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ORIGINAL RECEIVED-FPSC

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RECORDS AND
REPORTING

November 4, 1998

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

RE: Docket No. 980007-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of the Public Counsel's Prehearing Statement in the above-referenced docket.

Also enclosed is a 3.5 inch diskette containing Public Counsel's Prehearing Statement in WordPerfect for Windows 6.1. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,


John Roger Howe
Deputy Public Counsel

ACK _____
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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

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

Docket No. 980007-EI

Filed: November 4, 1998

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-98-1185-PCO-EI, issued September 4, 1998, submit this Prehearing Statement.

APPEARANCES:

JOHN ROGER HOWE, Esquire
Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida

A. WITNESSES:

None.

B. EXHIBITS:

None at this time. However, exhibits may be introduced as necessary during examination of witnesses.

C. STATEMENT OF BASIC POSITION

None necessary.

DOCUMENT NUMBER-DATE

12382 NOV-4 88

FPSC-RECORDS/REPORTING

D. STATEMENT OF FACTUAL ISSUES AND POSITIONS

Generic Environmental Cost Recovery Issues

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)

OPC:

FPL: No position at this time.

GULF: No position at this time.

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)

OPC:

TECO: No position at this time.

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

OPC:

FPL: No position at this time.

GULF: No position at this time.

TECO: No position at this time.

ISSUE 3: What is the appropriate recovery period to collect the total environmental cost recovery true-up amounts?

OPC:

FPL: No position at this time.

GULF: No position at this time.

TECO: No position at this time.

ISSUE 4: What should be the effective date of the environmental cost recovery factors for billing purposes?

OPC:

FPL: No position at this time.

GULF: No position at this time.

TECO: No position at this time.

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?

OPC:

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

ISSUE 6: What are the appropriate Environmental Cost Recovery Factors for the period January, 1999, through December, 1999, for each rate group?

OPC:

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

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?

OPC:

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

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?

OPC:

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

ISSUE 7B¹: Should the Commission consider whether approval of environmental cost recovery factors will enable electric utilities to earn excessive returns on equity under currently prevailing financial market conditions?

OPC: Yes. Subsection 366.8255(5), Florida Statutes (1997), allows for environmental compliance costs to be considered when establishing base rates and precludes

¹This issue was identified in Public Counsel's preliminary list of issues and positions filed October 22, 1998, but omitted from Staff's final list of issues filed October 29, 1998.

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

Company-Specific Environmental Cost Recovery Issues

Florida Power & Light Company

ISSUE 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?

OPC: No. An increase in FPL's rates is not appropriate at this time. See position statement on Issue 7B.

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?

OPC: No position at this time.

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?

OPC: No position at this time.

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?

OPC: No position at this time.

ISSUE 9B: Is it appropriate for Gulf Power Company to recover costs for low NO_x burner tips on Plant Smith Units 1 and 2 through the Environmental Cost Recovery Clause?

OPC: No position at this time.

ISSUE 9C: How should environmental costs for the low NO_x burner tips on Plant Smith Units 1 and 2 be allocated to the rate classes?

OPC: No position at this time.

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?

OPC: No position at this time.

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?

OPC: At most, the incremental cost of new tanks above costs included in base rates for the old tanks should be allowed for cost recovery. But see position statement on Issue 7B.

Tampa Electric Company

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?

OPC: No.

ISSUE 10A: How should the newly proposed environmental costs for the Big Bend Unit 1 Classifier Replacement project be allocated to the rate classes?

OPC: No position at this time.

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?

OPC: No.

ISSUE 10C: How should the newly proposed environmental costs for the Big Bend Unit 2 Classifier Replacement project be allocated to the rate classes?

OPC: No position at this time.

ISSUE 10D: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Gannon Unit 5 Classifier Addition project through the Environmental Cost Recovery Clause?

OPC: No.

ISSUE 10E: How should the newly proposed environmental costs for the Gannon Unit 5 Classifier Addition project be allocated to the rate classes?

OPC: No position at this time.

ISSUE 10F: Should the Commission approve Tampa Electric Company's request for recovery of costs of the Gannon Unit 6 Classifier Addition project through the Environmental Cost Recovery Clause?

OPC: No.

ISSUE 10G: How should the newly proposed environmental costs for the Gannon Unit 6 Classifier Addition project be allocated to the rate classes?

OPC: No position at this time.

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?

OPC: No.

ISSUE 10I: How should the newly proposed environmental costs for the Gannon Coal Crusher project be allocated to the rate classes?

OPC: No position at this time.

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?

OPC: No position at this time.

ISSUE 10K: How should the newly proposed environmental costs for the Gannon Unit 5 Stack Extensions project be allocated to the rate classes?

OPC: No position at this time.

ISSUE 10L: Should the Commission approve Tampa Company's request for recovery of costs of the Gannon Unit 6 Stack Extensions project through the Environmental Cost Recovery Clause?

OPC: No position at this time.

ISSUE 10M: How should the newly proposed environmental costs for the Gannon Unit 6 Stack Extensions project be allocated to the rate classes?

OPC: No position at this time.

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?

OPC: No position at this time.

ISSUE 10O: How should the newly proposed environmental costs for the National Pollutant Discharge Elimination System (NPDES) Annual Surveillance Fees be allocated to the rate classes?

OPC: No position at this time.

E. **STATEMENT OF LEGAL ISSUES AND POSITIONS:** None at this time.

F. **STATEMENT OF POLICY ISSUES AND POSITIONS:** None at this time.

G. STIPULATED ISSUES: None.

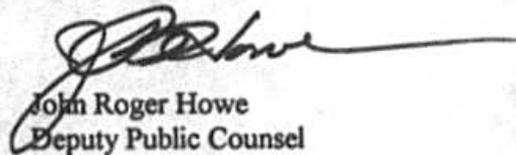
H. PENDING MOTIONS: None.

I. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Respectfully submitted,

JACK SHREVE
Public Counsel



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Deputy Public Counsel

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Attorneys for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
980007-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing Public Counsel's Prehearing Statement has been furnished by U.S. Mail or hand-delivery (*) on this 4th day of November, 1998, to the following:

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