropriate for determining projected costs for recovery through the ECRC. Instead, staff recommends an amount of \$66,000 based on the scope of the proposed project being three times a similar 1994 project with actual costs of approximately \$22,000.

Also, there appears to be a question with respect to whether or not the project should be capitalized. Mr. Vick's direct testimony, page 4, discusses the project as a capital project. However, Ms. Cranmer's revised November 9, 1998 direct testimony exhibits, Bates stamp pages 3 and 30, indicate the project is an O&M activity. Gulf's response to whether or not the project should be capitalized is found in Late-Filed Deposition Exhibit 11, which states in part:

The ash pond curtains at Plant Crist are not a retirement unit code and should be classified as an expense item. When Gulf filed its projection for 1999, we were in the early stages of the planning cycle and projected that this would be a capital item.

Therefore, staff recommends that all costs approved for recovery for the new ash pond curtains should be reported as an O&M expense rather than as a capital item.

Conclusion

For the reasons stated above, staff believes the Crist Units 4-7 Ash Pond Diversion Curtains Project and prudently incurred costs are appropriate for recovery through the ECRC. The estimated O&M cost for the project should be \$66,000 instead of the proposed \$100,000. However, if the final permit is not issued by December 31, 1999 or does not contain any of the expected new requirements, then any amount approved for recovery plus interest should be refunded to Gulf's customers in 2000. This project is expected to be completed by approximately May 1999. (Ms. Cranmer's Revised November 9, 1998 Direct Testimony Exhibits, Form 42-2P) Final disposition of the costs incurred in this activity will be subject to audit.

STIPULATED

ISSUE 9A:

How should the newly proposed environmental costs for the Crist Units 4-7 Ash Pond Diversion Curtains project be allocated to the rate classes?

POSITION:

The costs of the Crist Units 4-7 Ash Pond Diversion Curtains project should be allocated on an energy basis.

ISSUE 9B:

Is it appropriate for Gulf Power Company to recover costs for low NO_x burner tips on Plant Smith Unit 1 through the Environmental Cost Recovery Clause?

POSITIONS:

GULF:

Yes. This project is substantially the same as a similar project that was approved by the Commission for Crist Units 4 and 5 in Order No. PSC-98-0803-FOF-EI issued June 9, 1998.

The Clean Air Act Amendments of 1990 (CAAA) imposed stricter environmental standards on electric utility power plants, including new NO_x emission specifications which will become effective in the year 2000 under Title IV Acid Rain Phase II of the CAAA. Specifically, Gulf Power must comply with Phase II Low NO_x rules and regulations under 40 CFR

Part 72, 40 CFR Part 76, and Rule 62-214.420(3), Florida Administrative Code. The installation of low NO_x burner tips on Smith Unit 1 is the most cost-effective way in which to achieve compliance with the new standards. Low NO_x burner tips are primarily a low cost option for small boilers. The burner tips have a low installation cost as compared to other available compliance technologies such as full low NO_x burners and selective catalytic reduction. The project to upgrade Smith Unit 1 to incorporate low NO_x burner tips is an operation and maintenance item which includes both material and labor costs. The low NO_x burner tips will be installed on Smith Unit 1 during the Fall 1999 boiler outage.

In order to recover environmental compliance costs through the ECRC, a proposed project must meet the specific criteria listed in Order No. PSC-94-0044-FOF-EI. The three components are as follows: (1) such costs were prudently incurred after April 13, 1993; (2) the activity is 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 upon which rates are based, and (3) such costs are not recovered through some other cost recovery mechanism or through base rates. The first threshold is met because the upgrades to incorporate low NO_x burner tips are being performed during a boiler outage in 1999, therefore, the costs for this project will be incurred after April 13, 1993. The second component of the criteria for recovery is also met because the project is the most cost-effective approach for compliance with Phase II of the CAAA, whose effect was triggered after the Company's last test year upon which rates are based. Finally, the third component of the criterion for recovery is met because the expenses for the upgrade to low NO_x burner tips are not recovered through any other cost recovery mechanism or through base rates.

FIPUG: Agree with OPC.

OPC: No. An increase in Gulf's rates is not appropriate at this time. See position statement on Issue 11.

STAFF: Agree with Gulf.

STIPULATED

ISSUE 9C: How should environmental costs for the low NO_x burner tips on Plant Smith Unit 1 be allocated to the rate classes?

POSITION: The costs of the low NO_x burner tips on Plant Smith Unit 1 should be allocated on an energy basis.

ISSUE 9D: Is it appropriate for Gulf Power Company to recover costs for the purchase of an additional mobile groundwater treatment system through the Environmental Cost Recovery Clause?

POSITIONS:

GULF: Yes. The additional mobile groundwater treatment system that Gulf purchased in the last quarter of 1997 has been placed in-service as part of Gulf Power's approved Groundwater Monitoring environmental compliance activity. This activity is associated with the monitoring and remediation of groundwater at numerous substation sites. The Groundwater Monitoring environmental activity was approved for cost recovery through the Environmental Cost Recovery Clause in Order No. PSC-94-0044-FOF-EI which was issued in response to Gulf Power's initial petition seeking to establish the recovery clause for environmental compliance costs. The activity, as originally approved, involved Gulf Power's lease of a mobile groundwater treatment system for use at the Company's Lynn Haven substation site. Gulf's subsequent purchase of the first mobile groundwater treatment system was addressed in Gulf Power's projection filing for the October 1995 through September 1996 recovery period which was reviewed by the Commission and

approved in Order No. PSC-95-1051-FOF-EI. The original mobile groundwater treatment system is still in-service at the Lynn Haven substation site. The second mobile groundwater treatment system that is the subject of this issue was purchased in part because the first system is still in-service and also because greater treatment capacity is needed for other sites. This second trailer is currently in-service at the Company's Fort Walton Beach substation site. The costs associated with the new mobile groundwater treatment system have been prudently incurred after April 13, 1993 in order to comply with governmentally imposed environmental requirements that have become effective after the Company's last test year upon which its base rates were established. These costs are not recovered through some other cost recovery mechanism or through base rates and are therefore appropriate for recovery through the Environmental Cost Recovery Clause.

FIPUG: Agree with OPC.

OPC: No. An increase in Gulf's rates is not appropriate at this time. See position statement on Issue 11.

STAFF: Agree with Gulf.

**STIPULATED
ISSUE 9E:**

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?

POSITION: No adjustment is necessary at this time. Staff proposes that the policy question that underlies this issue should be addressed on a generic basis as part of the workshop that will be held during early 1999 to address the other ECRC policy and

procedural questions raised by Staff (i.e. the timing of petitions for new projects and minimum filing requirements). If the parties are unable to resolve this issue by agreement following such workshop, then the issue may be presented to the Commission for resolution in a future proceeding. The parties agree that the retroactive effect of an adjustment, if any, to ECRC recoverable plant investment that may occur as part of the ultimate resolution of this issue will extend back to September 1998.

Tampa Electric Company

For purposes of Issues 10, 10B, 10D, 10F, 10H, 10J, and 10L, the policy questions that underlie staff's adjustments to these issues should be addressed on a generic basis as part of the workshop that will be held during early 1999 to address the other ECRC policy and procedural questions raised by Staff (i.e. the timing of petitions for new projects and minimum filing requirements). TECO has agreed to make the adjustments proposed by staff with the understanding that the adjustments are subject to the outcome of the early 1999 staff workshop. If the parties are unable to resolve these policy questions by agreement following such workshop, then they may be presented to the Commission for resolution in a future proceeding.

ISSUE 10: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Big Bend Unit 1 Classifier Replacement project through the Environmental Cost Recovery Clause?

POSITIONS:

TECO: Agree with staff.

FIPUG: FIPUG takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

OPC: OPC takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

STAFF:

Yes. The proposed project is a budgeted item to address a reduction of nitrous oxides (NO_x) emissions required by Title IV of the Clean Air Act Amendments of 1990 (CAAA). The project plant-in-service beginning amount for purposes of setting the 1999 factors should be \$1,217,716.

Project Description

Big Bend Unit 1 has older and smaller style classifiers which are being replaced by the more advanced technologies. (Mr. Nelson's Deposition Transcript pp. 27, 29, 31, 37, 39) The new classifiers will ensure that only the appropriate coal particle size goes to the burners. The smaller coal particle size and uniformity are needed to lower NO_x emissions. (Mr. Nelson's Deposition Exhibit 13, pp. 12-14) The installation of new classifiers will require modification to the existing coal piping, hangers, and other existing facilities within the vicinity of the coal pulverizers. (Mr. Nelson's Late-Filed Exhibit 14; Mr. Nelson's Deposition Transcript pp. 29, 30) However, if the present NO_x reduction efforts cannot meet EPA's limit, TECO may implement other retrofit options such as water injection, over-fire air, and selective catalytic reduction. (Mr. Nelson's Deposition Exhibit 13, pp. 6-7) The project is estimated to be completed by December 1998. (Ms. Zwolak's Deposition Exhibit 2, p. 1; Mr. Nelson's Late-Filed Deposition Exhibit 3)

Legally Required

The classifier replacement project is part of TECO's NO_x compliance strategy for Phase II of the CAAA. (Mr. Nelson's Deposition Exhibit 13, pp. 4-7)

Double Recovery

TECO believes that all of its projected costs are not being recovered through some other cost recovery mechanism or through base rates. (Ms. Zwolak's Direct Testimony, pp. 9-10) However, staff believes the scope and costs of this project include some costs which are included in TECO's base rates and some new costs which are not addressed in TECO's last rate case. The following

table indicates the items and amounts which staff believes to be both in TECO's base rates and in the estimated costs for the Big Bend 1 Classifier Replacement.

Source	Description	Amount
Mr. Nelson's Late-Filed Deposition Exhibit 1	In-House Payroll	\$ 139,365
Mr. Nelson's Late-Filed Deposition Exhibit 5	Plant-in-Service being replaced	\$ 34,549
	Total downward adjustment for base rates items	\$ 173,914
KOZ-1, Document 4, p. 4, Line 2 (Zwolak testimony 11/12/98)	Beginning of the period Amount	\$1,391,630
	Total downward adjustment for base rates items	\$ 173,914
Staff Recommendation	Beginning of the period Amount	\$1,217,716

Therefore, staff believes a downward adjustment of \$173,914 to TECO's beginning plant-in-service of \$1,391,630 is appropriate for purposes of setting the 1999 ECRC factors. Absent the adjustment, TECO will recover the same costs through both base rates and the ECRC.

Project Cost Estimate

As previously stated, a downward adjustment to TECO's beginning plant-in-service is appropriate. The project plant-in-service beginning amount for purposes of setting the 1999 factors should be \$1,217,716. Otherwise, staff believes TECO's project cost estimates are reasonable. Mr. Nelson's Deposition Exhibit 13 and Late-Filed Deposition Exhibits 1, 3, 5, 10, and 14 provide summary statements of the detailed reviews TECO has performed supporting its project. As indicated in these documents, alternatives were evaluated and

considered with the proposed classifier project being the least cost option.

Conclusion

For the reasons stated above, staff believes the Big Bend Unit 1 Classifier Replacement and prudently incurred costs are appropriate for recovery through the ECRC. The beginning plant-in-service amount should be \$1,217,716. Final disposition of the costs incurred in this project will be subject to audit.

STIPULATED

ISSUE 10A:

How should the newly proposed environmental costs for the Big Bend Unit 1 Classifier Replacement project be allocated to the rate classes?

POSITION:

The Big Bend Unit 1 Classifier Replacement, which is a project being done to meet the requirements of the Clean Air Amendments of 1990, should be allocated at a rate classes on an energy basis as set forth in previous orders by the Commission.

ISSUE 10B:

Should the Commission approve Tampa Electric Company's request for recovery of costs of the Big Bend Unit 2 Classifier Replacement project through the Environmental Cost Recovery Clause?

POSITIONS:

TECO:

Agree with staff.

FIPUG:

FIPUG takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

OPC:

OPC takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

STAFF:

Yes. The proposed project is a budgeted item to address a reduction of nitrous oxides (NO_x) emissions required by Title IV of the Clean Air Act Amendments of 1990 (CAAA). The project plant-

in-service beginning amount for purposes of setting the 1999 factors should be \$815,104.

Project Description

Big Bend Unit 2 has older and smaller style classifiers which are being replaced by the more advanced technologies. (Mr. Nelson's Deposition Transcript pp. 27, 29, 31, 37, 39) The new classifiers will ensure that only the appropriate coal particle size goes to the burners. The smaller coal particle size and uniformity are needed to lower NO_x emissions. (Mr. Nelson's Deposition Exhibit 13, pp. 12-14) The installation of new classifiers will require modification to the existing coal piping, hangers, and other existing facilities within the vicinity of the coal pulverizers. (Mr. Nelson's Late-Filed Deposition Exhibit 14; Mr. Nelson's Deposition Transcript pp. 29, 30) However, if the present NO_x reduction efforts cannot meet EPA's limit, TECO may implement, other retrofit options such as water injection, over-fire air, and selective catalytic reduction. (Mr. Nelson's Deposition Exhibit 13, pp. 6-7) The project was completed in May 1998. (Ms. Zwolak's Deposition Exhibit 2, p. 2; Mr. Nelson's Late-Filed Deposition Exhibit 3)

Legally Required

The classifier replacement project is part of TECO's NO_x compliance strategy for Phase II of the CAAA. (Mr. Nelson's Deposition Exhibit 13, pp. 4-7)

Double Recovery

TECO believes that all of its projected costs are not being recovered through some other cost recovery mechanism or through base rates. (Ms. Zwolak's Direct Testimony, pp. 9-10) However, staff believes the scope and costs of this project include some costs which are included in TECO's base rates and some new costs which are not addressed in TECO's last rate case. The following table indicates the items and amounts which staff believes to be both in TECO's base rates and in the estimated costs for the Big Bend Unit 2 Classifier Replacement.

Source	Description	Amount
Mr. Nelson's Late-Filed Deposition Exhibit 1	In-House Payroll	\$ 109,676
Mr. Nelson's Late-Filed Deposition Exhibit 5	Plant-in-Service being replaced	\$ 60,290
	Total downward adjustment for base rates items	\$ 169,966
KOZ-1, Document 4, p. 5, Line 2 (Zwolak testimony 11/12/98)	Beginning of the period Amount	\$ 985,070
	Total downward adjustment for base rates items	\$ 169,966
Staff Recommendation	Beginning of the period Amount	\$ 815,104

Therefore, staff believes a downward adjustment of \$169,290 to TECO's beginning plant-in-service of \$985,070 is appropriate for purposes of setting the 1999 ECRC factors. Absent the adjustment, TECO will recover the same costs through both base rates and the ECRC.

Project Cost Estimate

As previously stated, a downward adjustment to TECO's beginning plant-in-service is appropriate. The project plant-in-service beginning amount for purposes of setting the 1999 factors should be \$815,104. Otherwise, staff believes TECO's project cost estimates are reasonable. Mr. Nelson's Deposition Exhibit 13 and Late-Filed Deposition Exhibits 1, 3, 5, 10, and 14 provide summary statements of the detailed reviews TECO has performed supporting its project. As indicated in these documents, alternatives were evaluated and considered with the proposed classifier project being the least cost option.

Conclusion

For the reasons stated above, staff believes the Big Bend Unit 2 Classifier Replacement and prudently incurred costs are appropriate for recovery through the ECRC. The beginning plant-in-service amount should be \$815,104. Final disposition of the costs incurred in this project will be subject to audit.

STIPULATED
ISSUE 10C:

How should the newly proposed environmental costs for the Big Bend Unit 2 Classifier Replacement project be allocated to the rate classes?

POSITION:

The Big Bend Unit 2 Classifier Replacement, which is a project being done to meet the requirements of the Clean Air Amendments of 1990, should be allocated at a rate classes on an energy basis as set forth in previous orders by the Commission.

ISSUE 10D:

Should the Commission approve Tampa Electric Company's request for recovery of costs of the Gannon Unit 5 Classifier Replacement project through the Environmental Cost Recovery Clause?

POSITIONS:

TECO:

Agree with staff.

FIPUG:

FIPUG takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

OPC:

OPC takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

STAFF:

Yes. The proposed project is a budgeted item to address a reduction of nitrous oxides (NO_x) emissions required by Title IV of the Clean Air Act Amendments of 1990 (CAAA). The project plant-in-service beginning amount for purposes of setting the 1999 factors should be \$1,129,039.

Project Description

Gannon Unit 5 has older and smaller style classifiers which are being replaced by the more advanced technologies. (Mr. Nelson's Deposition Transcript pp. 27, 29, 31, 37, 39) The new classifiers will ensure that only the appropriate coal particle size goes to the burners. The smaller coal particle size and uniformity are needed to lower NO_x emissions. (Mr. Nelson's Deposition Exhibit 13, pp. 12-14) The installation of new classifiers will require modification to the existing coal piping, hangers, and other existing facilities within the vicinity of the coal pulverizers. (Mr. Nelson's Late-Filed Deposition Exhibit 14; Mr. Nelson's Deposition Transcript pp. 29, 30) However, if the present NO_x reduction efforts cannot meet EPA's limit, TECO may implement other retrofit options such as water injection, over-fire air, and selective catalytic reduction. (Mr. Nelson's Deposition Exhibit 13, pp. 6-7) The project is was completed in December 1997. (Ms. Zwolak's Deposition Exhibit 2, p. 3; Mr. Nelson's Late-Filed Deposition Exhibit 3)

Legally Required

The classifier replacement project is part of TECO's NO_x compliance strategy for Phase II of the CAAA. (Mr. Nelson's Deposition Exhibit 13, pp. 4-7)

Double Recovery

TECO believes that all of its projected costs are not being recovered through some other cost recovery mechanism or through base rates. (Ms. Zwolak's Direct Testimony, pp. 9-10) However, staff believes the scope and costs of this project include some costs which are included in TECO's base rates and some new costs which are not addressed in TECO's last rate case. The following table indicates the items and amounts which staff believes to be both in TECO's base rates and in the estimated costs for the Gannon Unit 5 Classifier Replacement.

Source	Description	Amount
Mr. Nelson's Late-Filed Deposition Exhibit 1	In-House Payroll	\$ 130,368
Mr. Nelson's Late-Filed Deposition Exhibit 14	Plant-in-Service being replaced Ball mill recharge	\$ 81,116
Mr. Nelson's Late-Filed Deposition Exhibit 5	Plant-in-Service being replaced	\$ 18,517
	Total downward adjustment for base rates items	\$ 230,001
KOZ-1, Document 4, p. 6, Line 2 (Zwolak testimony 11/12/98)	Beginning of the period Amount	\$1,359,040
	Total downward adjustment for base rates items	\$ 230,001
Staff Recommendation	Beginning of the period Amount	\$1,129,039

Therefore, staff believes a downward adjustment of \$230,001 to TECO's beginning plant-in-service of \$1,359,040 is appropriate for purposes of setting the 1999 ECRC factors. Absent the adjustment, TECO will recover the same costs through both base rates and the ECRC.

Project Cost Estimate

As previously stated, a downward adjustment to TECO's beginning plant-in-service is appropriate. The project plant-in-service beginning amount for purposes of setting the 1999 factors should be \$1,129,039. Otherwise, staff believes TECO's project cost estimates are reasonable. Mr. Nelson's Deposition Exhibit 13 and Late-Filed Deposition Exhibits 1, 3, 5, 10, and 14 provide summary statements of the detailed reviews TECO has performed supporting its project. As indicated in these documents, alternatives were evaluated and considered with the proposed classifier project being the least cost option.

Conclusion

For the reasons stated above, staff believes the Gannon Unit 5 Classifier Replacement and prudently incurred costs are appropriate for recovery through the ECRC. The beginning plant-in-service amount should be \$1,129,039. Final disposition of the costs incurred in this project will be subject to audit.

STIPULATED
ISSUE 10E:

How should the newly proposed environmental costs for the Gannon Unit 5 Classifier Replacement project be allocated to the rate classes?

POSITION:

The Gannon Unit 5 Classifier Replacement, which is a project being done to meet the requirements of the Clean Air Amendments of 1990, should be allocated at a rate classes on an energy basis as set forth in previous orders by the Commission.

ISSUE 10F:

Should the Commission approve Tampa Electric Company's request for recovery of costs of the Gannon Unit 6 Classifier Replacement project through the Environmental Cost Recovery Clause?

POSITIONS:

TECO:

Agree with staff.

FIPUG:

FIPUG takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

OPC:

OPC takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

STAFF:

Yes. The proposed project is a budgeted item to address a reduction of nitrous oxides (NO_x) emissions required by Title IV of the Clean Air Act Amendments of 1990 (CAAA). The project plant-in-service beginning amount in June 1999 for purposes of setting the 1999 factors should be \$ 1,318,752.

Project Description

Gannon Unit 6 has older and smaller style classifiers which are being replaced by the more advanced technologies. (Mr. Nelson's Deposition Transcript pp. 27, 29, 31, 37, 39) The new classifiers will ensure that only the appropriate coal particle size goes to the burners. The smaller coal particle size and uniformity are needed to lower NO_x emissions. (Mr. Nelson's Deposition Exhibit 13, pp. 12-14) The installation of new classifiers will require modification to the existing coal piping, hangers, and other existing facilities within the vicinity of the coal pulverizers. (Mr. Nelson's Late-Filed Deposition Exhibit 14; Mr. Nelson's Deposition Transcript pp. 29, 30) However, if the present NO_x reduction efforts cannot meet EPA's limit, TECO may implement, other retrofit options such as water injection, over-fire air, and selective catalytic reduction. (Mr. Nelson's Deposition Exhibit 13, pp. 6-7) The project is expected to be completed in June 1999. (Ms. Zwolak's Deposition Exhibit 2, p. 4; Mr. Nelson's Late-Filed Deposition Exhibit 3)

Legally Required

The classifier replacement project is part of TECO's NO_x compliance strategy for Phase II of the CAAA. (Mr. Nelson's Deposition Exhibit 13, pp. 4-7)

Double Recovery

TECO believes that all of its projected costs are not being recovered through some other cost recovery mechanism or through base rates. (Ms. Zwolak's Direct Testimony, pp. 9-10) However, staff believes the scope and costs of this project include some costs which are included in TECO's base rates and some new costs which are not addressed in TECO's last rate case. The following table indicates the items and amounts which staff believes to be both in TECO's base rates and in the estimated costs for the Gannon Unit 5 Classifier Replacement.

Source	Description	Amount
Mr. Nelson's Late-Filed Deposition Exhibit 1	In-House Payroll	\$ 160,568
Mr. Nelson's Late-Filed Deposition Exhibit 5	Plant-in-Service being replaced	\$ 27,797
	Total downward adjustment for base rates items	\$ 188,365
KOZ-1, Document 4, p. 7, Line 2 (Zwolak testimony 11/12/98)	June 1999 Plant-in-Service Estimated Amount	\$1,507,117
	Total downward adjustment for base rates items	\$ 188,365
Staff Recommendation	June 1999 Plant-in-Service Estimated Amount	\$1,318,752

Therefore, staff believes a downward adjustment of \$188,365 to TECO's estimated June 1999 plant-in-service of \$1,507,117 is appropriate for purposes of setting the 1999 ECRC factors. Absent the adjustment, TECO will recover the same costs through both base rates and the ECRC.

Project Cost Estimate

As previously stated, a downward adjustment to TECO's estimated plant-in-service is appropriate. The estimated June 1999 plant-in-service amount for purposes of setting the 1999 factors should be \$1,318,752. Otherwise, staff believes TECO's project cost estimates are reasonable. Mr. Nelson's Deposition Exhibit 13 and Late-Filed Deposition Exhibits 1, 3, 5, 10, and 14 provide summary statements of the detailed reviews TECO has performed supporting its project. As indicated in these documents, alternatives were evaluated and considered with the proposed classifier project being the least cost option.

Conclusion

For the reasons stated above, staff believes the Gannon Unit 6 Classifier Replacement and prudently incurred costs are appropriate for recovery through the ECRC. The estimated June 1999 plant-in-service amount should be \$1,318,752. Final disposition of the costs incurred in this project will be subject to audit.

STIPULATED
ISSUE 10G:

How should the newly proposed environmental costs for the Gannon Unit 6 Classifier Replacement project be allocated to the rate classes?

POSITION:

The Gannon Unit 6 Classifier Replacement, which is a project being done to meet the requirements of the Clean Air Amendments of 1990, should be allocated at a rate classes on an energy basis as set forth in previous orders by the Commission.

ISSUE 10H:

Should the Commission approve Tampa Electric Company's request for recovery of costs of the Gannon Coal Crusher project through the Environmental Cost Recovery Clause?

POSITIONS:

TECO:

Yes. This project meets the standards for cost recovery set forth in prior orders of the Commission. (Witness: Nelson, Zwolak)

FIPUG:

FIPUG takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

OPC:

OPC takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

STAFF:

Yes. The proposed project is a budgeted item to address increased operational costs due to using PRB coal, and the project contributes to an overall reduction of nitrous oxides (NO_x) emissions as required by Title IV of the Clean Air Act

Amendments of 1990 (CAAA). The project estimated plant-in-service amount for purposes of setting the 1999 factors should be \$ 3,953,481 for July 1999.

Project Description

The Gannon Coal Crusher Addition project is the addition of two crushers at the Gannon Station. (Mr. Nelson's Deposition Exhibit 14, pp. 8-9; Mr. Nelson's Deposition Exhibit 13, pp. 16) The additional crushers will be located in the Gannon Station Coalfield. (Mr. Nelson's Deposition Exhibit 14, pp. 8-9; Mr. Nelson's Deposition Transcript pp. 51; Mr. Nelson's Deposition Exhibit 13, pp. 16) The project is expected to be completed in July 1999. (Ms. Zwolak's Deposition Exhibit 2, p. 5)

Legally Required

Staff does not know if the additional Gannon coal crushers were initially intended as part of TECO's overall NO_x compliance strategy for Phase II of the CAAA. At deposition, Mr. Nelson was asked to read TECO's internal program scope approval for this project. TECO's program scope approval listed the consequences of not adding additional Gannon coalfield crushers. (Mr. Nelson's Deposition Transcript, p. 59) The items listed as short-term and long-term consequences of not implementing the project were extended bunkering times due to capacity deficiencies, poor combustion, loss of class revenue, risk of fires due to finding shortfalls (LOI), and excessive maintenance on crushers and ash handling equipment. There was no mention of noncompliance with the CAAA. (Mr. Nelson's Deposition Transcript, p. 59) In addition, staff believes the extent to which TECO will continue to use PRB coal at Gannon is uncertain because TECO's PRB coal purchases through September 1998 have been 100% spot purchases. (Mr. Nelson's Late-Filed Deposition Exhibit 12, p. 6)

However, staff believes that additional crushers at the Gannon Station will contribute in the overall efforts to achieve lower NO_x emissions if TECO continues to use PRB coal at Gannon. This is

because TECO will be able to better control NO_x emissions and maintain unit efficiency while continuing to use PRB coal at the Gannon Station. (Mr. Nelson's Deposition Transcript, pp. 207-209; Mr. Nelson's Deposition Exhibit 13, p. 16)

Double Recovery

TECO believes that all of its projected costs are not being recovered through some other cost recovery mechanism or through base rates. (Ms. Zwolak's Direct Testimony, pp. 9-10) However, staff believes the scope and costs of this project include some costs which are included in TECO's base rates and some new costs which are not addressed in TECO's last rate case. The following table indicates the items and amounts which staff believes to be both in TECO's base rates and in the estimated costs for the Gannon Coal Crusher Addition.

Source	Description	Amount
Mr. Nelson's Late-Filed Deposition Exhibit 1	In-House Payroll	\$ 110,521
	Total downward adjustment for base rates items	\$ 110,521
KOZ-1, Document 4, p. 10, Line 2 (Zwolak testimony 11/12/98)	July 1999 Plant-in-Service Estimated Amount	\$4,064,002
	Total downward adjustment for base rates items	\$ 110,521
Staff Recommendation	July 1999 Plant-in-Service Estimated Amount	\$3,953,481

Therefore, staff believes a downward adjustment of \$110,521 to TECO's estimated July 1999 plant-in-service of \$4,064,002 is appropriate for purposes of setting the 1999 ECRC factors. Absent the adjustment, TECO will recover the same costs through both base rates and the ECRC.

Project Cost Estimate

As previously stated, a downward adjustment to TECO's estimated plant-in-service is appropriate. The estimated July 1999 plant-in-service amount for purposes of setting the 1999 factors should be \$3,953,481. Otherwise, staff believes TECO's project cost estimates are reasonable. Mr. Nelson's Deposition Exhibit 13 and Late-Filed Deposition Exhibits 1, 6, 10, and 14 provide summary statements of the detailed reviews TECO has performed supporting its project. As indicated in these documents, alternatives were evaluated and considered with the proposed crusher project being the least cost option.

Conclusion

For the reasons stated above, staff believes the Gannon Coal Crusher Addition and prudently incurred costs are appropriate for recovery through the ECRC. The estimated July 1999 plant-in-service amount should be \$3,953,481. Final disposition of the costs incurred in this project will be subject to audit.

STIPULATED
ISSUE 10I:

How should the newly proposed environmental costs for the Gannon Coal Crusher project be allocated to the rate classes?

POSITION:

The Gannon Coal Crusher, which is a project being done to meet the requirements of the Clean Air Amendments of 1990, should be allocated at a rate classes on an energy basis as set forth in previous orders by the Commission.

ISSUE 10J:

Should the Commission approve Tampa Electric Company's request for recovery of costs of the Gannon Unit 5 Stack Extensions project through the Environmental Cost Recovery Clause?

POSITIONS:

TECO:

Agree with staff.

FIPUG: FIPUG takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

OPC: OPC takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

STAFF: Yes. The proposed project is a budgeted item to address Ambient Air Quality Standards for sulfur dioxide (SO₂) emissions which surfaced during an air operating permit application review by the Florida Department of Environmental Protection (FDEP). The air operating permit is required by Title V of the Clean Air Act Amendments of 1990 (CAAA). Staff believes a downward adjustment to TECO's actual plant-in-service for in-house payroll expenses is appropriate. However, no adjustment should be made at this time for purposes of setting the 1999 factors.

Project Description

TECO is proposing to increase the stack height of Gannon Unit 5 by 46 feet. The existing stack will be structurally reinforced to support the additional weight of the extensions. The increased stack height will increase the dispersion of emissions over a larger area. The improved dispersion decreases SO₂ ground level concentrations. (Mr. Nelson's Deposition Exhibit 13, pp. 17-19) The project is not estimated to be completed by December 1999. (Ms. Zwolak's November 23, 1998, Revised Direct Testimony Exhibit KOZ-1, Document 4, p. 8)

Legally Required

In a September 30, 1998 letter, TECO was informed by FDEP that there was a potential for the Gannon Station SO₂ emissions to exceed federal and state Ambient Air Quality Standards. (Mr. Nelson's Late-Filed Deposition Exhibit 8, p. 2) In the letter, FDEP explains that the finding occurred during the Department's review of the Gannon Station CAAA Title V Air Operating Permit. TECO reviewed various mitigation options and selected the lowest

cost option. (Mr. Nelson's Deposition Exhibit 13, pp. 17-18) TECO indicates that FDEP agrees with TECO's approach to meeting the SO₂ emission requirements. (Mr. Nelson's Deposition Exhibit 13, p. 17)

Double Recovery

TECO believes that all of its projected costs are not being recovered through some other cost recovery mechanism or through base rates. (Ms. Zwolak's Direct Testimony, pp. 9-10) However, staff believes the scope and costs of this project include some costs which are being recovered through TECO's base rates and some new costs which are not addressed in TECO's last rate case. The costs which staff believes are already being recovered through base rates are the in-house payroll expenses. Current estimates by TECO show \$28,525 for in-house payroll has been included in the total project estimate. (Mr. Nelson's Late-Filed Deposition Exhibit 1: "In-House Payroll" expenses for Gannon Unit 5 and Gannon Unit 6 were transposed in this exhibit.) Therefore, staff believes a downward adjustment to TECO's actual plant-in-service is appropriate. Absent the adjustment, TECO will recover the same costs through both base rates and the ECRC.

Project Cost Estimate

As previously stated, a downward adjustment to TECO's plant-in-service is appropriate. However, no adjustment for in-house payroll should be made for the current projection period because the project will not be completed until a subsequent ECRC period. TECO's request for cost recovery for this project for calendar year 1999 consists of construction work in progress (CWIP). Otherwise, staff believes TECO's project cost estimates are reasonable. Mr. Nelson's Deposition Exhibit 13 and Late-Filed Deposition Exhibits 1, 8, 9, and 14 provide summary statements of the detailed reviews TECO has performed supporting their project. As indicated in these documents, alternatives were evaluated and considered with the proposed stack extension project being the least cost option.

Conclusion

For the reasons stated above, staff believes the Gannon Unit 5 Stack Extension and prudently incurred costs are appropriate for recovery through the ECRC. However, TECO should not recover in-house payroll expenses for this project through the ECRC because those expenses are being recovered through TECO's base rates. Final disposition of the costs incurred in this project will be subject to audit.

**STIPULATED
ISSUE 10K:**

How should the newly proposed environmental costs for the Gannon Unit 5 Stack Extensions project be allocated to the rate classes?

POSITION:

The Gannon Unit 5 Stack Extensions, which is a project being done to meet the requirements of the Clean Air Amendments of 1990, should be allocated at a rate classes on an energy basis as set forth in previous orders by the Commission.

ISSUE 10L:

Should the Commission approve Tampa Electric Company's request for recovery of costs of the Gannon Unit 6 Stack Extensions project through the Environmental Cost Recovery Clause?

POSITIONS:

TECO:

Agree with staff.

FIPUG:

FIPUG takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

OPC:

OPC takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

STAFF:

Yes. The proposed project is a budgeted item to address Ambient Air Quality Standards for sulfur dioxide (SO₂) emissions which surfaced during an air operating permit application review by the Florida Department of Environmental Protection (FDEP). The

air operating permit is required by Title V of the Clean Air Act Amendments of 1990 (CAAA). The project's estimated plant-in-service amount for purposes of setting the 1999 factors should be \$759,719 for December 1999.

Project Description

TECO is proposing to increase the stack height of Gannon Unit 6 by 46 feet. The existing stack will be structurally reinforced to support the additional weight of the extensions. The increased stack height will increase the dispersion of emissions over a larger area. The improved dispersion decreases SO₂ ground level concentrations. (Mr. Nelson's Deposition Exhibit 13, pp. 17-18) The project is estimated to be completed by December 1999. (Ms. Zwolak's November 23, 1998, Revised Direct Testimony Exhibit KOZ-1, Document 4, p. 9)

Legally Required

In a September 30, 1998 letter, TECO was informed by FDEP that there was a potential for the Gannon Station SO₂ emissions to exceed federal and state Ambient Air Quality Standards. (Mr. Nelson's Late-Filed Deposition Exhibit 8, pp. 2) In the letter, FDEP explains that the finding occurred during the Department's review of the Gannon Station CAAA Title V Air Operating Permit. TECO reviewed various mitigation options and selected the lowest cost option. (Mr. Nelson's Deposition Exhibit 13, pp. 17-18) TECO indicates that FDEP agrees with TECO's approach to meeting the SO₂ emission requirements. (Mr. Nelson's Deposition Exhibit 13, p. 17)

Double Recovery

TECO believes that all of its projected costs are not being recovered through some other cost recovery mechanism or through base rates. (Ms. Zwolak's Direct Testimony, pp. 9-10) However, staff believes the scope and costs of this project include some costs which are being recovered through TECO's base rates and some new costs which are not addressed in TECO's last rate case. The

following table indicates the items and amounts which staff believes to be both in TECO's base rates and in the estimated costs for the Gannon Unit 6 stack extension. (The "In-House Payroll" expenses for Gannon Unit 5 and Gannon Unit 6 have been transposed in Mr. Nelson's Late-Filed Exhibit 1. The December 1999 plant-in-service and CWIP amounts have been transposed in Ms. Zwolak's November 12, 1998 Revised Testimony, KOZ-1, Document 4, p. 9.)

Source	Description	Amount
Mr. Nelson's Late-Filed Deposition Exhibit 1	In-House Payroll	\$ 26,661
	Total downward adjustment for base rates items	\$ 26,661
KOZ-1, Document 4, p. 9, Line 4 (Zwolak testimony 11/12/98)	December 1999 Plant-in-Service Estimated Amount	\$ 786,380
	Total downward adjustment for base rates items	\$ 26,661
Staff Recommendation	December 1999 Plant-in-Service Estimated Amount	\$ 759,719

Therefore, staff believes a downward adjustment of \$26,661 to TECO's estimated December 1999 plant-in-service of \$786,380 is appropriate. Absent the adjustment, TECO will recover the same costs through both base rates and the ECRC.

Project Cost Estimate

As previously stated, a downward adjustment to TECO's beginning plant-in-service is appropriate. The project estimated December 1999 plant-in-service amount for purposes of setting the 1999 factors should be \$759,719. Otherwise, staff believes TECO's project cost estimates are reasonable. Mr. Nelson's Deposition Exhibit 13 and Late-Filed Deposition Exhibits 1, 8, 9, and 14

provide summary statements of the detailed reviews TECO has performed supporting their project. As indicated in these documents, alternatives were evaluated and considered with the proposed stack extension project being the least cost option.

Conclusion

For the reasons stated above, staff believes the Gannon Unit 6 Stack Extension and prudently incurred costs are appropriate for recovery through the ECRC. The estimated December 1999 plant-in-service amount should be \$759,719. Final disposition of the costs incurred in this project will be subject to audit.

STIPULATED
ISSUE 10M:

How should the newly proposed environmental costs for the Gannon Unit 6 Stack Extensions project be allocated to the rate classes?

POSITION:

The Gannon Unit 6 Stack Extensions, which is a project being done to meet the requirements of the Clean Air Amendments of 1990, should be allocated at a rate classes on an energy basis as set forth in previous orders by the Commission. (Zwolak)

ISSUE 10N:

Should the Commission approve Tampa Electric Company's request for recovery of costs of the National Pollutant Discharge Elimination System (NPDES) Annual Surveillance Fees through the Environmental Cost Recovery Clause?

POSITIONS:

TECO:

Agree with staff.

FIPUG:

FIPUG takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

OPC:

OPC takes no position on the dollar amounts and does not endorse the positions set forth by Staff and TECO.

STAFF:

Yes. The Commission should approve Tampa Electric Company's request to recover the cost of the National Pollutant Discharge Elimination System (NPDES) Annual Surveillance Fees through the ECRC. These fees are paid to the Florida Department of Environmental Protection (FDEP) pursuant to Rule 62-4.052, Florida Administrative Code.

Project Description

These are annual surveillance fees paid to the FDEP associated with TECO's Big Bend, Gannon, Hookers Point, and Sebring Stations. (Ms. Zwolak's Deposition Exhibit 2, p. 10)

Legally Required

Chapter 62-4.052, Florida Administrative Code implements the annual regulatory program and annual surveillance fees for wastewater permits. These fees are in addition to the application fees described in Rule 62-4.050, Florida Administrative Code. (Ms. Zwolak's Deposition Exhibit 2, p. 10)

Double Recovery

All costs requested for recovery are projected for the period beginning January 1999. (Ms. Zwolak's Deposition Exhibit 2, p. 10) Therefore, the costs requested for recovery will be incurred after April 13, 1993. In addition, the rule which requires payment of these surveillance fees was promulgated in 1995 and became effective in 1996. Both of these dates are subsequent to TECO's last rate case in 1992. (Ms. Zwolak's Deposition Exhibit 2, p. 10) Therefore, staff believes that the costs projected for this proposed project are not being recovered through some other cost recovery mechanism or through base rates.

Project Cost Estimate

TECO has requested recovery of \$55,200 of prospective operation and maintenance (O&M) expenses projected to be incurred in calendar year 1999. (Ms. Zwolak's November 12, 1998 Revised Direct Testimony, KOZ-1, Document 2; Ms. Zwolak's Deposition Exhibit 2, p. 10)

Conclusion

For the reasons stated above, staff believes the NPDES Surveillance Fees activity and prudently incurred costs are appropriate for recovery through the ECRC. Final disposition of the costs incurred in this project will be subject to audit.

STIPULATED
ISSUE 100:

How should the newly proposed environmental costs for the National Pollutant Discharge Elimination System (NPDES) Annual Surveillance Fees be allocated to the rate classes?

POSITION:

The National Pollutant Discharge Elimination System (NPDES) Annual Surveillance Fees shall be allocated to the rate classes on a demand basis as specified in our last cost of service study which was approved in our last rate case.

Issues Raised by Other Parties

ISSUE 11:

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?

POSITIONS:

FPL:

As FPL understand this issue, Order No. PSC-94-0044-FOF-EI, has already decided this issue.

GULF:

No. This issue has already been litigated before the Commission in the context of the initial establishment of the environmental cost recovery clause in Docket No. 930613-EI. Issue 6 in that proceeding asked "Should environmental costs be recovered from ratepayers through the ECRC if the utility is currently earning a fair rate of return?" In response to that issue, "OPC argued that to allow any recovery through the clause if the utility is not underearning would amount to double recovery." Order No. PSC-94-0044-FOF-EI at page 4. After reviewing the specific statutory

mandate authorizing separate clause recovery of environmental costs set forth in Section 366.8255 of the Florida Statutes, particularly subsections 366.8255(1)(d), 366.8255(2), and 366.8255(5), the Commission concluded ". . . that the legislature clearly intended the recovery of investment carrying costs and O&M expenses through the environmental cost recovery clause. For this reason, Public Counsel's argument must be rejected." Order No. PSC-94-0044-FOF-EI at page 4.

As Gulf Power stated in its position on Issue 6 in Docket No. 930613-EI, "Whether a utility is currently earning a fair rate of return is not relevant to the recovery of environmental costs pursuant to s. 366.8255 F.S. The surveillance report is the mechanism by which the Commission monitors a utility's earnings in order to determine whether the utility's base rates are reasonable. Commission policy with regard to cost-specific recovery clauses (such as fuel, conservation, etc.) is to exclude both the costs and the revenues associated with the clause from the determination of revenue requirements when setting base rates. The rationale behind this process is to isolate the effects of clause recovery from the revenue requirements appropriately addressed through base rates." Staff noted in its position on Issue 6 in Docket No. 930613-EI that "There is no relationship between whether a utility is over- or under-earning and the recovery of prudently incurred environmental compliance costs."

OPC's requested issue and the wording of its position on the issue imply that the determination of the appropriate rate of return on common equity (ROE) for a utility and the determination of whether a utility is earning a fair rate of return are within the scope of the ECRC. In Order No. PSC-94-0044-FOF-EI, the Commission specifically rejected these premises. First, the Commission determined the environmental cost recovery proceedings are not the proper forum for the Commission to address possible changes to a utility's ROE. "Section 366.8255(1)(d), Florida

Statutes, clearly states that an electric utility be allowed to earn its last authorized rate of return on equity on in-service capital investments incurred by the utility in complying with environmental laws or regulations." Order No. PSC-94-0044-FOF-EI at page 14. The Commission later stated: "We agree with Gulf Power that potentially controversial and time consuming evidentiary debates regarding the appropriate capital structure and ROE should be the subject of other proceedings. In addition, we agree with the Company that the administration of the true-up mechanism and the audit requirements would be simplified if the quantification of the environmental cost recovery factor is consistent with how the other cost recovery clauses are administered." Order No. PSC-94-0044-FOF-EI at page 16.

TECO:

The level of earnings on rate base for each utility is considered in this Commission's very effective continuing surveillance program and in base rate proceedings. Cost recovery through the ECRC is unrelated to the Company's earnings on rate base. The ECRC was established by the legislature and has been implemented by this Commission to provide for recovery of any environmental compliance costs not recovered in base rates and which are incurred after April 13, 1993. There has never been an earnings test with respect to any of the various cost recovery clauses. Neither the fuel, capacity, conservation or environmental clauses have an earnings test.

Section 366.8255(2), Florida Statutes, clearly states that if a proposed environmental compliance project is approved by the Commission, the Commission shall allow recovery of the utility's prudently incurred environmental compliance costs . . . through an environmental compliance cost-recovery factor that is separate and apart from the utility's base rates. Section 366.8255, Florida Statutes, only contemplates that the Commission address whether petitions for environmental activities are prudent and reasonable, given the alternatives.

In any event, Tampa Electric will only be permitted to earn within its authorized rate of return on equity pursuant to the terms of its rate Stipulation. Even after the Stipulation period ends, this Commission retains its very effective continuing surveillance program to monitor earnings and assure that the Company is earning within a return on equity range considered reasonable by the Commission.

FIPUG:

Yes.

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.

STAFF:

This issue was raised by Public Counsel. Staff takes no position at this time.

IX. EXHIBIT LIST

Witnesses whose names are preceded by an asterisk (*) have been excused. All exhibits submitted with those witnesses' testimony shall be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
*Dubin	FPL	(KMD-1)	Appendix I - Environmental Cost Recovery Projections January 1999 - December 1999, Commission Forms 42- 1P through 42-7P
		(KMD-2)	Appendix II - Environmental Cost R e c o v e r y Estimated/Actual Period October 1997 - December 1998, Commisison Forms 42- 1E through 42-8E
*LaBauve		(RRL-1)	Final Permit - Putnam Power Plant and Best M a n a g e m e n t Practices/Pollution Prevention Conditions
		(RRL-2)	Permit for FPL Port Everglades Power Plant - Old
		(RRL-3)	Permit for FPL Port Everglades Power Plant - Current
		(RRL-4)	NPDES Permit Issuance Dates & BMP3 Submittal Dates
		(RRL-5)	Ambient Water Quality Criteria

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(RRL-6)	Letter from EPA dated June 13, 1997
		(RRL-7)	Multiple Source Annual Operating Permit
		(RRL-8)	Section 24-11, Code of Metropolitan Dade County
		(RRL-9)	Wastewater/Stormwater Discharge Elimination - Diagrams
		(RRL-10)	Scope of Work by Site
*Vick	GULF	(JOV-1)	DEP Rule 62-4.246
*Cranmer		(SDC-1)	Schedules 42-1P through 42-7P (1/99 - 12/99); 42-1E through 42-8E (10/97-9/98 and 10/98-12/98)
*Zwolak	TECO	(KOZ-1)	Final true-up Environmental Cost Recovery, Commission Forms 42-1A through 42-8A for the period October 1997 through March 1998
		(KOZ-2)	Final true-up Environmental Cost Recovery Commission Forms 42-1P through 42-7P for the period October 1998 - December 1998 and 42-1E through 42-8E for the period April 1998 - September 1998

(

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(KOZ-3)</u>	Form 42-1P for the Projected Period October 1998 - December 1998
		<u>(KOZ-4)</u>	Form 42-1E2 for the period April 1998 to December 1998
	TECO	<u>(COM-1)</u>	Composite Discovery Exhibit for Tampa Electric Company
	STAFF	<u>(STAFF-1)</u>	Staff's Composite Discovery Exhibit for Gulf Power Company
		<u>(STAFF-2)</u>	Staff's Composite Discovery Exhibit for Florida Power & Light Company

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

X. PROPOSED STIPULATIONS

The parties have stipulated to Issue Nos. 1, 1A, 3, 4, 5, 8A, 9A, 9C, 10A, 10C, 10E, 10G, 10I, 10K, 10M, 10O.

XI. PENDING MOTIONS

There are no pending motions at this time.

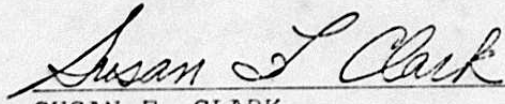
XII. RULINGS

It is therefore,

ORDERED by Commissioner Susan 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.

ORDER NO. PSC-98-1540-PHO-EI
DOCKET NO. 980007-EI
PAGE 53

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 20th day of November, 1998.



SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

LJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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

ORDER NO. PSC-98-1540-PHO-EI
DOCKET NO. 980007-EI
PAGE 54

reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.