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ORIGINAL

May 30, 2000

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

Dear Ms. Bayo:

RE: Docket No. 991779-EI

Enclosed are an original and fifteen copies of Gulf Power Company's Post-Hearing Statement of Issues and Positions and the Post-Hearing Brief.

Also enclosed is a 3.5 inch double sided, high density diskette containing the Statement and the Brief in WordPerfect for Windows 8.0 format as prepared on a Windows NT based computer.

Sincerely,

Susan D. Ritenour

Susan D. Ritenour
Assistant Secretary and Assistant Treasurer

lw

cc: Beggs and Lane
Jeffrey A. Stone, Esquire

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Review of the appropriate application of incentives to wholesale power sales by investor-owned electric utilities.	) Docket No.: 991779-EI) Date Filed: May 31, 2000

POST-HEARING STATEMENT OF ISSUES AND POSITIONS
AND
POST-HEARING BRIEF OF GULF POWER COMPANY

GULF POWER COMPANY ("Gulf Power," "Gulf," or "the Company"), by and through its undersigned counsel, and pursuant to Order No. PSC-00-0195-PCO-EI, issued January 26, 2000; Order No. PSC-00-0888-PHO-EI, issued May 5, 2000; and Rule 28-106.215, Florida Administrative Code, hereby submits the Company's post-hearing statement of issues and positions and the Company's post-hearing brief in this docket to the Florida Public Service Commission ("the Commission", "FPSC").

ISSUES AND POSITIONS

ISSUE 1: **Should the Commission eliminate the 20 percent shareholder incentive set forth in Order No. 12923, *issued January 24, 1984, in* Docket No. 830001-EU-B?**

**

GULF: No. The FPSC incentive for economy energy sales was established in 1984 due to the overall benefit from increased economy sales. Today's more competitive wholesale market makes utility economy sales more difficult to achieve, therefore increasing the importance of the incentive to encourage continued participation in the economy energy market.

**

ISSUE 2: **If the Commission decides to maintain the 20 percent shareholder incentive in Issue 1 *or approves a new incentive*, what types of non-separated, non-firm, wholesale sales should be eligible to receive the shareholder incentive?**

**

GULF: At a minimum, the 20% shareholder incentive for economy sales should be applied to all non-separated wholesale economy energy sales regardless of whether they are made "off-broker" or through the EBN. The 20% shareholder incentive should continue to be applied to all of Gulf's non-separated wholesale economy energy sales.

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ISSUE 3: **If the Commission decides to maintain the 20 percent shareholder incentive in Issue 1 or approves a new incentive, how should the incentive be structured?**

**

GULF: At a minimum, the policy of allowing the 20 percent shareholder incentive for all economy energy sales established by Order No. 12923, issued 1/24/84, should be continued. The incentive for economy sales should be applied to all non-separated wholesale economy energy sales whether made "off-broker" or through the EBN.

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BRIEF

CASE BACKGROUND

By Order No. 12923, issued January 24, 1984, in Docket No. 830001-EU-B, the Commission established an incentive mechanism to encourage investor-owned electric utilities to make economy energy transactions. Economy energy transactions represent opportunity sales of energy at wholesale. (Tr. 101) Gains are realized by the seller when the selling price of the transaction is higher than the incremental cost of producing the energy sold in the transaction. (Tr. 105, 182-83) In Order No. 12923, the Commission decided that selling utilities should be allowed to retain 20 percent of the gain on economy energy sales for their shareholders and should credit the remaining 80 percent to retail electric customers through the fuel clause. The Commission stated that the 20 percent incentive was large enough to maximize the amount of economy energy sales and provide a net benefit to retail electric customers. (See Order No. 12923; Tr. 32, 99)

The 80%/20% gain sharing incentive mechanism approved by the Commission in Order No. 12923 was not adopted without opposition. The Office of Public Counsel ("OPC") was then (as it is now) opposed to any incentive sharing of the gain on economy sales. (Order No. 12923

at 2) In 1983, OPC sponsored testimony by a witness who ". . . stated that he did not feel it was necessary or equitable to have an incentive for the utility to engage in these economy sales transactions." (Order No. 12923 at 2) The Commission explicitly rejected OPC's position in Order No. 12923 and, through Order No. 13092, implemented the incentive plan for Gulf Power and the other three major investor-owned electric utilities in Florida beginning April 1, 1984. OPC challenged the incentive plan on appeal to the Florida Supreme Court, contending ". . . that the incentive procedure is unnecessary and the evidence is insufficient to support the change adopted by the commission." Citizens v. Public Service Commission, 464 So 2d 1194 (Fla. 1985) The Supreme Court affirmed the Commission's decision in Order No. 12923 after finding ". . . that the commission clearly had substantial competent evidence to support its order." Id.

As noted in the preceding paragraph, the FPSC actually implemented the plan set forth in Order No. 12923 through Order No. 13092 which was entered in the ongoing fuel cost recovery docket. In that subsequent order, the Commission approved changes in the base rates for all four investor-owned electric utilities (Gulf Power, Florida Power & Light ("FPL"), Florida Power Corporation ("FPC"), and Tampa Electric Company ("TECO")). (See, Order No. 13092) The increase in base rates implemented that part of Order No. 12923 that directed the utilities to remove economy sales profits from base rates and include them in the fuel and purchased power cost recovery clause effective April 1, 1984.

Order No. 13092 also showed Gulf and the other investor-owned electric utilities beginning to share economy energy sales profits between retail electric customers and the shareholders on an 80%/20% basis. (See Schedule C attached to Order No. 13092) This aspect of Order No. 13092 is particularly significant because it applied equally to Gulf Power which,

unlike the other Florida investor-owned electric utilities, did not (and does not) participate in Florida's Energy Broker Network ("EBN"). (Tr. 282, 285) All of Gulf's economy energy sales are made in conjunction with the other operating companies in the Southern electric system (comprised of the operating companies owned by The Southern Company -- Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company). (Tr. 190)

In proceedings held last November in Docket No. 990001-EI, an issue was raised concerning whether the 20 percent shareholder incentive is still necessary or appropriate and whether it should be eliminated. (See Order No. PSC-2512-FOF-EI) The Commission took testimony on this issue from FPC, Gulf, TECO, the Florida Industrial Power Users Group ("FIPUG"), OPC and the FPSC staff. The three members of the Commission's fuel panel also heard extensive cross-examination on the issue and ultimately concluded that it was not appropriate to make a decision on the issue at that time. In Order No. PSC-99-2512-FOF-EI (at page 4), the Commission stated:

> Eliminating the 20% shareholder incentive would represent a major shift in this Commission's policy. We believe that such a policy shift would more appropriately be decided by the full Commission, rather than the three-Commissioner panel assigned to this proceeding. Further, we believe that the record developed in this proceeding leaves additional questions to be answered. Accordingly, we take no action on this issue and instruct our staff to institute an appropriate proceeding by which the full Commission may more thoroughly explore this issue before the next annual fuel hearing.

This proceeding was held pursuant to the foregoing directive from the members of the Commission's fuel panel.

DISCUSSION

No new evidence has been submitted to justify a departure from the practice of allowing a 20 percent shareholder incentive on economy energy sales established more than 16 years ago. Instead, parties in this proceeding that advocate withdrawing approval of the existing incentive mechanism have opportunistically used the existence of a more competitive wholesale energy market to reassert the same arguments raised in opposition to the incentive mechanism when it was created.

The basic arguments raised by OPC and FIPUG against the continued use of the incentive mechanism today are the same arguments raised by OPC when the incentive mechanism was created by Order No. 12923, issued January 24, 1984, in Docket No. 830001-EU-B. (See Order No. 12923 at 2) OPC appealed that decision by the FPSC to the Florida Supreme Court and lost. See, Citizens v. Public Service Commission, 464 So 2d 1194 (Fla. 1985)

OPC argues that the existing mechanism is unfair because it applies to all sales, not just sales above a set benchmark. (Tr. 17) In making this argument, OPC suggests that the existing mechanism is unfair to customers of the utility in the same manner that a "penalty-only, no opportunity for a reward" mechanism would be unfair to utility shareholders. (Tr. 16) OPC then suggests that removal of the existing incentive would enhance "fairness." (Tr. 16) OPC (in a position that is apparently shared by FIPUG) simultaneously makes the argument that the existing mechanism pays utility shareholders an incentive on sales a well managed utility is "obligated" to make anyway. (Tr. 16) Implicit in this argument is the notion that the FPSC can (and presumably should) "penalize" a utility if it fails to make sales up to the "obligated" level. In other words, by seeking to have the Commission withdraw approval for the existing incentive

mechanism, OPC and FIPUG ultimately expect the FPSC to impose a one-sided, "penalty-only, no opportunity for reward" mechanism as the sole means of encouraging utilities to continue to participate in the wholesale energy market and, through that continued participation, to increase their effectiveness at gaining margins for the benefit of their retail electric customers.

The notion that the Commission can effectively and efficiently identify a "benchmark" target level of economy energy sales which the utility is "obligated" to achieve was rejected by the FPSC when it established the existing incentive mechanism in Order No. 12923. The existing incentive mechanism was adopted by the Commission when it transferred the treatment of gain on economy energy sales from utilities' general base rate proceedings to the fuel adjustment docket. The chief reason given by the Commission for making this change was ". . . to eliminate the potential for over or under recovery of revenues associated with economy energy sales." (Order 12923 at 2) At page 2 of Order No. 12923, the Commission specifically acknowledged that establishing the proper level of economy energy sales as a utility target had proven to be a difficult issue in setting utility rates, and went on to explain that:

> Problems with the current treatment stem from the difficulty in projecting economy sales and the potential bias of a utility to under project their economy sales profits. The difficulty in projecting economy sales profits is due to uncertainty associated with fuel prices, weather, and forced outages of generating units and utility lines. These variables affect not only how much a utility can sell and at what price, but also how much other utilities will buy at different prices.

There has been absolutely no evidence introduced in this proceeding that would tend to suggest, let alone prove, that the uncertainty associated with these and other variables has been eliminated since 1984. To the contrary, the inherent difficulty associated with establishing an appropriate target level for economy energy sales has <u>increased</u> since 1984 as a result of the very

changes in the wholesale market which OPC and FIPUG have opportunistically used as a basis for reopening the incentive question. (Tr. 132-35)

The existence today of a more competitive wholesale energy market than that which existed in 1983-84 when the current incentive policy was established has been suggested as a basis for abandoning the existing policy. (Tr. 260-261, 268) Such a concept is misguided and inappropriate. A more competitive wholesale market tends to make the sales more difficult to achieve and therefore enhances the need for incentives to encourage continued regulated utility participation in the competitive wholesale energy market. (Tr. 34, 99-100, 123, 185-86) The existence of more potential sellers in a competitive market tends to drive down profit margins to the sellers and likewise result in lower prices to the buyers. (Tr. 34) Of course, when utilities are purchasers of economy energy, these lower prices translate directly into benefits for the retail electric customers who receive 100% of the benefits from purchases of economy energy flowed back to them through the fuel cost recovery clause. (Tr. 182)

The margin between the incremental cost to the seller of producing the energy sold in an economy energy sale and the selling price is available to offset other "fixed" costs of the utility that must otherwise be supported by rates charged to its retail electric customers. (Tr. 187, 199-200) This potential "contribution to fixed costs" provides the source of potential benefits to utility retail electric customers from increased economy sales that the Commission sought to encourage in Order No. 12923 when it allowed utilities to retain 20 percent of the margin for their shareholders. In other words, utility retail electric customers receive 80 percent of the gains achieved on economy energy sales as a reduction to costs they would otherwise have to bear. The fact that this split has been weighted so heavily in favor of the retail electric customer has

provided a reasonable means of addressing any concern over the fairness of applying the incentive to all sales.

The predominant mechanism for pricing economy energy has changed over the past 16 years from a "split-the-savings" approach to a "market-based" approach. (Tr. 33-34, 38) In 1983-84, when the Commission was considering the treatment of gain on economy energy sales, such sales were predominantly priced on a "split-the-savings" basis. (Tr. 33, 38) That is, the selling price was established mid-way between the buyer's projected cost it would otherwise incur to generate that energy itself ("buyer's decremental cost") and the seller's projected incremental cost of generating the energy ("seller's incremental cost") for the wholesale transaction. (Tr. 123, 227) The fundamental concept is that when the selling price is lower than the buyer's decremental cost and higher than the seller's incremental cost, both parties are willing to make the transaction. (Tr. 123) Once the selling price was determined in this manner, if a sale was made then the seller's gain (if any) would be determined by comparing the seller's actual incremental cost of generation during the period of the sale with the selling price. (Tr. 198-99) Of course, the buyer's "gain" can only be estimated since one can never "know" the actual cost of generating energy not generated. (Tr. 105)

Under the "market-based" approach for pricing economy energy transactions that predominates today, the buyer and seller "negotiate" the selling price. A sale takes place when a seller willing to sell at a given price and a buyer willing to buy at that same price link up in a contractual agreement. The fundamental concept remains the same as under the old "split-the-savings" pricing approach. (Tr. 199-200) That is, a "buyer" is willing to buy economy energy when the price for the proposed transaction is lower than the buyer's decremental cost. (Tr. 198-

99) A "seller" is willing to sell economy energy when the price for the proposed transaction is higher than the seller's incremental cost. (Tr. 198-99)

Regardless of the mechanism used to set the selling price, when the transaction occurs at a price that produces a margin above the seller's incremental cost, there is a net benefit available from the transaction. The sharing of this net benefit as a means to encourage the activity, for the ultimate benefit of retail electric customers and shareholders alike, is the fundamental principle behind the incentive mechanism created by Order No. 12923. That fundamental principle is as true today as it was in 1984.

The existing mechanism of allowing utilities to retain 20 percent of the gain associated with all non-separated wholesale economy energy sales continues to be fair and reasonable. First, the 20 percent shareholder incentive is taken from the actual gains received from such sales. It is not taken from the gross sale amount. This provides a direct incentive supporting efforts to maximize the overall profits on all such sales. In doing so, the utility has the proper motivation to price each prospective sale at a level that is both high enough to achieve the maximum profit and low enough to allow the transaction to occur with a willing buyer. Second, by applying the same modest percentage to the gains on all sales rather than a tiered approach applied to varying level of sales, the Commission avoids the difficulty (and expense) associated with attempting to administratively set the appropriate target level for each tier. (Tr. 132-35) Third, application of the incentive mechanism to all non-separated wholesale economy energy sales provides a self-correcting mechanism to ensure adequate utility effort more efficiently than would be accomplished with a "penalty-only, no opportunity for a reward" approach. Under the latter concept, not only would the Commission face the difficulty of administratively setting the

appropriate target level of sales, but it would also face a more daunting task of audits whenever sales fall short of the targets. (Tr. 132-35) With an incentive applied to all economy energy sales, utilities suffer direct opportunity losses due to foregone profits if they miss sales opportunities as opposed to the prospects of a penalty assessed in the future for past conduct. (Tr. 249) The 80%/20% gain sharing mechanism created by Order No. 12923 should be continued and should be available to utilities for all non-separated, non-firm, wholesale economy energy sales.

DISCUSSION SPECIFIC TO IDENTIFIED ISSUES

ISSUE 1: Should the Commission eliminate the 20 percent shareholder incentive set forth in Order No. 12923, issued January 24, 1984, in Docket No. 830001-EU-B?

SUMMARY:

No. The Commission should not take any action to remove or reduce the existing 20 percent shareholder incentive available to utilities making economy energy sales. By establishing in 1984 the existing incentive mechanism applicable to economy energy sales, the Commission recognized the need for and overall benefit of increased sales of economy energy. The existing system has well served the customers of Florida's investor owned electric utilities for over 16 years. The competitive market changes that have recently occurred have only increased the importance of this incentive mechanism as a means to encourage continued participation in the economy energy market for the immediate benefit of customers and shareholders alike.

DISCUSSION:

As noted in the general discussion section of this brief, the arguments that have been raised in opposition to continuing the incentive mechanism established by Order No. 12923 were considered and rejected by the Commission when it issued that order. A sufficient basis for reconsidering that policy has not been established in this case. The opportunistic use of the existence of a more competitive wholesale market does not provide a basis for rearguing the

policy. First, the existence of a more competitive wholesale market does not alter the fundamental premise that there is a pool of potential benefits available from economy energy sales and therefore such sales should be encouraged in order to obtain such benefits for retail customers. Second, the existence of a more competitive wholesale market actually makes it harder for any given utility to make economy energy sales in today's environment. (Tr. 34, 99-100, 123, 134-35, 185-86, 303-04) Therefore, the current incentive structure is more important in a competitive marketplace to encourage the type of effort necessary to locate and make sales in the face of increased competition. (Tr. 134-35, 185-86, 188, 305, 314)

Withdrawing an existing incentive mechanism from investor-owned electric utilities sends the signal that such activities by these utilities are not favored by the regulators as much as they once were. (Tr. 186, 303) In a world of limited resources, such a signal would tend to support a reallocation of resources and effort to activities that are clearly favored as part of being "a well managed utility." (Tr. 303, 305) In addition, withdrawing an existing incentive mechanism which was existing (and therefore implicitly considered) when so-called "fully compensatory rates" were established by the FPSC is inherently unfair to utilities and their shareholders because it changes one element of the package of compensation to utilities in a vacuum.

An effort has been made to suggest that the incentives inherent to the wholesale market are sufficient to encourage continued utility participation in that market at the level desired by the FPSC. In this regard, it is important to note that the incentives inherent to the wholesale market are nothing more then the opportunity to make a profit. Those market participants that are not subject to the retail rate jurisdiction of the FPSC receive all of the profits from wholesale

energy sales, whereas, under the incentive plan set up by Order No. 12923, only 20 percent of that profit opportunity flows to Florida's investor-owned electric utilities. (Tr. 185-86, 189, 308) This is not a case where an artificial incentive is being applied to a pure economic theory of competitive markets, supply and demand, etc. Rather, in a small way, the 20 percent incentive allowed by the Commission recognizes that continued participation in a wholesale market that is primarily beyond the FPSC's jurisdiction by utilities that are subject to the FPSC's retail rate jurisdiction creates a pool of benefits for retail customers that may not otherwise be available. Removal of the existing incentive applied by Gulf to all of its non-separated, non-firm, wholesale economy energy sales would have the effect of removing all profit motive for continuing to participate in that market. Statements to the contrary in this case by FIPUG, OPC and OPC's witness are simply not worthy of belief and should be ignored.

ISSUE 2: If the Commission decides to maintain the 20 percent shareholder incentive in Issue 1 or approves a new incentive, what types of non-separated, non-firm, wholesale sales should be eligible to receive the shareholder incentive?

SUMMARY:

At a minimum, the 20 percent shareholder incentive for economy energy sales should be applied to all non-separated wholesale economy energy sales regardless of the pricing mechanism used to establish the transaction price and regardless of whether they are made "off-broker" or through the Florida broker system ("EBN"). The benefits available to Florida retail electric customers from economy energy sales are not limited to sales made through a "split-the-savings" pricing approach or to sales made through a particular marketplace such as the EBN. The 20 percent shareholder incentive should be applied to all of Gulf's non-separated, non-firm, wholesale economy energy sales.

DISCUSSION:

As noted in the general discussion section of this brief, Gulf believes that the incentive established in Order No. 12923 should be applied to all non-separated, non-firm, wholesale

economy energy sales, regardless of the pricing mechanism used to establish the transaction price and also without regard to the location of the ultimate customers of the buyer. In other words, Gulf Power should continue to be allowed to apply the 20 percent shareholder incentive as it has since 1984. The benefits of economy energy sales made by Gulf (which are not made through the EBN) are not distinguishable from the benefits of such sales made through the EBN by participants in that market. (Tr. 182) Gulf has applied the 20 percent shareholder incentive to its economy energy sales made under both the cost-based ("split-the-savings") pricing method and the market-based pricing approach. (Tr. 182-83, 312, 314) It would be unreasonable and unfair to define the incentive program in such a way that it excludes Gulf's shareholders from participating despite the fact that the Company achieves the same type of benefits for its customers in a similar though not identical manner. (Tr. 283-85, 312)

This issue apparently arose because the four investor-owned electric utilities in Florida subject to the Commission's decision in this case have not uniformly defined "economy energy sales" for purposes of applying the existing incentive mechanism. This variance between utilities is, in part, the result of differences between the utilities in how they are structured and differences in how they conduct business in the various markets in which they participate. These differences naturally led to differences in focus which has led to different interpretations of the scope of the incentive available under Order No. 12923. As noted by Commissioner Clark in the panel's general discussion of this issue in the November 1999 fuel hearing ". . . we can rely on the fact that . . . for those who haven't pursued it, it's because it hasn't been material to them." (Transcript of hearing on November 22, 1999 in Docket No. 990001-EI at page 746)

All of the utilities in this docket appear to be advocating the same inclusive definition of sales eligible for the existing incentive mechanism that Gulf Power has been using all along. (Tr. 244) It is important to note that Gulf's interpretation is consistent with the purpose of the incentive plan since the beginning. When the demands of the marketplace effectively eliminated the continued feasibility of the old "split-the-savings" pricing method for economy energy transactions, it was largely replaced by the "market-based" pricing approach. Other than the pricing methodology, there is no material difference between these two "types" of economy sales. Since both pricing methods result in a pool of potential benefits to utility retail electric customers, it is a reasonable interpretation of the Commission's intent behind Order No. 12923 for Gulf to continue applying the existing incentive to its economy energy sales despite the change in pricing method. Gulf believes that this is the proper basis for a uniform definition of the types of sales for which the existing incentive is applicable.

Although the Commission has indicated its preference for uniformity in the area of fuel cost recovery, it has acknowledged that "[a]t times it may be appropriate to treat similar types of expenses in dissimilar ways." (Order No. 14546 at 2) The Commission should approve the continuing applicability of the 20 percent shareholder incentive to the gains from all non-separated, non-firm, wholesale economy energy sales without distinguishing between such things as: (1) the pricing method used for the economy transaction; (2) the location of the ultimate customer of the "buyer"; or (3) whether the transaction is conducted on the broker or otherwise. If the Commission were to decide on a generic basis to impose a more restrictive definition of the eligible pool of economy sales for which the incentive should be applicable, then the differences between Gulf and the peninsula Florida utilities should be recognized by the FPSC in this

instance and the Commission should exercise its discretion to allow Gulf to continue to apply the incentive to its economy energy sales as the Company has in the past. It would be unfair and unreasonable to Gulf Power to have the lack of uniformity among utilities in their past interpretation of Order No. 12923 to be used as a basis for precluding Gulf's shareholders from continuing to receive the 20 percent share of gains on the Company's wholesale economy energy sales. (Tr. 312)

ISSUE 3: If the Commission decides to maintain the 20 percent shareholder incentive in Issue 1 or approves a new incentive, how should the incentive be structured?

SUMMARY:

At a minimum, the Commission should continue its policy of allowing a 20 percent shareholder incentive associated with the actual gain achieved on economy energy sales. The policy was initially set forth in Order No. 12923, issued January 24, 1984, in Docket No. 830001-EU-B. The approved shareholder incentive should be applied to all non-separated wholesale economy energy sales rather than just sales above an administratively established benchmark. In Order No. 12923, the Commission recognized the difficulty and potential unfairness of trying to determine the appropriate level of economy energy sales that should be included in financial projections. An attempt to change the incentive system from one that applies to all sales to one that varies with the level of sales would lead the Commission back into the difficult and potentially unfair process that was eliminated by Order No. 12923.

DISCUSSION:

As noted in the general discussion section of this brief, an attempt to change the structure of the existing incentive so that it applies only to sales above a certain benchmark would force the Commission to once again engage in the difficult and potentially unfair process of trying to identify the proper level of economy energy sales, which had proven to be a difficult issue for the Commission in the past. Order No. 12923 stated as the chief rationale for the policy established therein the Commission's goal ". . . to eliminate the potential for over or under recovery of revenues associated with economy energy sales." (Order No. 12923 at 2) The Commission's

order acknowledged that establishing the proper level of economy energy sales as a utility target had proven to be a difficult issue. At page 2 of Order 12923, the Commission further stated:

> Problems with the current treatment stem from the difficulty in projecting economy sales and the potential bias of a utility to under project their economy sales profits. The difficulty in projecting economy sales profits is due to uncertainty associated with fuel prices, weather, and forced outages of generating units and utility lines. These variables affect not only how much a utility can sell and at what price, but also how much other utilities will buy at different prices.

None of the evidence introduced in this proceeding suggests, let alone proves, that the uncertainty associated with these and other variables has been eliminated. If anything, the inherent difficulty associated with establishing an appropriate target level for economy energy sales has increased as a result of changes in the wholesale market. (Tr. 132-35)

The Commission should not allow different practices adopted by other jurisdictions in a potentially different context to obscure its own experience with the difficulty of establishing an appropriate target level of economy energy sales for utilities under FPSC jurisdiction. For example, the Louisiana Public Service Commission ("LPSC") issued its Order U-23327 (referenced by the Commission's Staff in Exhibit 1) in a totally different context than is faced by the FPSC in this case. First, the LPSC order was issued in the context of a request for the LPSC's consent to a merger between utilities that was made by the parties to the proposed merger. Second, as one of several conditions for receiving the LPSC's consent to the proposed merger, the utility subject to the LPSC's jurisdiction proposed the creation of a new incentive program related to economy energy sales which included varying levels of incentives depending upon the level of economy sales achieved. While it cannot be determined from the order whether the proposed merger has occurred, and therefore whether the proposed incentive plan endorsed

by the LPSC has been implemented, it is apparent that the LPSC was not then being asked to consider eliminating an existing incentive program implemented for the ultimate benefit of retail electric customers. It also does not appear that the LPSC specifically considered the potential difficulty of determining whether the levels of economy sales associated with the proposed incentive plan were appropriately and fairly determined. In this regard, for the FPSC to adopt the LPSC approach, the FPSC would have to ignore its own experience that led to Order No. 12923. As noted in the general discussion section of this brief, there has been no evidence introduced in this proceeding that would tend to suggest, let alone prove, that the uncertainty associated with these and other variables has been eliminated since 1984.

As discussed earlier in this brief, the idea that the Commission can effectively and efficiently identify a "benchmark" target level of economy energy sales which the utility is "obligated" to make was rejected by the FPSC when it established the existing incentive mechanism in Order No. 12923 and should continue to be rejected today. The existing approach of applying the incentive to all levels of sales continues to be a reasonable approach to encourage the type of behavior that the Commission sought to encourage in 1984. The benefits to Florida's retail electric customers that flow from the behavior that was sought by the Commission when it established the existing incentive mechanism are still valid today and should be encouraged in the same effective and efficient manner.

CONCLUSION

For the reasons discussed above and expressed in the testimony of Gulf's witness in this proceeding, the existing incentive mechanism tied to Gulf Power's wholesale economy energy sales that has allowed the Company's shareholders to retain 20 percent of the actual gain realized

on all non-separated, non-firm, wholesale economy energy sales should be continued. The existing mechanism of allowing utilities to retain 20 percent of the gain associated with all non-separated wholesale economy energy sales continues to be fair and reasonable and is in the best interests of utilities' retail electric customers. If anything, the existence of a more competitive wholesale energy market supports rather than detracts from the continued validity of the incentive mechanism established and applied by the Commission for the past 16 years.

Respectfully submitted the 30th day of May 2000.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Review of the appropriate application of incentives to wholesale power sales by investor-owned electric utilities

Docket No. 991779-EI

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was furnished by hand delivery or the U. S. Mail this 30th day of May 2000 on the following:

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