

Dec 16, 2010

Mrs. Rebecca L. Norris
Gulf County Clerk of the Court
Gulf County Courthouse
1000 Cecil G. Costin, Sr. Blvd.
Port St. Joe, FL 32456

RE: PJSRA TIF Refund FY 2009/2010

Mrs. Norris:

The Port St. Joe Redevelopment Agency did not spend or commit a total of \$20,000 of the FY2009-10 TIF funding.

As per F.S.163, we are required to refund these monies to the Taxing Authorities in a proportionate amount to their contribution.

Enclosed is a refund check in the amount of \$12,320 which represents the County's proportionate share of these un-committed funds.

Please feel free to call with any questions.

Sincerely,

Matt Fleck
Executive Director

cc: Don Butler, County Administrator
PSJRA Board of Directors

FILED FOR RECORD
REBECCA L. NORRIS
CLERK OF CIRCUIT COURT
GULF COUNTY, FLORIDA
2010 DEC 17 PM 1:30



ANNUAL REPORT 2009 & 2010

* Complete Report on file with Clerk *

SUNGARD PENTAMATION, INC.
DATE: 12/17/2010
TIME: 14:51:12
SELECTION CRITERIA: orgn.fund='120'
ACCOUNTING PERIOD: 2/11

BAY COUNTY BOARD OF COUNTY COMMISSIONERS
EXPENDITURE STATUS REPORT

November 2010

SORTED BY: FUND, DEPT TOTAL, 1ST SUBTOTAL, ACCOUNT
TOTALLED ON: FUND, DEPT TOTAL, 1ST SUBTOTAL
PAGE BREAKS ON: FUND, DEPT TOTAL

FUND-120 LIBRARY
DEPT TOTAL-0361 GULF COUNTY LIBRARY
1ST SUBTOTAL-5100000 PERSONAL SERVICES

ACCOUNT	TITLE	BUDGET	PERIOD	ENCUMBRANCES	YEAR TO DATE	AVAILABLE	YTD/
			EXPENDITURES	OUTSTANDING	EXP	BALANCE	BUD
5101200	SALARIES & WAGES-REGULAR	92,006.00	8,284.71	.00	12,733.23	79,272.77	13.84
5101400	SALARIES & WAGES-OVERTIME	11,077.00	.00	.00	.00	11,077.00	.00
5102100	FICA TAXES-MATCHING	7,886.00	623.73	.00	958.94	6,927.06	12.16
5102200	RETIREMENT CONTRIBUTIONS	11,102.00	892.27	.00	1,371.37	9,730.63	12.35
5102300	LIFE & HEALTH INSURANCE	3,568.00	299.05	.00	746.76	2,821.24	20.93
5102400	WORKERS COMP. PREMIUMS	377.00	.00	.00	.00	377.00	.00
TOTAL PERSONAL SERVICES		126,016.00	10,099.76	.00	15,810.30	110,205.70	12.55
1ST SUBTOTAL-5300000 OPERATING EXPENSES							
5304101	COMMUNICATIONS SERVICES	1,050.00	79.61	.00	237.42	812.58	22.61
5304125	POSTAGE/TRANSP/FREIGHT	125.00	.00	.00	.00	125.00	.00
5304301	UTILITY SERVICES	22,000.00	1,449.02	.00	1,580.83	20,419.17	7.19
5304501	INSURANCE & BONDS	992.00	.00	.00	.00	992.00	.00
5304605	REPAIR/MAINT-BLDG & GRND	450.00	32.00	.00	64.00	386.00	14.22
5304615	REPAIR/MAINT-EQUIPMENT	450.00	35.81	.00	71.62	378.38	15.92
5304990	MISCELLANEOUS EXPENSES	.00	20.00	.00	20.00	-20.00	.00
5305101	OFFICE SUPPLIES	100.00	15.81	.00	15.81	84.19	15.81
5305202	OPER SUPPLIES-JANITORIAL	75.00	.00	.00	.00	75.00	.00
5305401	BOOKS/RESOURCE MATR/SUBS	.00	1,802.37	.00	5,798.42	-5,798.42	.00
TOTAL OPERATING EXPENSES		25,242.00	3,434.62	.00	7,788.10	17,453.90	30.85
1ST SUBTOTAL-5600000 CAPITAL OUTLAY							
5606623	BOOKS - LOCAL	.00	20.23	.00	20.23	-20.23	.00
TOTAL CAPITAL OUTLAY		.00	20.23	.00	20.23	-20.23	.00
1ST SUBTOTAL-5900000 NON-OPERATING EXPENSES							
5909910	RESERVE FOR CONTINGENCIE	15,150.00	.00	.00	.00	15,150.00	.00
TOTAL NON-OPERATING EXPENSES		15,150.00	.00	.00	.00	15,150.00	.00
TOTAL GULF COUNTY LIBRARY		166,408.00	13,554.61	.00	23,618.63	142,789.37	14.19

05:1 PM 12 23 2010

FLORIDA COUNTY, FLORIDA
CLERK OF CIRCUIT COURT
REBECCA L MORRIS
FOR RECORD



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

December 29, 2010

The Honorable Carmen L. McLemore
Chairman, Gulf County Commission
Board of County Commissioners
1000 Cecil G. Costin, Sr. Boulevard
Port St. Joe, Florida 32456

FILED FOR RECORD
REBECCA L. MORRIS
CLERK OF CIRCUIT COURT
GULF COUNTY, FLORIDA
2011 JAN - 6 AM 9:34

Dear Chairman McLemore:

The Department of Community Affairs has completed its review of the Gulf County Comprehensive Plan Amendment (DCA Number 10-CIE1) adopted by County Ordinance Number 2010-03 on November 9, 2010, and determined that it meets the requirements of Chapter 163, Part II, Florida Statutes, for compliance, as defined in Subsection 163.3184(1)(b), Florida Statutes. The Department is issuing a Notice of Intent to find the plan amendment In Compliance. The Notice of Intent has been sent to *The Panama City News Herald* for publication on December 30, 2010.

The Department's Notice of Intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication of the Notice of Intent pursuant to Section 163.3184(9), Florida Statutes. No development orders, or permits for a development, dependent on the amendment may be issued or commence before the plan amendment takes effect. Please be advised that Section 163.3184(8)(c)2, Florida Statutes, requires a local government that has an Internet site to post a copy of the Department's Notice of Intent on the site within 5 days after receipt of the mailed copy of the agency's Notice of Intent.

Please note that a copy of the adopted Gulf County Comprehensive Plan Amendment and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Gulf County Board of County Commissioners Administration Building, 1000 Cecil G. Costin, Sr. Boulevard, Port St. Joe, Florida 32456.

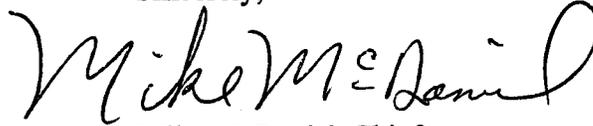
2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: www.dca.state.fl.us
♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

The Honorable Carmen L. McLemore
December 29, 2010
Page 2 of 2

If this in compliance determination is challenged by an affected person, you will have the option of mediation pursuant to Subsection 163.3189(3)(a), Florida Statutes. If you choose to attempt to resolve this matter through mediation, you must file the request for mediation with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation will not affect the right of any party to an administrative hearing.

If you have any questions, please contact Mark Yelland, AICP, Principal Planner, at (850) 922-1790.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive style with a large, looped "M" and "D".

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/myb

Enclosure: Notice of Intent

cc: David Richardson, Gulf County Planner
Charles Blume, Executive Director, Apalachee Regional Planning Council

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND THE
GULF COUNTY
COMPREHENSIVE PLAN AMENDMENT(S) IN COMPLIANCE
DOCKET NO. 10-CIE1-NOI-2301-(A)-(I)

The Department gives notice of its intent to find the Amendment(s) to the Comprehensive Plan for Gulf County, adopted by Ordinance No. 2010-03 on November 9, 2010, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Gulf County Comprehensive Plan Amendment(s) and the Department's Objections, Recommendations and Comments Report, (if any), are available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Gulf County BOCC, Administration B, 1000 Cecil G. Costin Sr., Blvd., Room 3, Port St. Joe, Florida 32456.

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the Amendment(s) to the Gulf County Comprehensive Plan are In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice, and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and a copy mailed or delivered to the local government. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

If a petition is filed, other affected persons may petition for leave to intervene in the proceeding. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. A petition for leave to intervene shall be filed at the Division of Administrative Hearings, Department of Management Services, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing under Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Subsection 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.



Mike McDaniel, Chief
Office of Comprehensive Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

On 15 June, 2010 the President asked Navy Secretary Ray Mabus to formulate a long-term recovery plan for the Gulf Coast region. From June 16 to September 28, 2010, Secretary Mabus made seven trips to the Gulf region, travelling over 16,000 miles to 40 major events in five states from Galveston, Texas to St Petersburg, Florida. He collaborated with federal, state, and local elected officials, corporate leaders, academic institutions, community service groups, and solicited input from citizens at nine Town Hall meetings. This report is the culmination of his efforts. It proposes a framework from which long-term economic and environmental recovery can grow.

As Secretary Mabus states in the opening pages, "Together, we will help make the Gulf of Mexico and the entire Gulf Coast whole again – for its citizens, and for all Americans.

The printed version is available in three languages and was distributed to congressmen, non-governmental organizations, and the local governments of every county touched by Gulf of Mexico.

The report is available online:

<http://www.restorethegulf.gov/sites/default/files/documents/pdf/gulf-recovery-sep-2010.pdf>

Understandably, people will continue to have questions related to the Deepwater Horizon oil spill. In an effort to direct inquiries to the most appropriate point of contact, the following list is provided*.

GULF COAST ECOSYSTEM RESTORATION TASK FORCE

WEB: www.restorethegulf.gov
EMAIL: gulfcoasttaskforce@epa.gov
(800) 241-1754

ENVIRONMENTAL / COMMUNITY HOTLINE

(866) 448-5816

WILDLIFE DISTRESS HOTLINE

(866) 557-1401

HEALTH AND HUMAN SERVICE RECOVERY

EMAIL: hhsdwhrecovery@hhs.gov

CLEAN UP

Boom Reports (assistance hotline)
(281) 366-5511

VOLUNTEER TRAINING (PEC Hotline)

(866) 647-2338

CLAIMS

WEB: www.GulfCoastClaimsFacility.com
EMAIL: info@gccf-claims.com
(800) 916-4893

*: contacts verified on 12/14/2010

INFORMATION

DATE: 1-11-11

FILED FOR RECORD
FEDERAL JUDICIAL
CLERK OF CIRCUIT COURT
GULF COUNTY, FLORIDA
2011 JAN -6 AM 8:27

2011 JAN -4 AM 11:24
COMMUNICATIONS SECTION

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Mimi A. Drew
Secretary



Florida Department of Environmental Protection

Northwest District Branch Office
2353 Jenks Avenue
Panama City, Florida 32405

December 22, 2010

BY ELECTRONIC MAIL
dbutler@gulfcounty-fl.gov

Gulf County Board of County Commissioners
c/o Mr. Don Butler
324 Marina Drive
Port St. Joe, Florida 32456

Dear Mr. Butler,

The purpose of this letter is to transmit Executed Consent Order, OGC #10-1662-23-DF concerning Salinas Park in Gulf County, Florida. Thank you for your quick response to the Department's proposed resolution of this matter.

Please note that the OGC File No., on the document you signed, has been changed to correct a typographic error. For any future reference to this Order please use the 10-1662-23-DF number.

Your continued cooperation in resolving this matter is appreciated. If you have any questions, please call Brad Richardson at 850/767-0041 or at brad.richardson@dep.state.fl.us.

Sincerely,

Sally M. Cooley
Panama City Branch Administrator

SMC/br

Encl: Executed Consent Order OGC# 10-1662-23-DF

c: Mr. Terry Wells, USACOE, Terry.E.Wells@usace.army.mil
Mr. Dan Garlick, Garlick Environmental, dan@garlickenv.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	NORTHWEST DISTRICT
)	
Complainant[s].)	
)	OGC FILE NO. 10-1662-03-DF
vs.)	10-1662-23-DF
)	
GULF COUNTY BOARD OF COUNTY)	
COMMISSIONERS)	
)	
Respondent.)	
_____)	

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department"), and Gulf County Board of County Commissioners ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce Chapter 373, Part IV, and Chapter 403, Florida Statutes, and the rules promulgated and authorized thereunder, Title 62, Florida Administrative Code. The Department has jurisdiction over the matters addressed in this Consent Order.

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~
Page 2 of 18 10-1662-23-DF

2. Respondent is a person within the meaning of Section 373.019(15), Florida Statutes.

3. Respondent is the owner of property located at Salinas Park, Latitude 29° 52' 50" N, Longitude 84° 35' 39" W, Section 23, Township 9 South, Range 11 West, in Gulf County, Florida.

4. The Department finds that the Respondent dredged and filled without a valid permit. An inspection by Department personnel on March 9, 2010 revealed that a saltwater marsh and forested wetland were cleared and filled without a valid permit from the Department. The activity was conducted on the above described property within the landward extent of St. Josephs Bay, Class II waters of the State, as defined by Florida Law. Having reached a resolution of the matter Respondent and the Department mutually agree and it is,

ORDERED:

5. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department \$5,750 in settlement of the matters addressed in this Consent Order. This amount includes \$250 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. The civil penalty in this case includes 3 violations of \$2,000.00 or more. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the "Department of Environmental Protection" and shall include

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
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number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund".

6. Respondent shall implement the Restoration Actions attached hereto and incorporated herein as Attachment A in the manner and within the time frames specified therein.

7. With the exception of the activities described in the Restoration Actions, effective immediately and henceforth, Respondent shall not conduct any dredging, filling, or construction activities on or within the landward extent of waters of the state without first obtaining a valid Department permit or written notification from the Department that the activities appear to be exempt as proposed from Department permitting requirements; nor shall Respondent conduct any activities on state owned lands below the ordinary or mean high water lines without first obtaining a lease, easement, or other consent of use from the Department.

8. Once the Restoration Actions have been completed, the Respondent shall implement the Maintenance and Monitoring Actions attached hereto and incorporated herein as Attachment B in the manner and within the time frames specified therein.

9. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
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been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
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10. Respondent shall allow all authorized representatives of the Department access to the property at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes of the Department.

11. This Consent Order only addresses violations of the rules and statutes of the Department and does not address potential violations of the rules and statutes of the Board of Trustees of the Internal Improvement Trust Fund for the use of lands owned by the State of Florida. Entry of this Consent Order does not constitute a permit from the Department nor does it convey any authority from the Board of Trustees of the Internal Improvement Trust Fund involving the use of sovereignty or other lands of the State. In order to ascertain whether any authority is needed to use sovereign lands, the Respondent must contact the Department of Environmental Protection, Division of State Lands. A copy of this Consent Order will be furnished to the Division of State Lands. The Respondent is hereby advised that Florida law states: "No person shall commence any excavation, construction or other activity involving the use of sovereign or other lands of the State, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund under Chapter 253, Florida Statutes, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement or other form of consent authorizing the proposed use." If such work is done without consent, a fine for each offense in an amount of up to \$10,000.00 may be imposed.

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-01-DF~~ 10-1662-23-DF
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12. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances.

13. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 373.129, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 373.430, Florida Statutes.

14. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties of up to \$10,000 per day per violation and criminal penalties.

15. Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
Page 7 of 18

- (a) The Department's Consent Order identification number and the county in which the subject matter or activity is located;
- (b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- (c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- (d) A statement of when and how the petitioner received notice of the Consent Order;
- (e) A statement of all material facts disputed by petitioner, if any;
- (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- (h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the

12

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
Page 8 of 18

right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard,

AP

Respondent: Gulf County BOCC
OGC File No: ~~10-1062-03-DF~~ 10-1062-23-DF
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Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following.

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;
- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.
- (h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57,

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
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Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

16. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

17. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations addressed in this Consent Order. This waiver does not affect any claim the

Respondent: Gulf County BOCC
OCG File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
Page 11 of 18

Department or the Board of Trustees of the Internal Improvement Trust Fund may have for violations not addressed herein, notwithstanding that the other claims may involve the same activities addressed herein.

18. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, and waives that right upon signing this Consent Order.

19. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

20. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, 2353 Jenks Avenue, Panama City, Florida 32405.

21. In the event of a sale or conveyance of the property, if all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property, (1) notify the Department of such sale or conveyance and (2) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the property shall not relieve the Respondent of the obligations imposed in this Consent Order.

22. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-23-DF~~ 10-1662-23-DF
Page 12 of 18

herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law.

23. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

(intentionally left blank)

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
Page 13 of 18

FOR THE RESPONDENT:

12-14-10

DATE

Donald Butler

Gulf County Board of County
Commissioners

(Title) COUNTY ADMINISTRATOR

DONE AND ORDERED this 22nd day of December, 2010, in

Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Kenneth W. Prest, Jr.

Kenneth W. Prest, Jr.
District Director

Filed, on this date, pursuant to Section 120.52, F.S., with the designated Department
Clerk, receipt of which is hereby acknowledged.

Blandy M Smith

Clerk

12/22/2010

Date

c: Lea Crandall, Agency Clerk
Mail Station 35

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
Page 14 of 18

ATTACHMENT A

RESTORATION ACTIONS

- E. Within 30 days of the effective date of this Order, Respondent shall complete the following Restoration Actions:
- a. Respondent shall notify the Department at least 48 hours prior to the commencement of work under these Restoration Actions.
 - b. Respondent shall stake the boundaries of the Restoration Area, prior to undertaking any restoration work required in these Restoration Actions. This staked line shall remain in place during all phases of restoration and no wetlands or waters of the state shall be disturbed or affected by restoration activities.
 - c. Respondent shall restore the restoration area to the grade existing prior to the dredging or filling addressed in this Order. All fill removed from the restoration area shall be placed in a contained upland location which will not discharge to waters of the state. During re-grading, turbidity and erosion control measures shall be used to ensure that Florida Administrative Code Rule 62-302 is not violated.
 - d. Any re-grading or planting of the restoration area shall be conducted so as not to affect wetland areas outside the restoration area.
 - e. All exotic vegetation shall be removed from the restoration area using hand-held equipment in a manner that will minimize impacts to the existing

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
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wetland plants and will not cause ruts in the wetland soils which will impede or divert the flow of surface waters.

f. The stumps of exotic plants previously removed shall be treated annually or as necessary to prevent regrowth, with an appropriate systemic herbicide approved by the Department in advance.

g. Debris from earlier trimming and cutting shall be removed from the restoration area and placed in an upland location.

2. Within 30 days of completion of these Restoration Actions, Respondent shall submit the following information to the Department:

a. Written notification that the Restoration Actions have been completed.

b. Enough color photographs to show the entire completed restoration area taken from fixed reference points shown on Exhibit 1.

Respondent: Gulf County BOCC
OGC File No.: ~~10-1662-03-DF~~ 10-1662-23-DF
Page 17 of 18

ATTACHMENT B

MAINTENANCE AND MONITORING ACTIONS

Within 45 days of the effective date of this Order, Respondent shall implement the following Maintenance and Monitoring Actions:

1. For 1 year following the entry of this Order, Respondent shall inspect the restoration area quarterly. The purpose of the monitoring shall be to determine the success of the natural revegetation.
2. The success of revegetation shall be defined as 85% coverage of desired wetland species within the marsh and forested wetlands to be restored and less than 5% exotic/nuisance species.
3. During each inspection, Respondent shall remove all nuisance and exotic vegetation without disturbing the other existing vegetation in the restoration area. Nuisance and exotic vegetation shall include *Sesbania* and *Panicum repens* (torpedo grass).
4. Within 30 days after the completion of each inspection in the monitoring schedule, Respondent shall complete a monitoring report and submit it to the Department. The monitoring reports shall include the following information:
 - a. Date of the inspection.
 - b. Color photographs taken from enough locations to cover the entire restoration area.

Respondent: Gulf County BOCC
OGC File No: ~~10-1662-03-DF~~ 10-1662-23-DF
Page 18 of 18

- c. Either an actual count or a statistically valid estimate* of the percentage of cover of each species in the restoration area.
- d. Description of any nuisance or exotic species removal.

* Statistically valid estimating methods include those found in Daubenmire, R. (1968), Oosting (1956), or Mueller-Dombois and Ellenberg (1974), or other method approved by the Department. More information on these methods will be provided by the Department upon request.

5. If after the Monitoring Schedule is completed, the restoration area is not successfully revegetated as defined above, Respondent shall submit a Restoration Plan to the Department for its review and approval. The Restoration Plan shall be submitted within 14 days of the submittal of the final monitoring report and shall include a plan, including time schedule, for planting the restoration area with enough native wetland vegetation to meet the success criteria in paragraph 2 within 3 years of planting. The Restoration Plan shall also include a monitoring and maintenance schedule to ensure that the replanting is successful.

6. Respondent shall implement the Restoration Plan, including any changes required by the Department, upon notice of approval by the Department.



Northwest Florida Water Management District ²⁷

2252 Killearn Center Blvd., The Delaney Center, Suite 2-D
Tallahassee, Florida 32309

Douglas E. Barr
Executive Director

(850) 921-2986 • (Fax) 921-3082

December 21, 2010

Mr. Donald Butler, County Administrator
Gulf County Board of County Commissioners
1000 Costin Blvd.
Port St. Joe, FL 32456

2010 DEC 21 PM 14:50
CLERK OF CIRCUIT COURT
GULF COUNTY, FLORIDA

**Re: Notice of Final Agency Action – Determination of Non-qualification
Noticed General Environmental Resource Permit**

Project Name: Repair of Saul's Creek Rd.
Application Number: 1306
County: Gulf

Dear Gulf County Board of County Commissioners:

The District acknowledges your intent to use Noticed General Environmental Resource Permit for the project referenced above. However, based upon the submitted information, the project **does not qualify** for a Noticed Environmental General Permit for the following reasons:

The application for Repair of Saul's Creek Road received December 7, 2010 does not appear to qualify for a General Permit for Low Water Crossings pursuant to subsection 62-341.612(1), F.A.C. because the proposed repairs are not engaging or proposing to engage in a mining activity.

The District will reconsider your application if additional information is submitted by February 19, 2011 demonstrating the proposed activity qualifies for a Noticed General Environmental Resource Permit. Alternatively, if you still wish to seek approval for this activity as it has been presented, an Individual Permit Application must be submitted for the proposed activity.

FILED FOR RECORD
REBECCA L. NORRIS
CLERK OF CIRCUIT COURT
GULF COUNTY, FLORIDA
2011 JAN -6 AM 8:27

If you have questions regarding this determination, please contact this office at 850-921-2986.

Sincerely,

Lee Marchman, P.E., MLT (ASCP)
Chief, Bureau of Environmental Resource Regulation

INFORMATION
DATE: 1-6-11 *LM*

Cc: Clayton B. Studstill, Garlick Environmental & Associates, Inc.

GEORGE ROBERTS
Chair
Panama City

PHILIP K. McMILLAN
Vice Chair
Blountstown

SHARON PINKERTON
Secretary/Treasurer
Pensacola

PETER ANTONACCI
Tallahassee

STEPHANIE BLOYD
Panama City Beach

STEVE GHAZVINI
Tallahassee

TIM NORRIS
Santa Rosa Beach

JERRY PATE
Pensacola

J. LUIS RODRIGUEZ
Monticello

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for authority to issue and sell securities during twelve months ending December 31, 2011, pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Florida Power Corporation d/b/a Progress Energy Florida, Inc.

DOCKET NO. 100417-EI
ORDER NO. PSC-10-0717-FOF-EI
ISSUED: December 8, 2010

The following Commissioners participated in the disposition of this matter:

- ART GRAHAM, Chairman
- LISA POLAK EDGAR
- NATHAN A. SKOP
- RONALD A. BRISÉ
- EDUARDO E. BALBIS

FILED FOR RECORD
REBECCA L. MORRIS
CLERK OF CIRCUIT COURT
CLIF COUNTY, FLORIDA
2011 JAN - 6 AM 8:29

FINAL ORDER GRANTING APPROVAL FOR
AUTHORITY TO ISSUE AND SELL SECURITIES

BY THE COMMISSION:

Pursuant to Chapter 25-8, Florida Administrative Code, and Section 366.04, Florida Statutes, Progress Energy Florida, Inc., formerly Florida Power Corporation (PEF or Company), requests authority to issue, sell or otherwise incur during 2011 (and 2012 with respect to short-term debt securities and obligations), equity securities and short-term and long-term debt securities and other obligations, including, but not limited to, borrowings from banks which are participants in credit facilities PEF may establish from time to time, uncommitted bank facilities and affiliate loans which are available through PEF's utility money pool facility. The Company also seeks authority to enter into interest rate derivative contracts to remove financial risk associated with its existing and future debt obligations.

The equity securities that PEF may issue include cumulative preferred stock, preference stock, or warrants, options or rights to acquire such securities, or other equity securities, with such par values, terms and conditions and relative rights and preferences as are deemed appropriate by the Company and permitted by its Articles of Incorporation, as they may be amended from time to time.

PEF also may enter into preferred securities financings that may have various structures, including a structure whereby the Company would establish and make an equity investment in a special purpose trust, limited partnership or other entity. The entity would offer preferred securities to the public and lend the proceeds to the Company. PEF would issue debt securities to the entity equal to the aggregate of its equity investment and the amount of preferred securities

11-11-11
NOTICE

FILE NUMBER DATE

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FPSC-COMMISSION CLERK

ORDER NO. PSC-10-0717-FOF-EI
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PAGE 2

issued. PEF may also guarantee, among other things, the distributions to be paid by the entity to the holders of the preferred securities.

The maximum principal amount of short-term securities and obligations proposed to be issued, sold, or otherwise incurred during 2011 and 2012 is \$1.0 billion outstanding at any time, including commercial paper, bank loans or moneypool borrowings. The maximum principal amount of equity securities, long-term debt securities and other long-term obligations (exclusive of bank loans issued under the Company's long-term credit facilities) proposed to be issued, sold, or otherwise incurred during 2011 is \$1.0 billion.

PEF states that short-term debt securities and obligations may include notes to be sold in the commercial paper market ("commercial paper"), loans from affiliates and bank loans, credit agreements or other forms of securities and debt obligations, with maturities of less than one year.

PEF states that the long-term debt securities and obligations may take the form of first mortgage bonds, debentures, medium-term notes or other notes, loans from affiliates and bank loans, installment contracts, credit agreements, securitization of storm cost and other receivables or other forms of securities and debt obligations, whether secured or unsecured, with maturities greater than one year. In addition, PEF may enter into options, rights, interest rate swaps or other derivative instruments. PEF also may enter into installment purchase and security agreements, loan agreements, or other arrangements with political subdivisions of the State of Florida or pledge debt securities or issue guarantees in connection with such political subdivisions' issuance, for the ultimate benefit of the Company, or pollution control revenue bonds, solid waste disposal revenue bonds, industrial development revenue bonds, variable rate demand notes, or other "private activity bonds" with maturities ranging from one to forty years, or bond anticipation notes. Such obligations may or may not bear interest exempt from federal tax.

PEF also may enter into nuclear fuel leases and various agreements that provide financial or performance assurances to third parties on behalf of the Company's subsidiaries. These agreements include guarantees, standby letters of credit and surety bonds. The agreements are entered into primarily to support or enhance the credit worthiness otherwise attributed to a subsidiary on a stand-alone basis. Specific purposes of the agreements include supporting payments of trade payables, securing performance under contracts and lease obligations, providing workers' compensation coverage, obtaining licenses, permits and rights-of-way and supporting other payments that are subject to contingencies.

The manner of issuance and sale of securities will be dependent upon the type of securities being offered, the type of transaction in which the securities are being issued and sold and market conditions at the time of the issuance and sale. Securities may be issued through negotiated underwritten public offerings, public offerings at competitive biddings, private sales or sales through agents, and may be issued in both domestic and foreign markets. Credit agreements may be with banks or other lenders. The Company's commercial paper will be for terms up to but not exceeding nine months from the date of issuance. The commercial paper

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PAGE 3

may be sold at a discount, including the underwriting discount of the commercial paper dealer, at rates comparable to interest rates being paid in the commercial paper market by borrowers of similar creditworthiness. PEF plans to refund, retire or redeem from time to time outstanding commercial paper and short-term borrowings, which mature on a regular basis, with preferred stock, first mortgage bonds, medium-term notes, or other long-term securities and debt obligations.

Contemplated to be included as a long-term or short-term debt securities, as appropriate, are borrowings from banks and other lenders under the Company's credit facilities, as those may be entered into and amended from time to time. The Company's current facility is a \$750 million three-year revolving credit agreement with a group of banks. Borrowings under the facility are available for general corporate purposes, including support of the Company's commercial paper program. The current three-year facility will expire on October 15, 2013.

In connection with this application, PEF confirms that the capital raised pursuant to this application will be used in connection with the activities of PEF and PEF's regulated subsidiaries and not the unregulated activities of its unregulated subsidiaries or affiliates.

PEF will file a consummation report with the Commission in compliance with Rule 25-8.009, Florida Administrative Code, within 90 days after the close of the 2011 calendar year to report any securities issued during that year.

It appears that PEF has complied with the requirements of Section 366.04, Florida Statutes and Chapter 25-8, Florida Administrative Code, in applying for the authority to issue and sell securities. Therefore, PEF's application is hereby granted.

Our approval of the proposed issuance and/or sale of securities by Progress Energy Florida, Inc. does not indicate specific approval of any rates, terms, or conditions associated with the issuance. Such matters are properly reserved for review by the Commission within the context of a rate proceeding. Our approval of the issuance of securities constitutes approval only as to the legality of the issue. In approving the subject financing, we retain the right to disallow any of the costs incurred for ratemaking purposes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application of Progress Energy Florida, Inc. to issue, sell, or otherwise incur during 2011 any combination of equity securities, long-term debt securities and other long-term obligations, is hereby granted. It is further

ORDERED that the maximum principal amount of equity securities, long-term debt securities and other long-term obligations to be issued, sold, or otherwise incurred during 2011 shall be \$1.0 billion. It is further

ORDER NO. PSC-10-0717-FOF-EI
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ORDERED that the maximum principal amount of short-term securities and obligations proposed to be issued, sold, or otherwise incurred during 2011 and 2012 shall be \$1.0 billion outstanding at any time, including commercial paper, bank loans or moneypool borrowings. It is further

ORDERED that Progress Energy Florida Inc. shall file a Consummation Report in accordance with Rule 25-8.009, Florida Administrative Code, within 90 days after the end of any fiscal year in which it issues securities. It is further

ORDERED that this docket shall remain open to monitor the issuance and/or sale of securities until Progress Energy Florida, Inc. submits and we have reviewed the Consummation Report, at which time it shall be closed administratively.

By ORDER of the Florida Public Service Commission this 8th day of December, 2010.



ANN COLE
Commission Clerk

(S E A L)

KEF

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.

Any party adversely affected by the Commission's final action in this matter may request:
1) reconsideration of the decision by filing a motion for reconsideration with the Office of

ORDER NO. PSC-10-0717-FOF-EI
DOCKET NO. 100417-EI
PAGE 5

Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

DOCKET NO. 100001-EI
ORDER NO. PSC-10-0738-FOF-EI
ISSUED: December 20, 2010

The following Commissioners participated in the disposition of this matter:

- ART GRAHAM, Chairman
- LISA POLAK EDGAR
- NATHAN A. SKOP
- RONALD A. BRISÉ
- EDUARDO E. BALBIS

FILED FOR RECORD
REBECCA L. MORRIS
CLERK OF CIRCUIT COURT
GULF COUNTY, FLORIDA
2011 JAN - 6 AM 8: 28

ORDER DENYING PROGRESS ENERGY FLORIDA, INC.'S
PETITION FOR MID-COURSE CORRECTION AND
ORDER APPROVING 2011 FUEL FACTORS INCLUDING REPLACEMENT POWER
COSTS ASSOCIATED WITH THE CRYSTAL RIVER UNIT 3 OUTAGE

BY THE COMMISSION:

Background

As part of our continuing Fuel and Purchased Power Cost Recovery and Generating Performance Incentive Factor proceedings, a hearing (fuel hearing) was held on November 1 and 2, 2010, in this docket. The fuel hearing addressed the issues set forth in Order No. PSC-10-0654-PHO-EI, issued on October 29, 2010 (the Prehearing Order). During opening statements, Progress Energy Florida, Inc. (PEF or Company) indicated the Company was in the process of reforecasting its estimated fuel expenditures. Since PEF did not know the results of the forecast at the time of the fuel hearing, we voted to approve our staff's recommendation to set in place preliminary amounts for PEF's fuel cost recovery factors (2011 fuel factors). These amounts were provided by PEF in Exhibit 71 as PEF's Revised Positions & Supporting Schedules. Exhibit 71 contained two sets of fuel factors: one set including Crystal River Unit 3 (CR3) replacement power costs and one set excluding CR3 replacement power costs.

We also ordered PEF to file a petition for mid-course correction with its most recent fuel price forecast on or before November 10, 2010. Within PEF's mid-course correction, the Company was required to include fuel factors showing CR3 replacement power costs being all included, CR3 replacement power costs being all excluded, and 50 percent of CR3 replacement power costs being included in the fuel factors.

On November 10, 2010, PEF filed its petition for a mid-course correction to its 2011 fuel and purchased power cost recovery factors, comprising of one set of fuel factors including CR3 replacement power costs, one set of fuel factors excluding CR3 replacement power costs, and one set of fuel factors including 50 percent of CR3 replacement power costs. The mid-course

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FPSC-COMMISSION CLERK

ORDER NO. PSC-10-0738-FOF-EI
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correction is based on PEF's November Fuel Operational Forecast (FOF), which includes an updated sales forecast for 2011 and an updated fuel price forecast, as of October 11, 2010, for all fuel types. Purchased power costs and off-system sales are also updated. Because the mid-course fuel factors are higher than the fuel factors previously approved by us at the November fuel clause hearing, PEF requested that we decline to approve the fuel factors in the mid-course filing. By separate Order, we determined to include the CR3 replacement power costs in the 2011 fuel factor. By this Order, we determine whether to use the previously approved fuel factors from Exhibit 71 or the updated mid-course correction fuel factors. We have jurisdiction over this subject matter pursuant to the provisions of Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06, F.S.

Decision

On September 1, 2010, PEF filed projection testimony and exhibits for its 2011 fuel factors based on its sales forecast and projected fuel costs. This projection included a natural gas price outlook as of June 14, 2010. During the deposition of PEF witness Marcia Olivier, our staff was informed that PEF was performing a Fuel Operational Forecast (FOF), and changes in forecasted fuel costs may be significant enough for PEF to file a reprojection of costs for the purposes of establishing 2011 factors. PEF provided an exhibit during the deposition that contained a high level analysis illustrating the impact of lower natural gas futures prices; this exhibit was admitted at the fuel hearing as Exhibit 65.

At our staff's request during the fuel hearing, PEF incorporated the high level analysis contained in Exhibit 65 into its Revised Positions and Supporting Schedules exhibit; this exhibit was admitted at the fuel hearing as Exhibit 71. These two exhibits essentially updated PEF's September 1, 2010 fuel testimony and filing with a more recent natural gas price outlook as of October 15, 2010. At the conclusion of the fuel hearing, on November 2, 2010, we approved 2011 fuel factors based upon Exhibit 71. The fuel factors approved in Exhibit 71 were to serve as place holders until PEF could complete its FOF for November and file a petition for mid-course correction as ordered.

As discussed above, the high level analysis used for Exhibit 71 factors essentially updated PEF's September projection filing with a more recent natural gas price outlook. In contrast, the mid-course correction includes a more thorough forecast of all fuel and purchased power costs and an updated sales (load) forecast. In other words, the mid-course correction provides a more comprehensive, and therefore more accurate, projection of fuel costs. Other than the mid-course factors being higher, the mid-course factors do not differ significantly from the Exhibit 71 fuel factors.

Based on the mid-course factors, the residential 1,000 kilowatt hour (kWh) bill would be approximately \$0.85 higher than with the currently approved fuel factors from Exhibit 71 with all CR3 replacement power costs included. Although the mid-course correction would result in a decrease in fuel factors compared to December 2010, the mid-course would result in an increase compared to the 2011 fuel factors approved during the November fuel hearing. For that reason, PEF requested in its petition that we not approve the fuel factors in the mid-course filing and continue with the fuel factors previously approved by us at the November fuel clause hearing.

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 PAGE 3

Below is a table that illustrates the 2011 monthly residential fuel charge per 1,000 kWh, including CR3 replacement power costs based on Exhibit 71 fuel factors and mid-course correction fuel factors, along with a dollar difference between the two sets of fuel factors.

<u>2011 PEF Monthly Residential Fuel Charge per 1000 kWh</u>				
	<u>2010</u>	<u>Exhibit 71</u>	<u>Mid-Course</u>	<u>Difference between Exhibit 71 & Mid-Course</u>
Current Charge	\$46.11			
Including CR3		\$44.61	\$45.46	\$0.85

If the goal in setting fuel factors is to minimize over-recoveries or under-recoveries, i.e., true-up amounts, by basing fuel factors on the best forecast available, the mid-course fuel factors might be the appropriate choice. However, approval of the mid-course factors would increase fuel charges for PEF ratepayers above those approved at the November fuel hearing. Although the mid-course fuel factors are more current and comprehensive than the currently approved fuel factors, we determine that the difference between the two sets is not significant enough to warrant an adjustment at this time.

Therefore, we do not approve the fuel factors in PEF's mid-course petition. Instead, we approve the Exhibit 71 fuel factors, as shown in Attachment A, which includes all of the CR3 replacement power costs.

For PEF, the new fuel and capacity charges shall be effective beginning with the first billing cycle for January 2011 through the last billing cycle for December 2011. The first billing cycle may start before January 1, 2011, and the last cycle may end after December 31, 2011, so long as each customer is billed for twelve months regardless of when the charge became effective. PEF shall include a message on bills notifying of the approved fuel factors.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Progress Energy Florida Inc.'s petition for mid-course correction change in fuel factors is denied. It is further

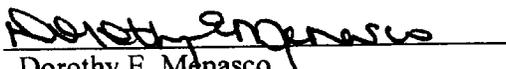
ORDERED that Exhibit 71 fuel factors which include all of the CR3 replacement power costs are hereby approved. It is further

ORDER NO. PSC-10-0738-FOF-EI
 DOCKET NO. 100001-EI
 PAGE 4

ORDERED that the Fuel and Purchased Power Cost Recovery Clause docket is an on-going docket and shall remain open.

By ORDER of the Florida Public Service Commission this 20th day of December, 2010.

ANN COLE
 Commission Clerk

By: 
 Dorothy E. Menasco
 Chief Deputy Commission Clerk

(S E A L)

ELS

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.

Approved Exhibit 71 Fuel Cost Recovery Factors for the Period January through December 2011 including CR3 Replacement Costs

<u>Line</u>	<u>Metering Voltage</u>	<u>First Tier Factor Cents/kWh</u>	<u>Second Tier Factor Cents/kWh</u>	<u>Levelized Factors Cents/kWh</u>	<u>Time of Use</u>	
					<u>On-Peak Multiplier</u>	<u>Off-Peak Multiplier</u>
					<u>1.306</u>	<u>0.855</u>
1.	Distribution Secondary	4.461	5.461	4.776	6.237	4.083
2.	Distribution Primary	—	—	4.728	6.175	4.042
3.	Transmission	—	—	4.680	6.112	4.001
4.	Lighting Service	—	—	4.486	—	—

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

DOCKET NO. 100001-EI
ORDER NO. PSC-10-0734-FOF-EI
ISSUED: December 20, 2010

The following Commissioners participated in the disposition of this matter:

- ART GRAHAM, Chairman
- LISA POLAK EDGAR
- NATHAN A. SKOP
- RONALD A. BRISÉ

FILED FOR RECORD
 REBECCA L. HARRIS
 CLERK OF CIRCUIT COURT
 GULF COUNTY, FLORIDA
 2011 JAN - 6 AM 8:28

APPEARANCES:

R. ALEXANDER GLENN, JOHN T. BURNETT, and DIANNE M TRIPLETT
 ESQUIRES, Progress Energy Service Co., LLC, 299 First Avenue North, St.
 Petersburg, Florida 33701-3324
On behalf of Progress Energy, Florida, Inc. (PEF).

BETH KEATING, ESQUIRE, Akerman Senterfitt Attorneys at Law, 106 East
 College Avenue, Highpoint Center, 12th Floor, Tallahassee, Florida 32301
On behalf of Florida Public Utilities Company (FPUC).

JEFFREY A. STONE, RUSSELL A. BADDERS, and STEVEN R. GRIFFIN,
 ESQUIRES, Beggs & Lane, P.O. Box 12950, Pensacola, Florida 32591-2950
On behalf of Gulf Power Company (GULF).

JAMES D. BEASLEY and J. JEFFRY WAHLEN, ESQUIRES, Ausley &
 McMullen, Post Office Box 391, Tallahassee, Florida 32302
On behalf of Tampa Electric Company (TECO).

PATRICIA A. CHRISTENSEN and CHARLIE BECK, ESQUIRES, 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).

PATRICK K. WIGGINS, ESQUIRE, Patrick K. Wiggins, P.A., Post Office
 Drawer 1657, Tallahassee, Florida 32302
On behalf of the Association For Fairness In Rate Making (AFFIRM).

KAREN S. WHITE, ESQUIRE, and SHAYLA L. MCNEILL, CAPTAIN, 139
 Barnes Drive, Suite 1, Tyndall Air Force Base, FL 32403-5319
On behalf of Federal Executive Agencies (FEA).

DOCUMENT NUMBER-DATE

10042 DEC 20 0

INFORMATION
DATE: 1-10-10 LL

ORDER NO. PSC-10-0734-FOF-EI
 DOCKET NO. 100001-EI
 PAGE 2

JON C. MOYLE, JR. and VICKI GORDON KAUFMAN, ESQUIRES, Keefe, Anchors, Gordon & Moyle, P.A., 118 North Gadsden Street, Tallahassee, Florida 32301

On behalf of the Florida Industrial Power Users Group (FIPUG).

ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III, ESQUIRES, Young van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301

On behalf of the Florida Retail Federation (FRF) and the City of Marianna, Florida (Marianna).

CECILIA BRADLEY, ESQUIRE, Office of the Attorney General, The Capitol – PL01, Tallahassee, Florida 32399-1050

On behalf of Attorney General Bill McCollum (OAG).

JAMES W. BREW and F. ALVIN TAYLOR, ESQUIRES, Brickfield, Burchette, Ritts & Stone, P.C., 1025 Thomas Jefferson St., NW, Eighth Floor, West Tower, Washington, DC 20007

On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate).

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

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Advisor to the Florida Public Service Commission.

**FINAL ORDER APPROVING EXPENDITURES AND TRUE-UP AMOUNTS FOR FUEL
 ADJUSTMENT FACTORS; GPIF TARGETS, RANGES, AND REWARDS; AND
 PROJECTED EXPENDITURES AND TRUE-UP AMOUNTS FOR CAPACITY COST
 RECOVERY FACTORS**

BY THE COMMISSION:

As part of the continuing fuel and purchased power adjustment and generating performance incentive clause proceedings, an administrative hearing was held by the Public Service Commission on November 1-2, 2010, in this docket.¹ The hearing addressed the issues set out in Order No. PSC-10-0654-PHO-EI, issued October 29, 2010 (Prehearing Order). Several of the positions on these issues were not contested by the parties and were presented to

¹ This hearing did not involve any issues related to Florida Power & Light Company (FPL), nor did FPL participate.

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us for approval without objections, but some contested issues remained for our consideration. As set forth fully below, we approve each of the uncontested positions presented. Our rulings on the remaining issues are also discussed below.

We have jurisdiction over this subject matter pursuant to the provisions of Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06, F.S.

I. COMPANY-SPECIFIC FUEL COST RECOVERY ISSUES

A. Progress Energy Florida, Inc.

Hedging Activities for 2009 and for January through July 2010

Having reviewed the testimony, exhibits, and discovery responses of PEF for its hedging activities, we approve as prudent PEF's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices for the 12-month period ending July 31, 2010. PEF entered into its hedging positions at market prices. Our staff audited the company's hedging activity and results for this period and found that the company has followed its Risk Management Plan when entering into hedging positions. Therefore, we find the company's hedging results for this period are prudent.

The appropriate overall objective of a utility hedging program is to mitigate fuel price volatility. With a prudently managed hedging program, the utility will incur hedging gains, or savings, in some periods and will incur hedging losses, or costs, in other periods. The appropriate determinants of prudent hedging activities do not lie within hedging gains or losses, but rather in whether the utility entered into hedging positions at market prices, followed its Risk Management Plan and did not speculate on future market conditions.

Risk Management Plan for 2011

Having reviewed the testimony, exhibits, and discovery responses of PEF, we find that 2011 Risk Management Plan complies with our guidelines. We established guidelines for a utility's Risk Management Plan by Order No. PSC-08-0667-PAA-EI. These guidelines specify the utility must file a minimum quantity of volumes of fuel to be hedged, ensure separation of duties when carrying out hedging activities and ensure the utility is dealing with credit-worthy counter-parties. By following its 2011 Risk Management Plan, PEF would accomplish the commission goal of utility hedging by reducing fuel price volatility, and would not engage in speculative hedging activities. We note that PEF's Risk Management Plan has not changed significantly from the company's previously approved Risk Management Plan.

Recovery of Costs Associated with the CR3 Outage

By Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, the issue of prudence of PEF's replacement power costs related to the extended outage at Crystal River Nuclear Unit 3

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(CR3) will be considered in Docket No. 100437-EI. Whether to allow the replacement power costs was decided by this Commission at the November 30, 2010 Commission Conference. Our decision to permit recovery is discussed in depth below.

Background

Progress Energy Florida, Inc. (PEF) experienced an unplanned outage at its Crystal River Nuclear Unit 3 (CR3), starting in mid-December 2009. PEF expects CR3 to return to service in the fourth quarter of 2010. PEF has incurred replacement power costs as a result of the extended outage. PEF is seeking to recover in its 2011 fuel factor all the replacement fuel costs not covered by the Nuclear Electric Insurance Limited (NEIL) policy. PEF provided pre-filed testimony and E-Schedules in support of its proposed 2011 factor. As a result of lower natural gas prices and at the request of staff, PEF's provided revised schedules showing its 2011 fuel factor with and without the costs associated with the outage. Whether PEF should recover the replacement power costs was identified as an issue for consideration during the November 2010 fuel clause hearing.

At the request of our staff during the fuel clause hearing, PEF supplied a hearing exhibit (Exhibit 71) with revised positions, fuel factors, and E-Schedules based on lower natural gas prices. Exhibit 71 also showed the revised 2011 fuel factor with and without the CR3 outage costs. After some review, PEF and the parties stipulated to admitting this exhibit into the record as a basis for this Commission to preliminarily establish PEF's 2011 fuel factor. In addition, we ordered PEF to file a mid-course correction petition and provide E-Schedules that provide a range of recoverable amounts related to CR3 (100 percent, 50 percent, and zero percent). We deferred our decision on whether to allow PEF to recover the CR3 outage costs in the 2011 factor until the November 30, 2010, Commission Conference.

In deferring our decision, we asked the parties to brief the issues related to the CR3 extended outage and specifically address whether PEF should recover some or all of these costs prior to a prudence determination on the underlying cause of the extended outage. On November 8, 2010, PEF filed its post-hearing brief, Florida Industrial Power Users Group (FIPUG), the Office of the Attorney General (AG), the Office of Public Counsel (OPC), and the Florida Retail Federation (FRF) (collectively "Intervenors") filed a joint post-hearing brief, and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS) filed its post-hearing brief.

Herein we address PEF's request to recover replacement power costs for its CR3 through the fuel adjustment clause outage prior to our determination in a separate docket as to the prudence of PEF's actions related to the outage. The issue of prudence will be addressed in Docket No. 100437-EI, a "spin-off" docket.² By separate order regarding PEF's petition for

² Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, in Docket No. 100001-EI, "spun-off" the issue of prudence to a separate proceeding and Docket No. 100437-EI, In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc., was established to review the prudence of the cause and costs of the CR3 outage.

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mid-course correction, we declined to approve the fuel factors in PEF's petition and instead kept in place the 2011 fuel factors approved during the November fuel clause hearing.

Analysis of whether to permit recovery of CR3 replacement power costs

At the conclusion of the November 1-2, 2010 fuel clause hearing, we asked the parties to brief the various options available to us as it relates to PEF's request for recovery of the replacement power costs associated with the CR3 outage. Specifically, we requested that the following options be discussed: (1) recovery of CR3 replacement power costs prior to a prudence review; (2) recovery of CR3 replacement power costs only after a prudence review has been conducted by this Commission; and (3) partial recovery of CR3 replacement power costs in the 2011 factors and partial recovery at a later time. In addition, we asked the parties to brief the following orders and their applicability to the instant case: Order Nos. PSC-97-0359-FOF-EI,³ PSC-97-0608-FOF-EI,⁴ PSC-98-0049-FOF-EI,⁵ (three orders relating to the 1997 CR3 outage for which this Commission approved recovery of outage costs), and Order No. PSC-07-0816-FOF-EI⁶ (relating to the PEF coal refund docket).

As noted in the briefs filed by the parties to this proceeding, the decision whether to allow recovery in the 2011 fuel factor of the replacement power costs associated with the CR3 outage involves both legal and regulatory policy considerations. The parties discussed the three options in their briefs. PEF argues that our prior Order Nos. 12645 and PSC-07-0816-FOF-EI require us to approve current recovery of the replacement power costs in the 2011 factor. In the Intervenor's brief, the Intervenor contends that PEF has not met the burden of proving the costs are reasonable as required by Order Nos. PSC-97-0359-FOF-EI and PSC-98-0049-FOF-EI. The Intervenor concludes that we must deny recovery of the CR3 replacement power costs prior to a prudence review. The Intervenor and PCS contend that we have discretion to allow all, some, or none of the costs prior to a prudence review. PEF argues we lack the discretion to disallow all or a part of the replacement power costs.

This order specifically examines whether we have the discretion to allow the recovery of the costs as argued by PEF, to defer the recovery of the costs as argued by the Intervenor and PCS, or to allow a partial recovery of the costs as suggested by the Intervenor and PCS. We have reviewed the parties' arguments and the orders referenced and conclude that all three options are available to us in this docket.

³ Order No. PSC-97-0359-FOF-EI, issued March 31, 1997, in Docket No. 970001-EI, In re: Fuel and purchase power cost recovery clause and generating performance incentive factor.

⁴ Order No. PSC-97-0608-FOF-EI, issued May 28, 1997, in Docket No. 970001-EI, In re: Fuel and purchase power cost recovery clause and generating performance incentive factor.

⁵ Order No. PSC-98-0049-FOF-EI issued January 7, 1998, in Docket No. 971513-EI, In re: Establishment of additional filing requirements in the fuel and purchased power cost recovery clause when certain threshold levels are met.

⁶ Order No. PSC-07-0816-FOF-EI, issued October 10, 2007, in Docket No. 060658-EI, In re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million.

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Option 1: Allow Recovery Subject to Refund.

PEF contends that if it meets the requirements of existing orders, we do not have discretion to postpone all or a portion of the recovery of replacement power costs for CR3 in the 2011 fuel factors. PEF asserts that the fuel clause is an ongoing proceeding where the reasonableness of underlying fuel costs sought for recovery is analyzed on an ongoing basis. PEF argues that allowing utilities to recover fuel costs subject to a subsequent prudence review by us prevents regulatory lag and is consistent with our prior decisions. PEF argues that Order 12645, and other orders, allow interim recovery of fuel costs subject to refund. The allowance of interim recovery of costs, subject to refund, is the *quid pro quo* exchange which the utility makes with us for the uncertainty as to whether those costs will be determined to be prudent. PEF asserts that a regulated utility, in exchange for having its rates set by the regulator, is allowed to recover its reasonable and prudent costs. PEF argues that because of that regulatory compact, we cannot use our discretion to deny the utility the benefit of timely recovering interim fuel costs which are subject to refund. According to PEF, we should not deviate from our own policies with no record foundation for doing so. It is the long standing policy of this Commission to allow recovery if the proper showing for recovery is made. PEF asserts that it would be arbitrary and capricious if we attempted to disallow interim recovery.

Analysis of Order No. 12645

Whether a utility may recover fuel costs, subject to refund, prior to a prudence determination requires a discussion of Order No. 12645, issued November 3, 1983, in Docket No. 830001-EU, In re: Investigation of Fuel Adjustment Clauses of Electric Utilities, the seminal order establishing the basis for when we conduct a prudence review in the annual fuel and purchased power cost recovery clause (fuel clause) hearing. This order established that we do not conduct a prudence review of costs in the annual fuel clause hearing unless prudence of a cost is raised as an issue ahead of time. Order No. 12645 at 23-24 (“Although the burden of proving the prudence of its actions will remain with the utility, the question of prudence will arise only as facts regarding fuel procurement justify scrutiny.”) As we stated, “[q]uestions of prudence require careful and often prolonged study. When a question arises as to the prudence of a utility's expenditures, proper time should be taken to fully analyze the question and resolve the matter on all of the facts available.” *Id.* at 23. Until there are facts and evidence in the record, and time to fully analyze those facts and evidence, no determination of prudence can be properly made. *Id.* at 23-24. In the fuel clause hearing, we will:

accept any relevant proof a utility chooses to present at true-up, but [the Commission] will not adjudicate the question of prudence, nor consider [itself] bound to do so until all relevant facts are analyzed and placed before [it]. [The Commission] will be free to revisit any transaction until [it] explicitly determine[s] the matter to be fully and finally adjudicated.

Id. at 24-25. Pursuant to Order No. 12645, we may approve fuel clause related costs prior to a prudence determination. These costs are subject to further review and refund. *Id.* at 22. This order does not address the issue of how costs may be recovered once a cost is called into

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question. This order is also silent as to our discretion to allow some or all of the costs prior to a prudence determination.

Analysis of Order No. PSC-07-0816-FOF-EI

We reaffirmed our practice to approve fuel clause related costs prior to a prudence determination by Order No. PSC-07-0816-FOF-EI, issued October 10, 2007, in Docket No. 060658-EI, In re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$ 143 million. In this docket, we conducted a prudence review of certain coal purchases made by PEF and an affiliate company. Although this docket came about in response to a motion made in the 2006 fuel clause proceeding, we made clear that it was a "spin-out" consideration. In this Order, we cited Order 12645, discussed above, as our rationale for examining prudence separately from fuel cost recovery clause consideration. This Order stated:

The fuel clause is a comparison of a utility's projected fuel costs to the costs actually expended. It is not a prudence review. We will consider prudence of fuel expenditures when the issue is brought to us by the parties.

Order No. PSC-07-0816-FOF-EI at 15. As reaffirmed by this order, a fuel cost recovery clause proceeding is generally not the venue for a prudence review except when the prudence of a cost being recovered is highlighted as a separate issue for us to determine.

We determine that Order No. PSC-07-0816-FOF-EI is not dispositive of the issue of whether we have discretion to postpone recovery of costs when the prudence of those expenditures is called into question. It affirms Order 12645 in that we may go back to review the prudence of expenditures approved and recovered in the fuel clause. An analysis of our discretion to allow or defer recovery is found in Order No. PSC-97-0359-FOF-EI, discussed here and again below.

Analysis of Order No. PSC-97-0359-FOF-EI

In Order No. PSC-97-0359-FOF-EI, when considering whether to allow the utility to collect replacement power costs prior to the prudence review, we stated:

We are confronted with two options to resolve this matter. If we permit recovery now, we can later order a refund of these costs, with interest, if we determine the costs were imprudently incurred. We may also deny recovery at this time, until we have investigated the outage and assessed the reasonableness of management's actions, both before and after the outage occurred. If we delay recovery of these costs until it is determined that all or a significant portion were prudently incurred, however, we may be putting a significant burden on customers at some future period. That burden will be heightened by interest which will accumulate on the unrecovered costs.

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Id. at 14-15. By this Order, we indicated that we have discretion to either allow costs to be recovered prior to a prudence review, or wait until it makes a determination of the prudence of the utility's conduct and then allow those costs to be recovered. In allowing recovery subject to refund, we based our decision on regulatory policy. The Intervenor and PCS also cited Order No. PSC-97-0359-FOF-EI in support of their positions to defer recovery; this Order will be discussed in further detail below.

Option 2: Disallow Recovery Until After a Prudence Review.

Intervenors assert that we clearly have authority to and should deny recovery of replacement fuel costs until there has been a determination of prudence in the separate proceeding. Intervenors assert that pursuant to Order No. PSC-97-0359-FOF-EI, as clarified in Order No. PSC-98-0049-FOF-EI, a utility seeking replacement power costs must preliminarily and affirmatively demonstrate two things: 1) that the actions or events that gave rise to the need for the replacement power were reasonable; and 2) that the costs of the replacement power were reasonable. Intervenors assert that PEF only provided sufficient evidence to satisfy the second prong, and failed to provide sufficient evidence to satisfy the first prong. Intervenors argue PEF understood that the Order required a showing of reasonableness of the actions or events that caused the purchase of replacement power and failed to do so. Intervenors assert that we should not vitiate or recede from the two-pronged test in Order No. PSC-97-0359-FOF-EI. As such, Intervenors assert that PEF should not be allowed to recover any replacement costs in advance of the subsequent prudence determination.

PEF asserts that it has provided evidence to support the reasonableness of its fuel costs through its regular filings in the fuel clause. PEF argues that the "actions and events" requirement in Order No. PSC-97-0359-FOF-EI no longer applies because the "actions and events" requirement was not mentioned in Order Nos. PSC-97-0608-FOF-EI and PSC-98-0049-FOF-EI, which were decided subsequently, nor mentioned in any other interim rate recovery proceedings. PEF asserts that Order Nos. PSC-97-0608-FOF-EI and PSC-98-0049-FOF-EI establish that reasonableness of projected costs, as determined by comparing a utility's projected fuel costs to the costs actually expended, is what is required for recovery through the fuel clause.

Analysis of Order No. PSC-97-0359-FOF-EI

In September of 1996, the CR3 unit went offline for an extended period of time. In the 1997 Fuel Clause proceeding, PEF (then doing business as Florida Power Corporation or FPC) sought to recover the replacement power costs associated with the extended CR3 outage. The following excerpts from Order No. PSC-97-0359-FOF-EI, issued March 31, 1997, in Docket No. 970001-EI, are relevant to the instant case:

We have a great deal of difficulty with allowing recovery of these [replacement power] costs. . . . In the past, we have permitted utilities to recover costs on a preliminary basis, subject to audit, 'true-up' with interest and an after-the-fact prudence review.

...

We are confronted with two options to resolve this matter. If we permit recovery now, we can later order a refund of these costs, with interest, if we determine the costs were imprudently incurred. We may also deny recovery at this time, until we have investigated the outage and assessed the reasonableness of management's actions, both before and after the outage occurred. If we delay recovery of these costs until it is determined that all or a significant portion were prudently incurred, however, we may be putting a significant burden on customers at some future period. That burden will be heightened by interest which will accumulate on the unrecovered costs.

Id. at 14-15. From the Order, we displayed some reticence about allowing the utility to recover the 1997 CR3 outage costs. We considered the benefits and burdens to the customers when it considered whether to allow recovery subject to refund of the 1997 CR3 outage replacement power costs prior to a determination of prudence. Ultimately, we allowed the utility cost recovery and initiated a separate docket to determine the prudence of management actions related to the CR3 outage and the replacement power costs.⁷ When considering its two options, we did not cite to any orders; we presumed that it had the discretion to allow or deny the interim recovery.

While the amount of the costs being sought by the utility in 1997 was not mentioned, the amount appears to be significant enough to have caused this Commission to require something more than what the utility had provided in that fuel clause proceeding. We stated:

... In the future, however, when a utility seeks to recover costs which have a significant impact on the utility's fuel adjustment factor, the utility must affirmatively demonstrate prior to approval for recovery that the actions or events that gave rise to the need for the recovery and the underlying costs are reasonable.

Id. at 14. The two additional filing requirements of Order No. PSC-97-0359-FOF-EI can be summarized as follows: 1) "the utility must affirmatively demonstrate prior to approval for recovery that the actions or events that gave rise to the need for the recovery. . . are reasonable," and 2) "demonstrate . . . the underlying costs are reasonable." Id. at 14. While the Order did not define what was required to satisfy the two additional filing requirements, we determine that subsequent Order Nos. PSC-97-0608-FOF-EI and PSC-98-0049-FOF-EI provide insight into the our intent for the additional filing requirements.

Analysis of Order No. PSC-97-0608-FOF-EI

On April 2, 1997, OPC filed for reconsideration of the PEF replacement power decisions rendered in Order No. PSC-97-0359-FOF-EI. FIPUG joined in OPC's motion. By Order No. PSC-97-0608-FOF-EI, issued May 28, 1997, in Docket No. 970001-EI, we denied OPC's reconsideration. OPC argued in its motion that we erred in allowing recovery because the utility

⁷ The determination of prudence was spun-out to Docket No. 970261-EI. Ultimately, the parties agreed to a stipulation and settlement approved by this Commission by Order No. PSC-97-0840-S-EI, issued July 14, 1997. The order approving the stipulation and settlement does not have any bearing on the additional filing requirements established by Order No. 97-0359-FOF-EI.

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“brought no evidence to the Commission in this docket explaining whether, or to what extent [the utility’s] replacement fuel costs were prudently, or reasonably incurred.” *Id.* at 3-4. The utility countered, arguing that evidence of prudence was not required as “the Commission has made no final decision with respect to the recovery of replacement fuel costs . . .,” because prudence was to be determined in a separate docket. *Id.* at 4.

We rejected OPC’s assertion that we erred in allowing recovery without a showing of prudence, finding that at the time we issued Order No. PSC-97-0359-FOF-EI, “we did not have the issue of prudence . . . before us.” *Id.* at 5. We reinforced this point by stating that “because we have not yet determined whether the [outage] expenditures were prudent, evidence thereon is not required.” *Id.* at 5.

We then described what evidence was needed to show that the underlying costs were reasonable, stating:

The evidence to be adduced for prospective fuel cost recovery is the reasonableness of the utilities’ cost projections. The standard for approval of projected fuel costs is a showing that the projections are reasonable in amount. What is required is a showing that the projected kilowatt-hour sales and projected costs for fuel are reasonable.

Id. at 4. We found that the utility presented evidence of the reasonableness of its projected fuel costs by proffering into the record “its Schedule E1-B which establishes its fuel cost of system net generation for the period of October 1996 through March 1997. . . .” *Id.* at 4. We noted that this schedule included the replacement fuel costs associated with the CR3 outage and was discussed by the utility witness’ prefiled testimony. *Id.* at 4. As a result, we determined that there was competent substantial evidence in the record to sustain its finding of reasonableness of the projected fuel costs associated with the outage. *Id.* at 4. We also noted that none of the parties offered any evidence that alleged the utility’s kilowatt-hour sales and fuels costs were not reasonable in amount. *Id.* at 4. In rejecting OPC’s motion for reconsideration, we explained what evidence is needed to show that the underlying costs associated with an outage are reasonable.

Analysis of Order No. PSC-98-0049-FOF-EI

Because there was some confusion about when the additional filing requirements of Order No. PSC-97-0359-FOF-EI applied, we initiated Docket No. 971513-EI to address our decision in Order No. PSC-97-0359-FOF-EI. By Order No. PSC-98-0049-FOF-EI, issued January 7, 1998, in Docket No. 971513-EI, In re: Establishment of additional filing requirements in the fuel and purchased power cost recovery clause when certain threshold levels are met, we clarified the meaning of “significant impact” which would trigger the additional filing requirements established by Order No. PSC-97-0359-FOF-EI.

In Order No. PSC-98-0049-FOF-EI, we established five percent as the “significant impact” threshold for triggering the additional filing requirements. *Id.* at 4. We noted that while the other parties did not object to five percent being the “significant impact” threshold, OPC and

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FPC had some concerns with setting the threshold at five percent. *Id.* at 2. Both OPC and FPC offered alternative proposals which were discussed and rejected. *Id.* at 2-4. In addition to establishing five percent as the threshold, we also made the following determinations:

Therefore, we find that prior to interim recovery, utilities must demonstrate in their prefiled testimony, the reasonableness of costs that exceed the threshold for increases in fuel adjustment factor filings as set forth herein. The threshold requirement of Order No. PSC-97-0359-FOF-EI will be triggered whenever fuel costs will result in an increase of 5% or more of the utility's six-month fuel adjustment factor for the projection period. . . . A 5% or more standard is reasonable and can be administered fairly to all investor-owned utilities, regardless of the level of its fuel adjustment factor. . . .

The preliminary proof of reasonableness required by this Order is not intended to be a substitute for a full prudence review nor does it abridge parties' rights or obligations in fuel adjustment or prudence proceedings.

Id. at 4. Order No. PSC-98-0049-FOF-EI established the five percent threshold and reiterated that utilities must demonstrate *in prefiled testimony* the reasonableness of costs that exceed the threshold requirement prior to interim recovery. While this order was silent on the "actions or events" requirement in Order No. PSC-97-0359-FOF-EI, it reaffirms the reasonableness of underlying costs requirement.

Option 3: Allow a Portion of the Recovery in 2011 Fuel Factors

At the November fuel hearing, we also asked that the parties and staff discuss our authority to allow a portion of the replacement power costs to be recovered in the 2011 factors and a portion of the costs in a subsequent year.

PEF asserts that we should not arbitrarily apportion the amount of the preliminary costs that PEF may recover. PEF asserts we have never "split the baby" on the issue of interim recovery and there is no logical grounds to do so. Instead, we have always allowed the interim recovery of reasonable costs in their full amounts. To apportion the recovery amount would lead to arbitrary and unreasonable results and cause significant confusion between us, utilities, and customers.

PCS asserts that the question whether to permit interim cost recovery pending the CR3 prudence review, while described as a legal issue, is in fact a policy issue. PCS asserts that it is firmly settled that this Commission has the full legal authority to determine whether to permit or deny recovery for some or all of the CR3 outage costs based on the our responsibility to ensure that rates charged to consumers are fair, just, and reasonable. PCS asserts that it is the utility's burden to prove the reasonableness of costs it is seeking to recover from a consumer in rates. The decision to allow interim recovery falls within our discretion and sound judgment.

PCS also asserts that we should consider the economic circumstances facing the Florida ratepayer. PCS asserts that the timing of the cost recovery, whether now or after a prudence

determination, is important. PCS asserts it would be a burden on the PEF customer to allow PEF to recover CR3 outage costs in advance of a prudence determination. The struggling Florida economy should weigh heavily in the decision whether to allow interim recovery. PCS asserts that the economy along with PEF's failure to offer a *prima facie* demonstration for recovery argue strongly against authorizing CR3 replacement cost recovery in the 2011 fuel factor.

PEF contends that the Intervenor's argument that we should wait to allow preliminary recovery until after a prudence review because the economy is bad is contrary to our established policy. PEF asserts that a "bad economy" is ambiguous and virtually indefinable, and that it should not be considered. PEF asserts our policy is to protect customers from a potentially significant burden of later paying recovery costs with interest; instead, PEF asserts that the utility should bear the burden of added interest.

We agree with PCS that it is within our discretion to allow partial recovery of the costs in the 2011 fuel factor. A review of some recent mid-course correction orders provides examples of this Commission exercising its discretion to extend recovery of costs over more than a one-year period. The following is a brief discussion of two orders relating to our discretion to approve all or a portion of a requested recovery.

Analysis of Order Nos. PSC-08-0494-PCO-EI and PSC-08-0495-PCO-EI

On May 30, 2008, PEF filed a request for mid-course correction to its fuel cost recovery factor, alleging an under-recovery of approximately \$213 million in 2008. On June 3, 2008, FPL filed a separate petition for a mid-course correction to its fuel adjustment factors, alleging an under-recovery of approximately \$746 million in 2008. PEF and FPL requested their mid-course corrections pursuant to the procedures established by prior Commission orders.⁸ By Order Nos. PSC-08-0494-PCO-EI and PSC-08-0495-PCO-EI, issued Aug 5, 2008, in Docket No. 080001-EI (respectively the FPL and PEF mid-course correction orders), FPL and PEF were granted half of their under-recovery in 2008 with the remaining under-recovery being deferred for recovery in their 2009 fuel factors. We find our reasoning in these two orders to be applicable to the instant case.⁹

At the July 1, 2008, Commission Conference, we allowed the parties and interested persons to address the requested mid-course correction, and concerns were raised about the rate

⁸ See Order No. 13694, issued September 20, 1984, in Docket No. 840001-EI and Docket No. 840003-GU, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor; In re: Purchased gas cost recovery clause, and Order No. PSC-98-0691-FOF-PU, issued May 19, 1998, in Docket No. 980269-PU, In re: Consideration of change in frequency and timing of hearing for the fuel and purchased power cost recovery clause, capacity cost recovery clause, generating performance incentive factor, energy conservation cost recovery clause, purchased gas adjustment (PGA) true-up, and environmental cost recovery clause, and Order No. PSC-07-00333-PAA-EI, issued April 16, 2007, in Docket No. 070001-EI.

⁹ Our reasoning for allowing the deferral of half of the under-recovery is nearly identical in both instances. Except where otherwise noted, our analysis will cite to Order No. PSC-08-0495-PCO-EI, the PEF mid-course correction order. The one difference between the two orders is that "At [the] Agenda Conference, FPL stated that it agreed that recovery of 50% of its under-recovery in 2008 and 50% in 2009 was acceptable." See FPL mid-course order at 7. PEF's mid-course correction order is silent on whether PEF agreed or disagreed that 50 percent recovery in 2008 and 50 percent in 2009 was acceptable.

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shock consumers would experience in 2008. See Order No. PSC-08-0495-PCO-EI at 6. We stated that “[w]hile the utility is permitted to recover its fuel costs, the Commission retains the discretion to evaluate the rate impact of a mid-course correction upon customers and set rates appropriately.” Id. at 11. We specifically considered the “stability of the fuel factor” and “rate effects and bill impacts” of deferrals when making its decision.¹⁰ Id. at 11. In discussing the stability of the fuel factor, we stated:

If fuel costs vary significantly from original projections, then fuel factors will be less representative of costs and customers will not receive accurate price signals regarding the cost of electricity. In the case of actual and projected fuel costs being higher than original projections, an under-recovery will result and, if not corrected, will affect the calculation of subsequent year fuel factors. In times of rising fuel prices, such an under-recovery can compound the rate impact in that the subsequent year’s fuel factors would reflect higher fuel prices and the under-recovery. In addition, interest would accrue on the under-recovery. Another aspect of deferred under-recoveries is the concept of intergenerational inequity. If a cost is deferred, even a year or portion of a year, a slightly different set of customers will be charged for collection of the costs incurred.

Id. at 11. We also noted that it was “balancing the goals of achieving a stable annual fuel factor with the goal of sending accurate price signals to customers.” Id. at 11.

In considering the rate effects and bill impacts, we requested that PEF provide four estimated bill impacts and associated rates/factors options.¹¹ Id. at 12. In evaluating the four options, we considered whether to approve the entire requested under-recovery in 2008, defer the entire under-recovery until 2009, allow 50 percent in 2008 and defer 50 percent to 2009 (50-50 option), or spread the under-recovery evenly over 17 months (17-month option). Id. at 12. We stated that the four options provided a “reasonable range of alternatives from which to consider possible rate adjustments and bill impacts.” Id. at 12.

After weighing its various options, and by a 3-2 vote in both the FPL and PEF mid-course correction orders, we selected the 50-50 option, stating that “because of the unique economic conditions facing Florida, [it] is in the best interest of ratepayers and the utility alike. The utility will still be permitted to recover its fuel costs and consumers will have additional time to adjust their budgets for the increased rates.” Id. at 12-13. In approving 50 percent recovery in 2008, we were cognizant that it could result in a higher 2009 bill for PEF’s customers than if the entire amount was recovered in 2008. Id. at 13. However, we found that a “stepped increase” would give PEF’s customers a better opportunity to adjust budgets for an expected increase the following year. Id. at 13.

¹⁰ For a discussion of rate stability, see Order No. PSC-98-0691-FOF-PU, page 4. For a discussion of the impacts of deferrals and mid-course corrections, see Order No. PSC-03-0382-PCO-EI, pages 8 and 9.

¹¹ The Commission asked FPL to supply four estimated bill impacts and associated rates/factors options. See Order Nos. PSC-08-0494-PCO-EI at 11.

Two Commissioners dissented from the majority's decision in FPL and PEF mid-course correction orders; one dissented with opinion.¹² The dissent opined that deferring a significant portion of an enormous under-recovery could pose substantial risks to ratepayers in the subsequent year if fuel costs continued to escalate. *Id.* at 15 (Commissioner McMurrian, *dissent*). The dissent also noted that deferring a portion of the under-recovery, while mitigating immediate rate impact, could increase the severity of the rate impact in the near future. *Id.* at 16 (Commissioner McMurrian, *dissent*).

Conclusion Regarding Commission Discretion

Based upon a review of the orders discussed above, we determine that we have the following three options before us for consideration as it relates to PEF's request for recovery of the replacement power costs associated with the CR3 outage: 1) Allow PEF to recover all replacement power costs, subject to refund, prior to the determination of prudence; 2) Defer recovery of the replacement power costs until after prudence has been determined; or 3) Allow a partial recovery of the replacement power costs prior to the prudence determination. The exercise of our discretion is a matter of regulatory policy and not law. For the reasons set forth below, we select the first option and determine that PEF shall be allowed to recovery all replacement power costs, subject to refund, prior to the determination of prudence.

Pursuant to Order Nos. 12645 and PSC-07-0816-FOF-EI, we have the inherent authority to approve, subject to refund, the recovery prior to a prudence determination. Since the determination of prudence associated with the CR3 outage has been "spun-off" to a separate proceeding, we determine that prudence is not ripe for consideration at this time. However, the issue of whether we should allow recovery of the outage costs is ripe for determination.

We disagree with PEF's argument that we cannot defer a portion of the requested replacement power costs. In agreement with the Intervenor and PCS, we have the discretion to defer all or a portion of the requested recovery amount prior to the determination of prudence. As noted in Order Nos. PSC-08-0494-PCO-EI and PSC-08-0495-PCO-EI, we considered fuel factor stability, ratepayer impact, and price signal accuracy when it considered four options for the under-recovery. In two of the options, the 50-50 option and the 17-month option, we expressly considered apportioning the under-recovery amount over two different time periods. Thus, it is clear from Order Nos. PSC-08-0494-PCO-EI and PSC-08-0495-PCO-EI that we have the discretion to apportion and defer some or all of the requested under-recovery to a later period prior to the determination of prudence. We note that if we approved a partial or full deferral of the requested recovery amount, PEF's customers would bear the burden of paying the carrying charges on the deferred amount if PEF is later deemed prudent.

We disagree with the Intervenor and PCS' arguments that we cannot permit PEF to recover the CR3 outage costs subject to refund. We find that Order Nos. PSC-97-0359-FOF-EI, PSC-97-0608-FOF-EI, and PSC-98-0049-FOF-EI must be read together *in pari materia*. While

¹² In both the FPL and PEF mid-course orders, Commissioner McMurrian dissented with opinion and Commissioner Argenziano dissented without opinion; it is unknown whether Commissioner Argenziano concurred with Commissioner McMurrian's dissent.

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we did not define the additional filings requirement in Order No. PSC-97-0359-FOF-EI, we subsequently clarified our intent for the filing requirement by Order Nos. PSC-97-0608-FOF-EI and PSC-98-0049-FOF-EI. As discussed above, the additional filing requirements in Order No. PSC-97-0359-FOF-EI are triggered when the outage costs exceed the five percent threshold established by Order No. PSC-98-0049-FOF-EI. Since none of the parties dispute whether the CR3 outage costs exceed the five percent threshold, we will analyze the additional filing requirements and determine whether PEF satisfied them.

When there is a significant event affecting the fuel factor by more than five percent, Order No. PSC-97-0359-FOF-EI requires that the utility must affirmatively demonstrate two things to permit recovery of costs in the fuel factor: 1) that the "actions or events" that gave rise to the need for the recovery are reasonable, and 2) that the underlying costs are reasonable. Order No. PSC-97-0359-FOF-EI, however, does not define how the utility must demonstrate the reasonableness of those things. In Order No. PSC-97-0608-FOF-EI, which described what evidence is necessary to show that the underlying costs associated with an outage are reasonable, we did not discuss the two additional filing requirements. In Order No. PSC-98-0049-FOF-EI, which clarified the five percent threshold requirement, we mentioned the second of the two additional filing requirements but was silent as to the first. While Order No. PSC-98-0049-FOF-EI affirmatively requires that the utility demonstrate the reasonableness of the underlying costs in pre-filed testimony, it does not affirmatively require that the utility demonstrate reasonableness of "actions or events" in pre-filed testimony. Other than quoting the additional filing requirements, Order No. PSC-98-0049-FOF-EI is silent as to how and when a utility must demonstrate the reasonableness of "actions or events" requirement. Because we were silent on the first requirement, it does not mean that we receded from it, as implied by PEF, nor does it mean that it must be demonstrated in pre-filed testimony as argued by the Intervenor and PCS. We disagree with these interpretations for the following reasons.

We determine that the reasonableness of "actions or events" requirement is something a utility must demonstrate, but only when the utility is seeking a determination of prudence on the cause of the costs. The requirement for demonstrating the reasonableness of "actions or events" giving rise to an outage is akin to the evidentiary requirement for a prudence determination. As noted by Order Nos. 12645 and PSC-07-0816-FOF-EI, we do not conduct a prudence review of costs in the fuel clause proceeding unless it is specifically raised as an issue. While none of the three CR3 outage orders explain what was required for the first requirement, we find that it logically applies in the annual fuel clause hearing only when the utility is seeking *both* recovery for costs and a determination of prudence. If it was our intent to require that the utility provide pre-filed testimony as to the reasonableness of "actions or events," then logically we could make a determination of prudence on the cause of the costs. If we are not satisfied with the explanation of a utility seeking recovery of significant costs in the fuel factor, we can always order a separate proceeding to determine the reasonableness and prudence of the "actions or events" giving rise to the costs. See Order No. PSC-97-0359-FOF-EI. For these reasons, we interpret these orders to require that reasonableness of "actions or events" be demonstrated in pre-filed testimony only in instances where the issue of prudence is being determined.

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Here, PEF has requested recovery subject to refund and, instead of waiting for this Commission to order a separate proceeding to determine prudence, PEF specifically petitioned us to establish a separate proceeding to determine the prudence of PEF's actions related to the cause of the outage as well as the costs associated with the outage.¹³ Based on our reasoning above, the reasonableness of the "actions or events" must be demonstrated in pre-filed testimony but only in instances where prudence is being determined. Therefore, since a determination of prudence is not being made at this time, we determine that the first additional filing requirement does not apply.

We determine, however, that the second additional filing requirement to demonstrate, that the underlying costs are reasonable, does apply to PEF's request for recovery and that Order No. PSC-97-0608-FOF-EI describes how a utility should demonstrate that its underlying costs are reasonable. In rejecting OPC's motion for reconsideration of Order No. PSC-97-0359-FOF-EI, we had determined there was competent substantial evidence in the record to support the reasonableness of the costs being requested. We articulated that to establish the preliminary proof of reasonableness of the projected costs, the utility should include projected costs in its prefiled testimony and E1-B schedule. This explanation of reasonableness helps describe what is necessary to satisfy the second additional filing requirement. Thus the second additional filing requirement could be satisfied if projected costs are included in the utility's prefiled testimony and E1-B schedule.

In the instant case, PEF provided the parties and this Commission its E1-B schedule and referenced the CR3 outage in prefiled testimony by Witness Olivier in its September 2010 filing. PEF's estimated CR3 replacement power costs were embedded within its September filing and through the process of discovery provided additional schedules showing its fuel factor with and without the CR3 outage costs. On November 1, 2010, during the fuel clause hearing, PEF provided a hearing exhibit (Exhibit 71) reflecting lower natural gas prices and the resulting lower fuel factor with and without the CR3 outage costs.¹⁴ The parties stipulated to Exhibit 71. During the hearing, no evidence was presented by the parties which questioned the reasonableness of PEF's requested 2011 fuel factor nor the reasonableness of the costs associated with the CR3 outage.

Our staff reviewed Exhibit 71, including the revised positions and supporting "E-Schedules" that reflect lower natural gas prices and revised estimates for replacement power costs. This exhibit presents the original September positions for the Generic Fuel Adjustment Issues, as well as sets of schedules that include or exclude the most current forecasted information for replacement power costs. After reviewing Exhibit 71, we find that it contains the evidence necessary to demonstrate that PEF has supported the reasonableness of its system costs as required by Order Nos. PSC-97-0359-FOF-EI, PSC-97-0608-FOF-EI, and PSC-98-0049-FOF-EI.

¹³ See Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, in Docket No. 100001-EI.

¹⁴ PEF filed a petition for mid-course correction on November 10, 2010, and included schedules that show the 2011 fuel factor recovering all, fifty percent, and none of the CR3 outage costs.

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When these three orders are read together and applied to the matter before us, we find that PEF has satisfied the additional filing requirements. We determine that we have discretion to approve the recovery of a portion of the replacement power costs for the CR3 outage. In prior proceedings regarding mid-course corrections, we weighed several policies to determine whether to require a mid-course correction to extend longer than the current year. We have the discretion to consider and apply regulatory policy to the recovery of the costs of the CR3 outage.

Decision allowing the recovery of CR3 outage costs

Our practice in fuel clause proceedings has been to allow recovery of projected costs, which are then subject to true-up adjustments based on actual costs incurred. Subsequently, we may disallow costs based on a determination of prudence. This practice allows cost recovery in a timely manner while protecting ratepayers by conducting a separate review for potential disallowance, as demonstrated in the recent PEF coal refund case. See Order No. PSC-07-0816-FOF-EI. This practice allows the utilities relatively quick recovery of costs and allows them the cash flow to pay volatile fuel expenses. In exchange, we can conduct a prudence review of fuel costs going back a number of years without having established interim rates or holding money subject to refund.

We determine that it was reasonable for PEF to incur replacement power costs due to the CR3 outage. PEF has supported the reasonableness of its request in its initial (September) filing of testimony and exhibits, and in subsequent filings. We have reviewed these filings and believes PEF has demonstrated reasonableness for cost recovery purposes.

While we have the discretion to defer recovery of a portion of the costs, such deferral has been generally done to relieve rate shock associated with large increases in fuel factors. The appropriate goal in setting fuel factors, however, is to minimize over-recoveries or under-recoveries (i.e., true-up amounts), by matching rates to costs as closely as possible, and to do so as the costs are being incurred. Otherwise, an under-recovery or deferral of costs coupled with rising fuel prices could exacerbate a future increase in fuel factors. Further, deferring fuel costs, while perhaps appropriate to relieve rate shock, causes additional interest expense. Therefore, we determine that our existing practice of allowing recovery of costs subject to a subsequent determination of prudence is appropriate in this case. We note that the recovery of the CR3 replacement power costs will occur during a time of decreasing fuel rates, and will therefore not create a situation of rate shock, as was the case with the previously discussed 2008 mid-course orders for FPL and PEF. With or without the CR3 replacement power costs, the 2011 fuel factor will be lower than the 2010 fuel factor.

We determine that PEF shall be permitted to collect, subject to refund, replacement power costs due to the extended outage at CR3 prior to our determination of the prudence of such costs in Docket No. 100437-EI. We determined that these costs should be incorporated into the calculation of the 2011 fuel factor.

B. Florida Public Utilities Company

FPUC presented evidence regarding whether the bankruptcy filing of the Jefferson Smurfit Company had any effect on Florida Public Utilities Company's northeast division fuel factors. Based on the testimony and exhibits in the record and the stipulation, the Jefferson Smurfit (Smurfit-Stone) bankruptcy has no effect on northeast division fuel factors. Because Jefferson Smurfit is a GSLD-1 customer, the revenue and expense in its fuel charge are the same. Therefore, the Jefferson Smurfit fuel charge does not affect the calculation of the fuel over-recovery or under-recovery.

C. Gulf Power Company

Hedging Activities for 2009 and for January through July 2010

Having reviewed the testimony, exhibits, and discovery responses of Gulf for its hedging activities, we approve as prudent Gulf's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices for the 12-month period ending July 31, 2010. Gulf entered into its hedging positions at market prices. Our staff audited the company's hedging activity and results for this period and found that the company has followed its Risk Management Plan when entering into hedging positions. Therefore, we find the company's hedging results for this period are prudent.

The appropriate overall objective of a utility hedging program is to mitigate fuel price volatility. With a prudently managed hedging program, the utility will incur hedging gains, or savings, in some periods and will incur hedging losses, or costs, in other periods. The appropriate determinants of prudent hedging activities do not lie within hedging gains or losses, but rather in whether the utility entered into hedging positions at market prices, followed its Risk Management Plan and did not speculate on future market conditions.

Risk Management Plan for 2011

Having reviewed the testimony, exhibits, and discovery responses of Gulf, we find that 2011 Risk Management Plan complies with our guidelines. We established guidelines for a utility's Risk Management Plan by Order No. PSC-08-0667-PAA-EI. These guidelines specify the utility must file a minimum quantity of volumes of fuel to be hedged, ensure separation of duties when carrying out hedging activities and ensure the utility is dealing with credit-worthy counter-parties. By following its 2011 Risk Management Plan, Gulf would accomplish the commission goal of utility hedging by reducing fuel price volatility, and would not engage in speculative hedging activities. We note that Gulf's Risk Management Plan has not changed significantly from the company's previously approved Risk Management Plan.

Perdido Landfill Gas

Gulf presented evidence regarding whether we should approve Gulf's fuel clause recovery of the projected costs of landfill gas associated with the Perdido Landfill Gas to Energy Facility for the years 2010 and 2011. Based on the testimony and exhibits in the record and the stipulation, the cost of landfill gas is appropriate for recovery through the fuel clause. Gulf Power Company may recover the projected costs it will incur for landfill gas associated with the Perdido Landfill Gas to Energy Facility for the years 2010 and 2011. This approval does not address the appropriateness of project costs that would be recovered in base rates.

Coalsales Litigation Expense

The issue of whether Gulf was prudent in commencing and continuing litigation against Coalsales II, LLC (Coalsales) for breach of contract was raised. Based on the testimony and exhibits in the record and the stipulation, we note that Gulf is currently involved in litigation with Coalsales concerning Coalsales' default under a coal supply agreement with Gulf. Gulf filed suit against Coalsales in the U.S. District Court for the Northern District of Florida in June 2006. On September 30, 2009, the Court entered an order granting Gulf's motion for partial summary judgment on the issue of liability. The Court ruled that Coalsales breached its coal supply agreement with Gulf. The Court held a bench trial on the sole issue of damages in February 2010.

Our Commission audit staff conducted its financial audit of the litigation costs reported by Gulf and confirmed that Gulf properly recorded the costs. For 2006 through 2008, Gulf recovered \$519,000 in litigation costs for this suit. For 2009 Gulf recovered \$287,000 in litigation costs. These dollar amounts have been included in prior and current year fuel factors. For 2010, Gulf's costs through February 2010 are \$112,631. Our staff's audit and testimony are filed in this docket.

On September 30, 2010, the Court awarded no damages to Gulf. As of the November fuel hearing, the order finding that Gulf is not entitled to any damages is not final. We determine that this issue shall be considered in a future proceeding, once the Court's order, and any subsequent Court review has been finalized and once our staff has conducted additional discovery. The litigation costs shall be collected subject to refund based on a later determination by this Commission of this issue.

D. Tampa Electric Company

Hedging Activities for 2009 and for January through July 2010

Having reviewed the testimony, exhibits, and discovery responses of TECO for its hedging activities, we approve as prudent TECO's actions to mitigate the volatility of natural gas, residual oil, and purchased power prices for the 12-month period ending July 31, 2010. TECO entered into its hedging positions at market prices. Our staff audited the company's

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hedging activity and results for this period and found that the company has followed its Risk Management Plan when entering into hedging positions. Therefore, we find the company's hedging results for this period are prudent.

The appropriate overall objective of a utility hedging program is to mitigate fuel price volatility. With a prudently managed hedging program, the utility will incur hedging gains, or savings, in some periods and will incur hedging losses, or costs, in other periods. The appropriate determinants of prudent hedging activities do not lie within hedging gains or losses, but rather in whether the utility entered into hedging positions at market prices, followed its Risk Management Plan and did not speculate on future market conditions.

Risk Management Plan for 2011

Having reviewed the testimony, exhibits, and discovery responses of TECO, we find that 2011 Risk Management Plan complies with our guidelines. We established guidelines for a utility's Risk Management Plan by Order No. PSC-08-0667-PAA-EI. These guidelines specify the utility must file a minimum quantity of volumes of fuel to be hedged, ensure separation of duties when carrying out hedging activities and ensure the utility is dealing with credit-worthy counter-parties. By following its 2011 Risk Management Plan, TECO would accomplish the commission goal of utility hedging by reducing fuel price volatility, and would not engage in speculative hedging activities. We note that TECO's Risk Management Plan has not changed significantly from the company's previously approved Risk Management Plan.

II. GENERIC FUEL COST RECOVERY ISSUES

Shareholder Incentive Benchmarks

The actual benchmark levels for calendar year 2010 for gains on non-separated wholesale energy sales eligible for a shareholder incentive pursuant to Order No. PSC-00-1744-PAA-EI were uncontested by the parties. Our staff, after reviewing the testimony and exhibits, concurred with the utilities' positions. Accordingly, we approve the actual benchmark levels for calendar year 2010 as follows:

PEF: \$ 1,618,573
 GULF: \$ 1,603,413
 TECO: \$ 2,002,890

The estimated benchmark levels for the calendar year 2011 for gains on non-separated wholesale energy sales eligible for a shareholder incentive pursuant to Order No. PSC-00-1744-PAA-EI were uncontested by the parties. Our staff, after reviewing the testimony and exhibits, concurred with the utilities' positions. Accordingly, we approve the estimated benchmark levels for calendar year 2011 as follows:

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PEF: \$ 1,053,364 subject to adjustments in the 2010 final true-up filing to include all actual data for the year 2010.
 GULF: \$ 1,017,585 subject to adjustments in the 2010 final true-up filing to include all actual data for the year 2010.
 TECO: \$ 2,325,363 subject to adjustments in the 2010 final true-up filing to include all actual data for the year 2010.

III. APPROPRIATE PROJECTIONS AND TRUE-UP AMOUNTS FOR FUEL COST RECOVERY FACTORS

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate final fuel adjustment true-up for their companies for 2009. For PEF, GULF, and TECO, the Intervenor FIPUG, FRF, and PCS disputed the utilities' hedging costs and all other Intervenor took no position. After much discussion at hearing about hedging, we approved the hedging related issues and agreed to address utility hedging at a future date. In addition for PEF, the Intervenor FIPUG, FRF, and PCS objected to CR3 replacement costs being included; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the testimony and exhibits in the record, we approve the following as the appropriate final fuel adjustment true-up amounts for the period of January 2009 through December 2009:

PEF:	\$ 8,064,647 over-recovery (including CR3 replacement fuels costs)
FPUC Marianna:	\$ 1,378,165 under-recovery
FPUC Fernandina Beach:	\$ 2,241,870 over-recovery
GULF:	\$ 9,959,388 over-recovery
TECO:	\$14,108,291 over-recovery

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate estimated/actual fuel adjustment true-up amounts for their company for 2010. For PEF, GULF, and TECO, the Intervenor FIPUG, FRF, and PCS disputed the utilities' hedging costs and all other Intervenor took no position. After much discussion at hearing about hedging, we approved the hedging plans of the utilities and agreed to address utility hedging at a future date. In addition for PEF, the Intervenor FIPUG, FRF, and PCS objected to CR3 replacement costs being included; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, we approve the following as the appropriate estimated/actual fuel adjustment true-up amounts for the period of January 2010 through December 2010:

PEF:	\$68,565,812 under-recovery (including CR3 replacement fuels costs)
FPUC Marianna:	\$84,888 under-recovery
FPUC Fernandina Beach:	\$494,751 under-recovery

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GULF: \$23,786,207 under-recovery
 TECO: \$52,979,582 over-recovery

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate fuel adjustment true-up amounts for their company for 2011. For PEF, the Intervenor FIPUG, FRF, and PCS objected to including the CR3 replacement costs and all other Intervenor took no position; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, we approve the following as the appropriate fuel adjustment true-up amounts to be collected/refunded from January 2011 through December 2011:

PEF: \$60,501,165 (under-recovery) to be collected (including CR3 replacement fuels costs)
 FPUC Marianna: \$1,463,053 (Under-recovery) to be collected
 FPUC Fernandina Beach: \$1,747,119 (Over-recovery) to be refunded
 GULF: \$13,826,819 to be collected
 TECO: \$67,087,873 (over-recovery) to be refunded

Our staff reviewed the testimony and exhibits in the record regarding the utilities' appropriate revenue tax factors to be applied in calculating each investor-owned electric utility's levelized fuel factor and our staff recommended approval of the tax factors. All other parties took no position. Based on the evidence in the record, we approve the following as the appropriate revenue tax factors to be applied in calculating each electric IOU's levelized fuel factor for the period January 2011 through December 2011:

1.00072 for each investor-owned electric utility

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate projected net fuel and purchased power cost recovery amounts to be included in the fuel cost recovery factors for the period January 2011 through December 2011. For PEF, only FIPUG objected to including the CR3 replacement costs and all other Intervenor took no position; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, we approve the following as the appropriate projected net fuel and purchased power cost recovery amounts to be included in the fuel cost recovery factors for the period January 2011 through December 2011:

PEF: \$1,735,029,216 (including CR3 replacement fuel costs)
 FPUC Marianna: \$35,363,963
 FPUC Fernandina Beach: \$40,892,517
 GULF: \$570,992,471 including prior period true-up amounts and revenue taxes

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TECO: The projected net fuel and purchased power cost recovery amount to be included in the recovery factor for the period January 2011 through December 2011, adjusted by the jurisdictional separation factor, is \$862,959,690. The total recoverable fuel and purchased power cost recovery amount to be collected, including the true-up and GPIF and adjusted for the revenue tax factor, is \$798,275,699.

PEF, FPUC, GULF, and TECO presented evidence regarding the appropriate levelized fuel cost recovery factors for the period January 2011 through December 2011. For PEF, the Intervenor FIPUG, FRF, and PCS objected to including the CR3 replacement costs and all other Intervenor took no position; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, and the resolution of the generic and company-specific fuel cost recovery issues discussed above, we approve the following as the appropriate levelized fuel cost recovery factors for the period January 2011 through December 2011:

PEF: 4.770 cents per kWh
FPUC Marianna: 7.609 cents/kWh
FPUC Fernandina Beach: 6.640 cents/kWh
GULF: 5.104 cents/kWh.
TECO: The appropriate factor is 4.218 cents per kWh before any application of time of use multipliers for on-peak or off-peak usage

Our staff and the utilities concurred regarding the appropriate fuel recovery line loss multipliers to be used in calculating the fuel cost recovery factors charged to each rate class/delivery voltage level class. All other parties took no position. Based on the evidence in the record, we approve the following as the appropriate fuel recovery line loss multipliers to be used in calculating the fuel cost recovery factors charged to each rate class/delivery voltage level class (tables appear on this and the following pages):

PEF:

GROUP	DELIVERY/VOLTAGE	LINE LOSS MULTIPLIER
A.	TRANSMISSION	0.9800
B.	DISTRIBUTION PRIMARY	0.9900
C.	DISTRIBUTION SECONDARY	1.0000
D.	LIGHTING SERVICES	1.0000

FPUC: Northwest Division (Marianna): 1.0000 (All rate schedules)
Northeast Division (Fernandina): 1.0000 (All rate schedules)

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GULF:

GROUP	RATE SCHEDULES*	LINE LOSS MULTIPLIERS
A	RS, RSVP, GS, GSD, GSDT, GSTOU, OSIII, SBS(1)	1.00525921
B	LP, LPT, SBS(2)	0.98890061
C	PX, PXT, RTP, SBS(3)	0.98062822
D	OSI/II	1.00529485

* The recovery factor applicable to customers taking service under Rate Schedule SBS is determined as follows: (1) customers with a contract demand in the range of 100 to 499 kW will use the recovery factor applicable to Rate Schedule GSD; (2) customers with a contract demand in the range of 500 to 7,499 kW will use the recovery factor applicable to Rate Schedule LP; and (3) customers with a contract demand over 7,499 kW will use the recovery factor applicable to Rate Schedule PX.

TECO:

METERING VOLTAGE SCHEDULE	LINE LOSS MULTIPLIER
DISTRIBUTION SECONDARY	1.0000
DISTRIBUTION PRIMARY	0.9900
TRANSMISSION	0.9800
LIGHTING SERVICE	1.0000

Our staff and the utilities concurred regarding the appropriate fuel recovery factors for each rate class/delivery voltage level class adjusted for line losses. All other parties took no position except for the City of Marianna. For FPUC, the City of Marianna objected to FPUC's purchased power costs, but did not challenge FPUC's fuel charges in this docket. Based on the evidence in the record, and the resolution of the generic and company-specific fuel cost recovery issues discussed above, we approve the following as the appropriate fuel recovery factors for each rate class/delivery voltage level class adjusted for line losses (tables appear on this and the following pages):

PEF: (including CR3 replacement fuel costs)

Fuel Cost Factors (cents/kWh)					Time of Use	
Group	Delivery Voltage Level	First Tier Factor	Second Tier Factors	Levelized Factors	On-Peak	Off-Peak
A	Transmission	--	--	4.680	6.112	4.001
B	Distribution Primary	--	--	4.728	6.175	4.042
C	Distribution Secondary	4.461	5.461	4.776	6.237	4.083
D	Lighting	--	--	4.486	--	--

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FPUC: See table below:

Northwest Division (Marianna Division)

<i>Rate Schedule</i>	<i>Adjustment</i>
RS	\$0.11925
GS	\$0.11560
GSD	\$0.10977
GSLD	\$0.10586
OL,OI1	\$0.08619
SL1, SL2, and SL3	\$0.08566
Step rate for RS	
RS with less than 1,000 kWh/month	\$0.11553
RS with more than 1,000 kWh/month	\$0.12553

Northeast Division (Fernandina Division)

<i>Rate Schedule</i>	<i>Adjustment</i>
RS	\$0.10007
GS	\$0.09735
GSD	\$0.09327
GSLD	\$0.09500
OL	\$0.07158
SL	\$0.07179
Step rate for RS	
RS with less than 1,000 kWh/month	\$0.09630
RS with more than 1,000 kWh/month	\$0.10630

GULF: See table below:

Group	Rate Schedules*	Line Loss Multipliers	Fuel Cost Factors ¢/KWH		
			Standard	Time of Use	
				On-Peak	Off-Peak
A	RS, RSVP,GS, GSD, GSDT, GSTOU, OSIII, SBS(1)	1.00525921	5.131	6.013	4.762
B	LP, LPT, SBS(2)	0.98890061	5.047	5.916	4.684
C	PX, PXT, RTP, SBS(3)	0.98062822	5.005	5.866	4.645
D	OSI/II	1.00529485	5.081	N/A	N/A

*The recovery factor applicable to customers taking service under Rate Schedule SBS is determined as follows: (1) customers with a contract demand in the range of 100 to 499 KW will use the recovery factor applicable to Rate Schedule GSD; (2) customers with a contract demand in the range of 500 to 7,499 KW will use the recovery factor applicable to Rate Schedule LP; and (3) customers with a contract demand over 7,499 KW will use the recovery factor applicable to Rate Schedule PX.

TECO: The appropriate factors are as follows:

<u>Metering Voltage Level</u>	<u>Fuel Charge Factor (cents per kWh)</u>	
Secondary	4.225	
Tier I (Up to 1,000 kWh)	3.875	
Tier II (Over 1,000 kWh)	4.875	
Distribution Primary	4.183	
Transmission	4.141	
Lighting Service	4.134	
Distribution Secondary	4.817	(on-peak)
	3.994	(off-peak)
Distribution Primary	4.769	(on-peak)
	3.954	(off-peak)
Transmission	4.721	(on-peak)
	3.914	(off-peak)

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IV. GENERATING PERFORMANCE INCENTIVE FACTOR (GPIF) ISSUES

Our staff and the utilities concurred as to the rewards or penalties achieved during 2009 pursuant to the Generating Performance Incentive Factor (GPIF). All other parties took no position. Based on the evidence in the record, we approve the following GPIF rewards/penalties for performance achieved during the period January 2009 through December 2009:

PEF: \$676,296 penalty
GULF: \$82,250 reward
TECO: A reward in the amount of \$1,830,855

Our staff and the utilities concurred as to the GPIF targets/ranges for 2011. All other parties took no position. Based on the evidence in the record, we approve the following GPIF targets/ranges for the period January 2011 through December 2011:

PEF: The appropriate targets and ranges are shown on Page 4 of Exhibit RMO-1P filed on September 1, 2010 with the Direct Testimony of Robert M. Oliver, as shown in the tables below:

GPIF TARGET AND RANGE SUMMARY

Progress Energy Florida
 Period of: January 2011 - December 2011

Plant/Unit	Weighting Factor (%)	EAF Target (%)	EAF RANGE		Max Fuel Savings (\$000)	Max Fuel Loss (\$000)
			Max (%)	Min (%)		
Crystal River 1	2.09	85.47	86.69	78.87	1,240	(4,893)
Crystal River 2	6.01	94.40	97.03	89.01	3,573	(3,221)
Crystal River 3	4.36	97.41	98.83	94.86	2,889	(7,775)
Crystal River 4	5.41	84.16	87.84	76.76	3,216	(9,328)
Crystal River 5	5.71	86.01	88.97	80.00	3,396	(7,084)
Hines 1	2.05	76.23	78.11	72.48	1,218	(2,202)
Hines 2	1.68	83.89	85.42	80.75	940	(2,484)
Hines 3	1.16	87.85	89.44	84.90	891	(3,256)
Hines 4	1.86	83.71	85.89	79.27	988	(3,332)
Tiger Bay	1.34	81.38	87.88	88.19	799	(2,853)
GPIF System	31.38				18,649	(46,528)

Plant/Unit	Weighting Factor (%)	ANCHR Target (BTU/KWH)	NOF	ANCHR RANGE		Max. Fuel Savings (\$000)	Max. Fuel Loss (\$000)
				Min. (BTU/KWH)	Max. (BTU/KWH)		
Crystal River 1	3.34	10,708	49.1	10,297	11,119	1,863	(1,983)
Crystal River 2	3.82	10,524	46.5	10,214	10,833	2,271	(2,271)
Crystal River 3	4.34	10,297	98.7	10,176	10,417	2,580	(2,580)
Crystal River 4	11.92	10,326	81.9	9,804	10,848	7,084	(7,084)
Crystal River 5	9.28	10,064	87.0	9,707	10,461	5,517	(5,517)
Hines 1	8.68	7,897	69.8	7,083	8,301	5,157	(5,157)
Hines 2	7.03	7,086	78.6	6,760	7,412	4,176	(4,176)
Hines 3	9.14	7,310	78.8	6,930	7,890	5,431	(5,431)
Hines 4	8.86	7,060	76.5	6,702	7,419	5,264	(5,264)
Tiger Bay	2.23	7,975	75.3	7,502	8,447	1,323	(1,323)
GPIF System	66.62					40,787	(40,787)

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GULF: See table below:

Unit	EAF	POF	EUOF	Heat Rate
Crist 4	97.5	0.0	2.5	11,038
Crist 5	81.2	15.9	2.9	11,135
Crist 6	71.8	23.6	4.7	11,121
Crist 7	82.5	8.2	9.3	10,650
Smith 1	88.5	6.3	5.2	10,457
Smith 2	95.4	0.0	4.7	10,426
Daniel 1	94.0	0.0	6.0	10,518
Daniel 2	77.0	17.3	5.8	10,417
EAF = Equivalent Availability Factor (%) POF = Planned Outage Factor (%) EUOF = Equivalent Unplanned Outage Factor (%)				

TECO:

The appropriate targets and ranges are shown in Hearing Exhibit No. 27 (BSB-2) attached to the prefiled testimony of Mr. Brian S. Buckley. Targets and ranges should be set according to the prescribed GPIF methodology established in 1981 by Commission Order No. 9558 in Docket No. 800400-CI and later modified in 2006 after meeting with Staff and intervening parties at the request of the Commission, as shown in the tables below:

TAMPA ELECTRIC COMPANY
 GPIF TARGET AND RANGE SUMMARY
 JANUARY 2011 - DECEMBER 2011

EQUIVALENT AVAILABILITY

PLANT / UNIT	WEIGHTING FACTOR (%)	EAF TARGET (%)	EAF RANGE		MAX. FUEL SAVINGS (\$000)	MAX. FUEL LOSS (\$000)
			MAX. (%)	MIN. (%)		
BIG BEND 1	4.58%	67.9	73.5	56.8	1,359.3	(5,657.4)
BIG BEND 2	5.05%	62.4	66.3	54.5	1,765.3	(1,487.8)
BIG BEND 3	6.18%	82.1	84.7	76.9	1,833.9	(1,379.9)
BIG BEND 4	7.65%	77.9	81.3	71.0	2,339.2	(2,364.1)
POLK 1	0.67%	88.6	90.0	85.9	196.3	(455.9)
BAYSIDE 1	1.34%	78.2	79.4	75.9	397.4	(821.4)
BAYSIDE 2	0.32%	94.4	95.0	93.3	93.8	(280.8)
GPIF SYSTEM	26.52%					

AVERAGE NET OPERATING HEAT RATE

PLANT / UNIT	WEIGHTING FACTOR (%)	ANOHR TARGET		ANOHR RANGE		MAX. FUEL SAVINGS (\$000)	MAX. FUEL LOSS (\$000)
		Btu/kwh	NOF	MIN.	MAX.		
BIG BEND 1	11.38%	10,876	91.3	10,245	11,107	3,376.5	(3,376.5)
BIG BEND 2	9.63%	10,350	91.2	9,940	10,759	2,858.3	(2,858.3)
BIG BEND 3	11.60%	10,582	88.9	10,179	10,966	3,442.7	(3,442.7)
BIG BEND 4	12.48%	10,539	90.8	10,153	10,922	3,703.5	(3,703.5)
POLK 1	15.59%	9,820	97.5	9,117	10,522	4,624.5	(4,624.5)
BAYSIDE 1	4.92%	7,212	86.6	7,120	7,305	1,459.8	(1,459.8)
BAYSIDE 2	7.48%	7,311	84.7	7,222	7,400	2,218.6	(2,218.6)
GPIF SYSTEM	73.95%						

V. COMPANY-SPECIFIC CAPACITY COST RECOVERY ISSUES

Progress Energy Florida, Inc.

Based on the testimony and evidence in the record, we find that pursuant to our decision in Docket No. 100009-EI, including the stipulations of the parties in that docket, PEF has included in the Capacity Clause the nuclear cost recovery amount of \$163,580,660 nuclear cost (or \$163,698,438 with revenue tax included), as we ordered.

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VI. APPROPRIATE PROJECTED EXPENDITURES AND TRUE-UP AMOUNTS FOR CAPACITY COST RECOVERY FACTORS

Our staff and the utilities concurred as to the final capacity cost recovery true-up amounts for 2009. All other parties took no position. Based on the evidence in the record, we approve the following final capacity cost recovery true-up amounts for the period January 2009 through December 2009:

PEF: \$14,181,129 over-recovery
 GULF: \$ 2,618,214 over-recovery
 TECO: \$ 21,184 over-recovery

Our staff and the utilities concurred as to the estimated/actual capacity cost recovery true-up amounts for 2010. All other parties took no position. Based on the evidence in the record, we approve the following estimated/actual capacity cost recovery true-up amounts for the period January 2010 through December 2010:

PEF: \$38,129,941 over-recovery
 GULF: \$ 545,466 over-recovery
 TECO: \$ 74,275 under-recovery

Our staff concurred with GULF and TECO as to the total capacity cost recovery true-up amounts to be collected/refunded during 2011. All other parties took no position as to Gulf and TECO. For PEF, the Intervenors FIPUG, FRF, and PCS objected to including the CR3 replacement costs; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. Having considered the testimony and exhibits in the record, we approve the following total capacity cost recovery true-up amounts to be collected/refunded during the period January 2011 through December 2011:

PEF: \$ 52,311,070 over-recovery (to be refunded)
 GULF: \$ 3,163,680 over-recovery (to be refunded)
 TECO: \$ 53,091 under-recovery (to be collected)

Our staff concurred with GULF and TECO regarding those utilities' projected net purchased power and cost recovery amounts to be included in the recovery factor for the period January 2011 through December 2011. All other parties took no position as to Gulf and TECO. For PEF, the Intervenors FIPUG, FRF, and PCS objected to including the CR3 replacement costs; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. Having considered the testimony and exhibits in the record, we approve the following projected net purchased power and cost recovery amounts to be included in the recovery factor for the period January 2011 through December 2011:

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PEF: \$451,867,504 is an appropriate projected net amount for setting the 2011 factors. PEF has used \$3.6 million of the NEIL reimbursement to offset its estimated incremental capacity cost due to the CR-3 extended outage. PEF shall continue this practice so that the incremental capacity cost due to the CR-3 extended outage, to be decided by this Commission, will be offset entirely by NEIL reimbursement.

GULF: \$ 45,129,549
 TECO: \$ 54,906,841

Our staff concurred with PEF, GULF, and TECO regarding their jurisdictional separation factors to be applied to determine the capacity costs to be recovered during the period January 2011 through December 2011. All other parties took no position. Based on the evidence in the record and agreement of the parties, we approve the following jurisdictional separation factors to be applied to determine the capacity costs to be recovered during the period January 2011 through December 2011:

PEF: BASE: 91.089%
 INTERMEDIATE: 58.962%
 PEAKING: 91.248%
 GULF: 96.44582%
 TECO: 96.74819%

Our staff concurred with GULF and TECO regarding those utilities' projected capacity cost recovery factors for each rate class/delivery class for the period January 2011 through December 2011. All parties took no position as to Gulf and TECO. For PEF, the Intervenor FIPUG, FRF, and PCS objected to including the CR3 replacement costs; however, as described above, we disagreed and approved including the CR3 replacement fuel costs. Having considered the testimony and exhibits in the record, we approve the following projected capacity cost recovery factors for each rate class/delivery class for the period January 2011 through December 2011:

PEF:	<u>Rate Class</u>	<u>CCR Factor</u>
	Residential	1.527 cents/kWh
	General Service Non-Demand	1.113 cents/kWh
	@ Primary Voltage	1.102 cents/kWh
	@ Transmission Voltage	1.091 cents/kWh
	General Service 100% Load Factor	0.803 cents/kWh
	General Service Demand	0.992 cents/kWh
	@ Primary Voltage	0.982 cents/kWh
	@ Transmission Voltage	0.972 cents/kWh
	Curtaillable	0.845 cents/kWh
	@ Primary Voltage	0.837 cents/kWh
	@ Transmission Voltage	0.828 cents/kWh
	Interruptible	0.798 cents/kWh
	@ Primary Voltage	0.790 cents/kWh
	@ Transmission Voltage	0.782 cents/kWh
	Lighting	0.233 cents/kWh

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GULF: See table below:

RATE CLASS	CAPACITY COST RECOVERY FACTORS ¢/KWH
RS, RSVP	0.476
GS	0.434
GSD, GSDT, GSTOU	0.376
LP, LPT	0.328
PX, PXT, RTP, SBS	0.292
OS-I/II	0.174
OSIII	0.282

TECO: The appropriate factors for January 2011 through December 2011 are as follows:

Rate Class and Metering Voltage	Capacity Cost Recovery Factor	
	Dollars per kWh	Dollars per kW
RS Secondary	0.336	
GS and TS Secondary	0.294	
GSD, SBF Standard		1.07
Secondary		1.06
Primary		1.05
Transmission		
GSD Optional		
Secondary	0.255	
Primary	0.253	
IS, SBI		
Primary		0.87
Transmission		0.86
LS1 Secondary	0.078	

VII. OTHER MATTERS

For PEF, FPUC, Gulf, and TECO, we find that the new fuel and capacity charges shall be effective beginning with the first billing cycle for January 2011 through the last billing cycle for December 2011. The first billing cycle may start before January 1, 2011, and the last cycle may end after December 31, 2011, so long as each customer is billed for twelve months regardless of when the charge became effective.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the findings set forth in the body of this Order are hereby approved. It is further

ORDERED that Progress Energy Florida, Inc., shall be permitted to collect, subject to refund, replacement power costs due to the extended outage at CR3 prior to this Commission's determination of the prudence of such costs in Docket No. 100437-EI, and that these costs shall be incorporated into the calculation of Progress Energy Florida, Inc.'s 2011 fuel factor. It is further

ORDERED that Progress Energy Florida, Inc., Florida Public Utilities Company, Gulf Power Company, and Tampa Electric Company are hereby authorized to apply the fuel cost recovery factors set forth herein during the period January 2011 through December 2011. It is further

ORDERED the estimated true-up amounts contained in the fuel cost recovery factors approved herein are hereby authorized subject to final true-up and further subject to proof of the reasonableness and prudence of the expenditures upon which the amounts are based. It is further

ORDERED that Progress Energy Florida, Inc., Gulf Power Company, and Tampa Electric Company are hereby authorized to apply the capacity cost recovery factors as set forth herein during the period January 2011 through December 2011. It is further

ORDERED that the estimated true-up amounts contained in the capacity cost recovery factors approved herein are hereby authorized subject to final true-up and further subject to proof of the reasonableness and prudence of the expenditures upon which the amounts are based. It is further

ORDERED that the Fuel and Purchased Power Cost Recovery Clause docket is an on-going docket and shall remain open.

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By ORDER of the Florida Public Service Commission this 20th day of December, 2010.

ANN COLE
Commission Clerk

By: 
Dorothy E. Menasco
Chief Deputy Commission Clerk

(S E A L)

ELS

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.



STEVEN H. EMERSON, CPA, CGFM, CGAP, CFE

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December 27, 2010

Honorable Chairperson Carmen McLemore
Gulf County
1000 Cecil G Costin Sr Blvd County Courthouse
Port Saint Joe, FL 32456

Dear Chairperson McLemore:

My name is Steve Emerson and I would like an opportunity to speak with you and your commission sometime regarding an exciting new service that I am providing to counties of your size and structure.

I would like to provide accounting and audit consulting to your county which would allow you to produce monthly financial statements and timely gauge your budget against your actual revenue and expenditures. I could also provide accounting software and hardware (computers, printers, etc.) if needed and if you currently have an accounting software system, I can offer assistance with your current accounting system. Also, through the use of a software program, I will be able to assist you with your accounting system remotely from my office and I will provide on site assistance as well.

I would like to clarify that I am not offering auditing services. Instead, I am offering consulting services that will help improve your accounting system and prepare your accounting system and financial reports for a financial statement, compliance or performance audit. I would also like to note that I am a member of the Government Finance Officers Association (GFOA) and I volunteer my time to the GFOA as a CAFR (Certificate of Achievement for Excellence in Financial Reporting), Budget (Distinguished Budget Presentation Awards Program) and PAFR (Popular Annual Financial Reporting Awards Program) reviewer.

If you are interested in discussing this further you may contact me at my office at (205) 807-4466 or steve@shecpa.com.

Sincerely,

Steven H. Emerson, CPA, CGFM, CGAP, CFE, CITP

1107 COLONIAL DRIVE
ALABASTER, AL 35007

(205) 807-4466
(205) 449-8666
STEVE@SHECPA.COM

FORMATION
DATE: 1/1-10

2011 JAN -6 AM 8:28

FILED FOR RECORD
REBECCA L. MORRIS
CLERK OF CIRCUIT COURT
GULF COUNTY, FLORIDA

73

Vance CPA LLC
Certified Public Accountants
6201 Thomas Drive, Suite 705
Panama City Beach, Florida 32408

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Benjamin N. Vance, CPA

Telephone (850) 236-7433
Toll Free (888) 531-6408
Fax (866) 406-7422
Email ben@vancecpa.com

December 13, 2010

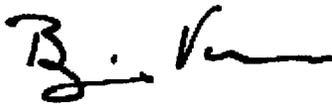
Gulf County Board of County Commissioners
1000 Cecil G. Costin, Sr. Blvd.
Port St. Joe, Florida 32456

Dear Commissioners:

Upon relocating to the State of Florida, I was required to change the name of my firm to comply with the Florida Board of Accountancy regulations regarding firm names.

Because I have only one CPA, I cannot use the word "Associates" in the name when conducting business in the State of Florida.

The firm is the same. The system of Quality Control as reviewed in the peer review program is the same.



Benjamin Vance
For the firm

CC: Don Butler, County Administrator
CC: Jeremy Novak, County Attorney

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REBECCA L. MORRIS
CLERK OF CIRCUIT COURT
GULF COUNTY, FLORIDA
2011 JAN -6 AM 8:28

INFORMATION
DATE: 1-11-10

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