

One Energy Place  
Pensacola, Florida 32520

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ORIGINAL



September 9, 1999

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

Re: Docket No. 981591-EG

Dear Ms. Bayo:

Enclosed is an original and fifteen copies of Gulf Power Company's Response to Peoples Gas System's Motion to Strike Portions of Gulf Power Company's Prefiled Direct Testimony.

Also enclosed is a 3.5 inch double sided, high density diskette containing the Motion in WordPerfect for Windows 8 format as prepared on Windows NT based computer.

Sincerely,

Linda G. Malone  
Assistant Secretary and Assistant Treasurer

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG** \_\_\_\_\_
- LEG \_\_\_\_\_
- MAS \_\_\_\_\_
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- SEC \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

dhr

Enclosures

cc: Beggs and Lane  
Jeffrey A. Stone, Esquire

DOCUMENT NUMBER-DATE

10908 SEP 10 1999

TO: DIVISION OF RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for authority to implement  
Good Cents Conversion Program  
by Gulf Power Company

Docket: 981591-EG  
Date Served: September 9, 1999

**GULF POWER COMPANY'S  
RESPONSE TO PEOPLES GAS SYSTEM'S  
MOTION TO STRIKE PORTIONS OF  
GULF POWER COMPANY'S PREFILED DIRECT TESTIMONY**

Gulf Power Company ["Gulf Power" or "Gulf"], by and through its undersigned attorneys, hereby responds to the motion to strike testimony of Gulf Power Company filed by Peoples Gas Systems as follows:

1. Gulf Power Company asserts that the portion of the direct testimony of Theodore S. Spangenberg, Jr. objected to by Peoples is relevant and material to the issues addressed in this matter, particularly those numbered 1 and 2. Issues numbered 1 and 2 specifically make an issue of the cost-effectiveness of the Good Cents Conversion Program. The inputs and assumptions used by Gulf in its cost-effectiveness calculations are at issue and Gulf must present testimony on those topics. This testimony serves that purpose. The existence of and the level of the incentive are part of the assumptions and inputs in the cost-effectiveness evaluation by Gulf. Clearly, the reason for Gulf utilizing an incentive in the program is relevant and material. Noteworthy, Peoples itself took issue with the existence of and the level of the incentive at oral argument before the Commission at the agenda conference at which the program was denied. This testimony is relevant and material to the Commission's decision in this matter.

DOCUMENT NUMBER-DATE

10908 SEP 10 89

FPSC-RECORDS/REPORTING

2. Peoples argues that this testimony must be stricken because it discusses materials that have not been made an exhibit to the pre-filed testimony and is therefore prejudicial. Peoples cannot argue prejudice with regard to those advertising materials that Peoples has in its possession. Peoples can review these materials in responding to the testimony offered by Mr. Spangenberg. Moreover, the materials are subject to discovery by all parties, including Peoples, and were publically disseminated. The Commission and any party may ask questions regarding the testimony and may request that the information be provided as an exhibit during the proceeding. Studies, treatises and other documents often provide a basis for pre-filed testimony and are not made a part of the testimony. Peoples has offered no legal basis to support striking the testimony at issue.

3. Peoples objects to the specified testimony on the grounds that it constitutes hearsay. Hearsay requires that the statement be made to prove the matter asserted. Mr. Spangenberg does not offer the material to prove that its contents are correct, but rather to show that the utterance were made. Gulf's use of the incentive offered in the Good Cents Conversion Program is, in part, because the utterances were made. This testimony is simply not within the definition of hearsay. Moreover, hearsay is generally admissible in an administrative hearing. Section 120.57(1)(c), Florida Statutes (1997) With regard to the advertisements and materials made by Peoples, they constitute admissions which survive a hearsay objection.

4. Peoples objects to Mr. Spangenberg's testifying to his conclusions about Peoples' advertising, promotional materials and cash incentives. Mr. Spangenberg has expressed an opinion about matters that do not require special knowledge, skill, experience or training. Expert testimony is not required to reveal the false and misleading nature of the advertising,


promotional, and cash incentives. An example of the materials is provided herewith as Exhibit A to show the clear misleading nature of the advertising. If experience or special skill is required, Mr. Spangenberg's nearly two decades of experience with Gulf and/or the Southern Company provide a strong basis for his offering expert testimony regarding marketing and advertising activities.

Mr. Spangenberg's testimony properly characterizes Gulf's opinion of the materials and what effect those materials had on Gulf's use of an incentive in the Good Cents Conversion Program.

5. Peoples has not shown how it would suffer prejudice as a result of this testimony. Peoples has the right to cross-examine Mr. Spangenberg on these materials. These advertising, promotional and cash incentive materials were made public by Peoples through the media. The Commission should have the same opportunity to view these materials as did the general public.

WHEREFORE, Gulf Power Company respectfully requests that the Florida Public Service Commission deny Peoples' Motion to Strike Portions of Gulf Power Company's Pre-filed Direct Testimony.

Respectfully submitted this <sup>9<sup>th</sup></sup> day of September 1999

  
\_\_\_\_\_  
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**Attorneys for Gulf Power Company**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to implement )  
Good Cents Conversion Program by )  
Gulf Power Company )  
\_\_\_\_\_ )


Docket No. 981591-EG

Certificate of Service

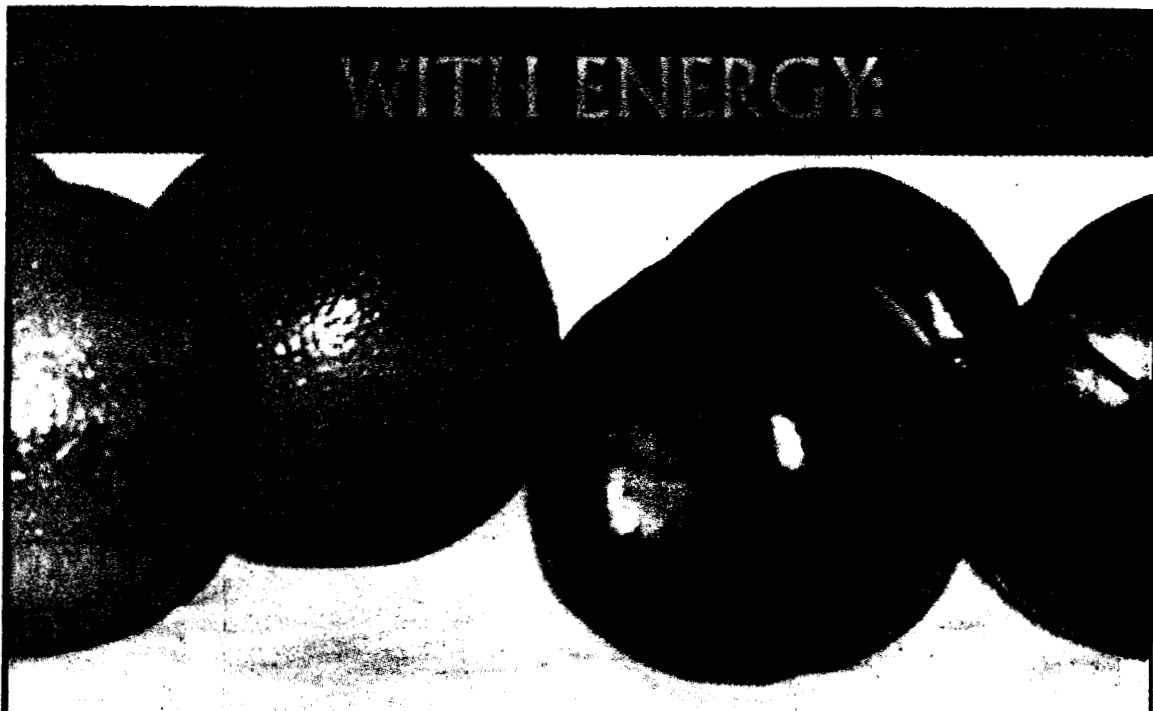
I HEREBY CERTIFY that a copy of the foregoing has been furnished  
this 9<sup>th</sup> day of September 1999 by U.S. Mail or hand delivery to the following:

Tiffany R. Collins, Esquire  
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Attorneys for Gulf Power Company



## COMPARE APPLES to APPLES

**The TRUTH IS:** →

ENERGY	to	ENERGY
100,000 BTUs of Electricity	=	\$1.58
100,000 BTUs of <u>Natural Gas</u>	=	\$.74

(Formula: It takes 29.3 kilowatts of ELECTRICITY at 5.4 cents to equal the energy of 100,000 BTUs. In one therm of NATURAL GAS and electric rates are those in effect as of April 1998.)

NATURAL GAS is  
less than HALF  
the cost of  
electricity in Bay  
County for the  
**SAME AMOUNT**  
of energy.

*We're part of Florida's largest gas and electric energy provider.*



**PEOPLES GAS**

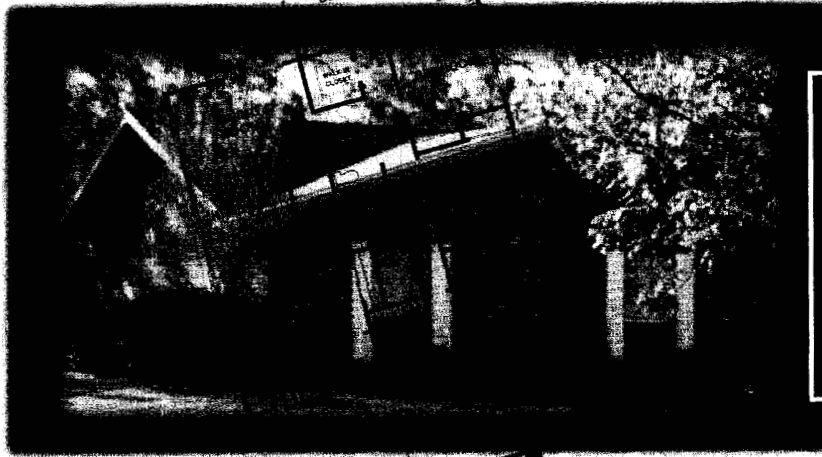
301 Maple Ave. Panama City, FL 850-914-6117

TECO-Peoples Gas is Peoples Gas System, a division of TECO Energy  
[www.tecoenergy.com](http://www.tecoenergy.com)

May, 1998

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**The PLAN  
is now a  
REALITY**

### A Single-Family House

1,859 sq. ft. (heated and cooled), 240 sq. ft. Double Pane/clear windows, 10.0 SEER (Seasonal Energy Efficiency Rating) Central Air Conditioning, Wall insulation (R-13) & Ceiling insulation of (R-38), Concrete slab-on-grade floor, Insulated exterior doors

Natural Gas	Appliance	Electric
78% AFUE* *(Annual Fuel Utilization Efficiency)	Heating	6.6 HSPF* *(Heating Seasonal Performance Factor)
.54EF/75ER* *(Energy Factor/Recovery Efficiency Percentage)	Water Heating	.88 EF* *(Energy Factor)
Natural Gas	Clothes Dryer	Electric
Natural Gas	Range	Electric
<b>\$1,141**</b>	Estimated Yearly Cost	<b>\$1,273**</b>

**You Save at least \$132 yearly with Natural Gas**

\*Efficiencies used are the Florida Minimum approved natural gas and electric appliance efficiencies for new residential construction.  
\*\* Calculations were performed using the Florida ResFREE system. ResFree is the Residential Florida Energy Efficiency Rating System and is the only approved energy efficiency rating of new residences accepted by the Florida Department of Community Affairs.

We're part of Florida's largest gas and electric energy provider.



**PEOPLES GAS**

301 Maple Ave. Panama City, FL 850-914-6117

TECO-Peoples Gas is Peoples Gas System, a division of TECO Energy

[www.tecoenergy.com](http://www.tecoenergy.com)