

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 20190007-EI  
ORDER NO. PSC-2019-0462-PHO-EI  
ISSUED: October 29, 2019

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 22, 2019, in Tallahassee, Florida, before Commissioner Gary F. Clark, as Prehearing Officer.

APPEARANCES:

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

RUSSELL A. BADDERS, ESQUIRE, One Energy Place, Pensacola, Florida 32520, STEVEN R. GRIFFIN, ESQUIRE, Beggs & Lane, P.O. Box 12950, Pensacola, Florida 32591  
On behalf of Gulf Power Company (Gulf).

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

JAMES D. BEASLEY, J. JEFFRY WAHLEN, and MALCOLM N. MEANS, ESQUIRES, Ausley McMullen, P.O. Box 391, Tallahassee, Florida 32302  
On behalf of Tampa Electric Company (TECO).

JAMES W. BREW, and LAURA A. WYNN, ESQUIRES, Stone Mattheis Xenopoulos & Brew, PC, 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).

JON C. MOYLE, and KAREN PUTNAL, ESQUIRES, Moyle Law Firm, P.A., 118 North Gadsden Street, Tallahassee, Florida 32301  
On behalf of Florida Industrial Power Users Group (FIPUG).

DIANA CSANK, ESQUIRE, Sierra Club, 50 F Street NW, Eighth Floor, Washington, District of Columbia 20001, BRADLEY MARSHALL, ESQUIRE, Earthjustice, 111 S. Martin Luther King Jr. Blvd., Tallahassee, FL 32301  
On behalf of Sierra Club (Sierra).

J.R. KELLY, PATRICIA A. CHRISTENSEN, STEPHANIE MORSE, THOMAS A. DAVID, and CHARLES J. REHWINKEL, ESQUIRES, Associate Public Counsels, Office of Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399

On behalf of the Citizens of the State of Florida (OPC).

ASHLEY J. WEISENFELD and CHARLES MURPHY, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public 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.

## **PREHEARING ORDER**

### **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 5 – 7, 2019. The ECRC proceeding allows investor-owned electric utilities to seek recovery of their costs for approved environmental programs on an annual basis.

As discussed more fully at Section X and referenced throughout this Order, all issues in this case have been stipulated with testimony and exhibits included in the record and witnesses excused.

### **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 Chapter 366, F.S. This hearing will be governed by said Chapter, and by Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

### **IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION**

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

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**

All prefiled testimony and exhibits have been stipulated into the record.

**VI. ORDER OF WITNESSES**

All witnesses have been excused with testimony and exhibits included in the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Rena B. Deaton	FPL	1-10
Michael W. Sole	FPL	1-3
R. M. Markey	Gulf	1, 2, 3, 14, 15
C. S. Boyett	Gulf	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 16
Christopher Menendez	DEF	1-13
Timothy Hill	DEF	1-3, 11
Jeffrey Swartz	DEF	1-3
Kim Spence McDaniel	DEF	1-3
Penelope A. Rusk	TECO	1, 2, 3, 4, 5, 6, 7, 8, 9, 17
Paul L. Carpinone	TECO	3

**VII. BASIC POSITIONS**

**FPL:** FPL's 2020 ECRC factors, including prior period true-ups, are reasonable and should be approved. Additionally, the Joint Motion to Modify Order No. PSC-2012-0425-PAA-EU Regarding Weighted Average Cost of

Capital Methodology is consistent with Internal Revenue Service requirements and should therefore be approved.

**GULF:** It is the basic position of Gulf Power Company that the environmental cost recovery factors proposed by the Company present the best estimate of Gulf's environmental compliance costs recoverable through the Environmental Cost Recovery Clause (ECRC) for the period January 2020 through December 2020, including the true-up calculations and other adjustments allowed by the Commission.

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

**TECO:** The Commission should approve the compliance programs described in the testimony and exhibits of Tampa Electric witnesses Rusk and Carpinone for environmental cost recovery. The Commission should also approve Tampa Electric's calculation of its environmental cost recovery final true-up for the period January 2018 through December 2018, the actual/estimated environmental cost recovery true-up for the current period January 2019 through December 2019, and the company's projected ECRC revenue requirement and the company's proposed ECRC factors for the period January 2020 through December 2020.

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

**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.

**SIERRA:** Certain costs associated with Gulf Power Company's projects to clean up waste from a coal-burning power plant in Mississippi, known as the "Plant Daniel CCR projects," should be disapproved. Under the Environmental Cost Recovery Clause, the Commission can approve costs only if they meet a two-prong test: (1) the costs are necessary for compliance with environmental laws or regulations, and (2) the costs were prudently incurred.<sup>1</sup> The burden of proof is on the utility. The standard of proof is a preponderance of the competent, substantial evidence presented at the hearing.<sup>2</sup> While discovery is still ongoing, it appears that Gulf cannot carry its burden of proof with respect to Plant Daniel CCR projects.

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<sup>1</sup> § 366.8255, Fla. Stat. (2019).

<sup>2</sup> See *Beshore v. Dep't of Financial Servs.*, 928 So. 2d 411 (1st DCA 2006); *Ameristeel Corp. v. Clark*, 691 So.2d 473, 477 (Fla. 1997).

Gulf expects to spend more than \$23 million on the Plant Daniel CCR projects in 2020, and more than \$62 million by 2026. But in its petition and pre-filed testimony and exhibits, the Company makes mere conclusory statements that these projects and their associated costs are necessary and prudent. The Company does not even cite the specific regulatory provisions that would require such projects. Nor does it identify, much less substantiate, any steps taken to minimize their costs. Clearly, this falls far short of the required evidence, because in cases that, like this one, involve multi-million-dollar cost-recovery requests, the Commission has held and the Florida Supreme Court has affirmed that a utility should substantiate its conclusions with detailed analysis.<sup>3</sup>

Moreover, the Company's reliance on the U.S. Environmental Protection Agency's coal combustion residuals (CCR) rule in *general* appears to be misplaced. This rule includes exemptions for power plants that cease coal-burning operations by October 2023.<sup>4</sup> Gulf itself admits that it should "retire" its undivided interest in Plant Daniel "as early as practicable" and no later than January 15, 2024.<sup>5</sup> And Plant Daniel's co-owner, Mississippi Power Company, has developed a schedule to cease coal-burning operations before October 2023.<sup>6</sup> It is undisputed that this schedule could qualify for the CCR rule exemptions and largely obviate any need for the Plant Daniel CCR projects. As such, the projects and their associated costs do not meet the two-prong test under the Environmental Cost Recovery Clause, because they appear to be neither necessary nor prudent; a reasonable utility manager certainly would not spend *tens of millions of dollars* to needlessly extend coal-burning operations by four months (from October 2023 to January 2024). The Plant Daniel CCR projects and their associated costs should be disapproved.

**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

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<sup>3</sup> *Gulf Power Co. v. Fla. Pub. Serv. Comm'n*, 453 So.2d 799, 804–805 (Fla. 1984).

<sup>4</sup> 40 C.F.R. § 257.103.

<sup>5</sup> Gulf Power Company's Response to Citizens' First Request for Production of Documents (Nos. 1-4) and Citizens' First Set of Interrogatories (Nos. 1-4) at 4, No. 20190007-EI (Sept. 10, 2019).

<sup>6</sup> MPC response to MPUS 1-9 Supp, MPSC Docket No. 2019-UA-116.

Commission's obligation to set fair, just, and reasonable rates. Further, 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.

**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**

Please see Section X of this Order for the proposed stipulation of each of the issues in this Docket.

**IX. EXHIBIT LIST**

All exhibits have been stipulated into the record.

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
	<u>Direct</u>		
R.B. Deaton	FPL	RBD-1	Environmental Cost Recovery Final True-up January 2018 - December 2018 Commission Forms 42-1A through 42-9A

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
R.B. Deaton	FPL	RBD-2	Environmental Cost Recovery Actual/Estimated True-up January 2019 - December 2019 Commission Forms 42-1E through 42-9E
R.B. Deaton	FPL	RBD-3	Revised Environmental Cost Recovery Capital Schedules for Actual/Estimated True-up January 2019 – December 2019
R.B. Deaton	FPL	RBD-4	Appendix I - Environmental Cost Recovery Projections - January 2020 - December 2020 Commission Forms 42-1P through 42-8P  Appendix II - Calculation of Stratified Separation Factors
M.W. Sole	FPL	MWS-1	FPL Supplemental CAIR/MATS/CAVR Filing
C.S. Boyett	Gulf	CSB-1	Calculation of Final True-Up 1/18 – 12/18
C.S. Boyett	Gulf	CSB-2	Calculation of Estimated True-Up 1/19 – 12/19
C.S. Boyett	Gulf	CSB-3	Calculation of Projection 1/20 – 12/20
C.S. Boyett	Gulf	CSB-4	Recalculation of Estimated True-Up (Revised Cost of Capital) 1/19 – 12/19
R. M. Markey	Gulf	RMM-1	Schedule 5P – Description and Progress Report of Environmental Compliance Activities and Projects
Christopher Menendez	DEF	CAM-1	Forms 42-1A - 42-9A January 2018 – December 2018

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Christopher Menendez	DEF	CAM-2	Capital Program Detail January 2018– December 2018
Christopher Menendez	DEF	CAM-3	Forms 42-1E – 42-9E January 2019– December 2019
Christopher Menendez	DEF	CAM-4	Capital Program Detail January 2019 – December 2019
Christopher Menendez	DEF	CAM-5	Forms 42-1P – 42-8P January 2020– December 2020
Christopher Menendez	DEF	CAM-6	Capital Program Detail January 2020 – December 2020
Timothy Hill	DEF	CAM-5	Form 42-5P, page 23 of 23
Jeffrey Swartz	DEF	JS-1	Crystal River Clean Air Projects Organizational Chart
Jeffrey Swartz	DEF	CAM-5	Form 42-5P, pages 7, 21 and 22 of 23
Kim Spence McDaniel	DEF	KSM-1	Review of Integrated Clean Air Compliance Plan
Kim Spence McDaniel	DEF	CAM-5	Form 42-5P, pages 1-4 and 6- 20 of 23
Penelope A. Rusk	TECO	PAR-1	Final Environmental Cost Recovery Commission Forms 42-1A through 42-9A for the period January 2018 through December 2018
Penelope A. Rusk	TECO	PAR-2	Environmental Cost Recovery Commission Forms 42-1E through 42-9E for the Period January 2019 through December 2019

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Penelope A. Rusk	TECO	PAR-3	Environmental Cost Recovery Forms 42-1P through 42-8P Forms for the Period January 2020 through December 2020
Penelope A. Rusk	STAFF		TECO's response to Staff's First Set of Interrogatories No. 1
Benjamin Borsch	STAFF		DEF's response to Staff's First Set of Interrogatories No. 1
Juan Enjamio Michael W. Sole	STAFF		FPL's response to Staff's First Set of Interrogatories Nos. 1-2 with attachments I and II.
Michael Sole Rena Deaton	STAFF		FPL's response to Staff's Second Set of Interrogatories Nos. 3-11
	STAFF		FPL's response to Staff's First Request for Production of Documents No. 1
Penelope A. Rusk	STAFF		TECO's response to Staff's Second Set of Interrogatories No. 2
Jeffery Swartz Kimberly McDaniel Tim Hill	STAFF		DEF's response to Staff's Second Set of Interrogatories Nos. 2-10
C.S. Boyett R. M. Markey	STAFF		Gulf's response to Staff's First Set of Interrogatories Nos. 1-9
Penelope A. Rusk	STAFF		TECO's response to Staff's Third Set of Interrogatories Nos. 3-7

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
Rena Deaton	STAFF	FPL's response to Staff's Third Set of Interrogatories No. 12
Tim Hill	STAFF	DEF's response to Staff's Third Set of Interrogatories Nos. 11-12
	STAFF	DEF's response to Staff's First Request for Production of Documents No. 1 with attachment
Juan Enjamio Charles Rote Gerry Yupp	STAFF	FPL's response to OPC's First Set of Interrogatories Nos. 1-15 with attachment for ROG 14
R.M. Markey	STAFF	Gulf's response to OPC's First Set of Interrogatories Nos. 1-4
	STAFF	Gulf's response to OPC's First Request for Production of Documents Nos. 1-4
Penelope A. Rusk	STAFF	TECO's response to Staff's Fourth Set of Interrogatories Nos. 8-10
R. M. Markey C.S. Boyett	STAFF	Gulf's response to Staff's Second Set of Interrogatories Nos. 10-12
Kimberly McDaniel Jeffery Swartz Christopher Menendez	STAFF	DEF's response to Staff's Fourth Set of Interrogatories Nos. 13-18
Michael W. Sole Rena Deaton	STAFF	FPL's response to Staff's Fourth Set of Interrogatories Nos. 13-14

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
Tim Hill Christopher Menendez	STAFF	DEF's response to Staff's Fifth Set of Interrogatories Nos. 19-21
	STAFF	DEF's response to Staff's Second Request for Production of Documents Nos. 2-3
Renae Deaton	STAFF	FPL's response to Staff's Fifth Set of Interrogatories Nos. 15-16
R. M. Markey C.S. Boyett	STAFF	Gulf's response to Staff's Third Set of Interrogatories Nos. 13-17
	STAFF	Gulf's response to Staff's First Request for Production of Documents Nos. 1-3 with attachments
Paul Carpinone Penelope A. Rusk	STAFF	TECO's response to Staff's Fifth Set of Interrogatories Nos. 11-15
C.S. Boyett R. M. Markey	STAFF	Gulf's response to OPC's Second Set of Interrogatories Nos. 5-10
	STAFF	Gulf's response to OPC's Second Request for Production of Documents Nos. 5-10
	STAFF	DEF's Letter Advising the Commission of New Environmental Project dated July 3, 2019 (Document No. 05320-2019)

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
	STAFF	Gulf’s Petition for Approval of Environmental Cost Recovery True-up and 2020 Environmental Cost Recovery Clause Factors dated August 30, 2019 (Document No. 08542-2019)

**X. PROPOSED STIPULATIONS**

DEF, FPL, Gulf, and TECO support the proposed stipulations. OPC, FIPUG, and PCS Phosphate take no position on the proposed stipulations. Sierra Club intervened to address Issue 14 only and takes no position on the proposed stipulation of that issue.

All witnesses are excused. Testimony and hearing exhibits are included in the record.

Gulf’s numbers in Issues 3, 4, and 7 have been reduced consistent with the proposed stipulation of Issue 14.

**ISSUE 1: What are the final environmental cost recovery true-up amounts for the period January 2018 through December 2018?**

FPL	\$22,191,591	Over-recovery
DEF	\$1,988,942	Over-recovery
TECO	\$2,396,214	Over-recovery
GULF	\$1,896,136	Over-recovery

**ISSUE 2: What are the actual/estimated environmental cost recovery true-up amounts for the period January 2019 through December 2019?**

FPL	\$7,117,811	Over-recovery
DEF	\$16,666,006	Over-recovery
TECO	\$4,108,435	Over-recovery
GULF	\$4,609,567	Over-recovery

**ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2020 through December 2020?**

FPL	\$191,146,927
DEF	\$49,255,523
TECO	\$53,963,728
Gulf	\$188,610,975

**ISSUE 4: What are the environmental cost recovery amounts, including true-up amounts, for the period January 2020 through December 2020?**

FPL	\$161,954,048
DEF	\$30,622,607
TECO	\$47,493,250
Gulf	\$182,236,387

**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 2020 through December 2020?**

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

**ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2020 through December 2020?**

The appropriate jurisdictional separation factors for the period January 2020 through December 2020 are as follows:

**FPL:** Retail Energy Jurisdictional Factor - Base/Solar 95.8799%  
Retail Energy Jurisdictional Factor - Intermediate 94.2430%  
Retail Energy Jurisdictional Factor - Peaking 95.1325%  
Retail Demand Jurisdictional Factor - Transmission 89.9387%  
Retail Demand Jurisdictional Factor - Base/Solar 95.7922%  
Retail Demand Jurisdictional Factor - Intermediate 94.1569%  
Retail Demand Jurisdictional Factor - Peaking 95.0455%  
Retail Demand Jurisdictional Factor - General Plant 96.9124%  
Retail Demand Jurisdictional Factor - Distribution 100.0000%

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

Transmission Average 12 CP Demand – 70.203%

Distribution Primary Demand – 99.561%

Production Demand:

Production Base – 92.885%

Production Intermediate – 72.703%

Production Peaking – 95.924%

Production A&G – 93.221%

**TECO:** Energy: 100.00%  
Demand: 100.00%

**GULF:** The demand jurisdictional separation factor is 97.23427%. Energy jurisdictional separation factors are calculated each month based on projected retail kWh sales as a percentage of projected total territorial kWh sales.

**ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2020 through December 2020 for each rate group?**

The appropriate environmental cost recovery factors for the period January 2020 through December 2020 for each rate group are as follows:

**FPL:**

<b>Rate Class</b>	<b>Environmental Cost Recovery Factor (cents/kWh)</b>
RS1/RTR1	0.155
GS1/GST1	0.152
GSD1/GSDT1/HLFT1	0.139
OS2	0.084
GSLD1/GSLDT1/CS1/CST1/HLFT2	0.138
GSLD2/GSLDT2/CS2/CST2/HLFT3	0.120
GSLD3/GSLDT3/CS3/CST3	0.121
SST1T	0.106
SST1D1/SST1D2/SST1D3	0.161
CILC D/CILC G	0.119
CILC T	0.110

<b>Rate Class</b>	<b>Environmental Cost Recovery Factor (cents/kWh)</b>
MET	0.128
OL1/SL1/SL1M/PL1	0.035
SL2/SL2M/GSCU1	0.111
Total	0.146

**DEF:**

<b>RATE CLASS</b>	<b>ECRC FACTORS</b>
Residential	0.079 cents/kWh
General Service Non-Demand @ Secondary Voltage	0.079 cents/kWh
@ Primary Voltage	0.078 cents/kWh
@ Transmission Voltage	0.077 cents/kWh
General Service 100% Load Factor	0.075 cents/kWh
General Service Demand @ Secondary Voltage	0.076 cents/kWh
@ Primary Voltage	0.075 cents/kWh
@ Transmission Voltage	0.074 cents/kWh
Curtable @ Secondary Voltage	0.072 cents/kWh
@ Primary Voltage	0.071 cents/kWh
@ Transmission Voltage	0.071 cents/kWh
Interruptible @ Secondary Voltage	0.073 cents/kWh
@ Primary Voltage	0.072 cents/kWh
@ Transmission Voltage	0.072 cents/kWh
Lighting	0.070 cents/kWh

**TECO:**

<u>Rate Class</u>	<u>Factor (¢/kWh)</u>
RS	0.244
GS, CS	0.244
GSD, SBF	
Secondary	0.243
Primary	0.241
Transmission	0.238
IS	
Secondary	0.239
Primary	0.237
Transmission	0.234
LS1	0.241
Average Factor	0.244

**GULF:**

<b>RATE CLASS</b>	<b>ENVIRONMENTAL COST RECOVERY FACTORS ¢/kWh</b>
RS, RSVP, RSTOU	1.886
GS	1.915
GSD, GSDT, GSTOU	1.543
LP, LPT	1.356
PX, PXT, RTP, SBS	1.333
OS-I/II	0.403
OS-III	1.229

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

The factors shall be effective beginning with the specified environmental cost recovery cycle and thereafter for the period January 2020 through December 2020. Billing cycles may start before January 1, 2020 and the last cycle may read after December 31, 2020, 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?**

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?**

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

COMPANY-SPECIFIC ENVIRONMENTAL COST RECOVERY ISSUES

Duke Energy Florida, LLC:

**ISSUE 11: Should the Commission approve DEF's Crystal River Coal Combustion Residual Ash Landfill Project for cost recovery through the Environmental Cost Recovery Clause?**

Yes. In Order Nos. PSC-2015-0536-FOF-EI and PSC-2018-0594-FOF-EI, the Commission found that DEF's CCR Program (Project 18) met the criteria for recovery through the Environmental Cost Recovery Clause. DEF's CCR Ash Landfill project meets the criteria for recovery through the Environmental Cost Recovery Clause

**ISSUE 12: How should any approved Environmental Cost Recovery Clause costs associated with DEF's Crystal River CCR Ash Landfill Project be allocated to the rate classes?**

Consistent with Order No. PSC-2015-0536-FOF-EI which approved the cost allocation methodology for DEF's CCR Program, Capital costs for the CCR Ash Landfill Project shall be allocated to the rate classes on a demand basis; O&M costs should be allocated to the rate classes on an energy basis.

**ISSUE 13: Should the Commission approve DEF's proposed treatment for the ECRC assets associated with the retirement of Avon Park and Higgins, as proposed in DEF's 2020 Projection Filing?**

Yes. DEF's proposed treatment for the Avon Park and Higgins assets is consistent with prior Commission Order Nos PSC-2011-0553-FOF-EI, PSC-2013-0381-PAA-EI and PSC-2016-0535-FOF-EI.

Gulf Power Company:

**ISSUE 14: Should the Commission approve the 2020 expenditures for Gulf's ownership portion of the Plant Daniel CCR projects for recovery through the Environmental Cost Recovery Clause?**

Gulf has discovered possible alternatives for CCR compliance that may be more cost-effective, and requested deferral of Issue 14 related to the recovery of certain Plant Daniel CCR costs through the ECRC mechanism. As such, this issue shall be deferred and \$23,234,491 associated with Plant Daniel CCR costs shall be removed from the factors in this docket. Gulf's positions in other issues have been adjusted accordingly.

**ISSUE 15: Should the Commission approve Gulf's Crist Closed Ash Landfill Project for cost recovery through the Environmental Cost Recovery Clause?**

Yes. The Plant Crist industrial wastewater permit (FL0002275) and FDEP Order 17-1224 require Gulf to complete FDEP approved rehabilitation actions by July 23, 2023, for the Plant Crist Closed Ash Landfill (CAL). Gulf plans to regrade the surface of the CAL and then cap the CAL with a low permeability synthetic material to reduce water infiltration, to provide separation of ash and stormwater, and to provide stability improvements as recommended in the FDEP approved action plan. The capital expenditures associated with this project are projected to be \$10.1 million in 2020. Gulf has not projected O&M costs associated with the project in 2020; however, future O&M costs are expected after the project is completed in the 2021-2022 timeframe.

The proposed Crist CAL project meets the criteria for cost recovery established by the Commission in Order No. PSC-94-0044-FOF-EI.

**ISSUE 16:** How should any approved Environmental Cost Recovery Clause costs associated with Gulf's Crist Closed Ash Landfill Project be allocated to the rate classes?

Capital costs for the CAL project should be allocated to the rate classes on an average 12-MCP demand and 1/13th energy basis. O&M cost for the program should be allocated to the rate classes on a demand basis.

MOTION

**ISSUE 17:** Should the Joint Motion to Modify Order No. PSC-2012-0425-PAA-EU Regarding Weighted Average Cost of Capital Methodology be approved?

No. The normalization provisions of the Internal Revenue Code (IRC) Treasury Regulation Section 1.167(1)-1(h)(6) shall be applied to the Weighted Average Cost of Capital (WACC) in this docket, subject to true-up. The determination of the WACC to be applied in future clause dockets shall be the subject of a workshop to be held by Commission staff.

**XI. PENDING MOTIONS**

The pending Joint Motion is resolved by the proposed stipulation of Issue 17.

**XII. PENDING CONFIDENTIALITY MATTERS**

None.

**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.

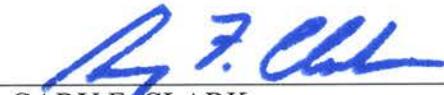
**XIV. RULINGS**

Opening statements, if any, shall not exceed five minutes per party and witness summaries shall not exceed three minutes.

It is therefore,

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 29th day of October, 2019.



GARY F. CLARK

Commissioner and Prehearing Officer  
Florida Public Service Commission  
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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.

CWM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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

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.