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**Sent:** Monday, August 15, 2011 3:39 PM  
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**Subject:** e-filing (Docket 110138-EI)  
**Attachments:** Objections to OPCs First PODs.pdf

- a. Person responsible for this electronic filing:

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- b. Docket 110138-EI

In re: Petition for increase in rates by Gulf Power Company

- c. Document being filed on behalf of Gulf Power Company  
 d. There are 10 pages to Gulf's Objections  
 e. The document attached for electronic filing is Gulf's Objections to OPC's First Production of Documents to Gulf Power (Nos. 1-74)

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for increase in rates by Gulf  
Power Company.

Docket No. 110138-EI  
Dated: August 15, 2011

**GULF POWER COMPANY'S OBJECTIONS TO CITIZENS' FIRST REQUEST  
FOR PRODUCTION OF DOCUMENTS (NOS. 1-74)**

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.350 of the Florida Rules of Civil Procedure, and the Order Establishing Procedure in this matter, Gulf Power Company ("Gulf") hereby serves its objections to Florida Citizens' ("OPC") First Request for Production of Documents (Nos. 1-74, and respectively, and together "the Requests") and states as follows:

**GENERAL OBJECTIONS**

With respect to any "Definitions" and "Instructions" in OPC's Requests for Production, Gulf objects to any definitions or instructions that are inconsistent with Gulf's discovery obligations under applicable rules. If some question arises as to Gulf's discovery obligations, Gulf will comply with applicable rules and not with any of OPC's definitions that are inconsistent with those rules. Gulf also objects to any request that calls for documents to be produced from the files of Gulf's counsel in this matter because such documents are privileged and are otherwise not within the scope of discovery under the applicable rules and law. Furthermore, Gulf objects to any definition or request that seeks to encompass persons or entities other than Gulf who are not parties to this action and thus are not subject to discovery. Records of affiliated companies, including The Southern Company, that are directly relevant to Gulf's rate request, including records regarding transactions or cost allocations among Gulf and its affiliated companies may be provided, upon request. Otherwise, no responses to the requests will be made on behalf of persons or entities other than Gulf. Gulf also objects to OPC's request that

Gulf provide documents in a specific electronic format. Gulf will produce electronic data in its native format. Non-electronic documents will be scanned and produced in PDF format. However, Gulf objects to OPC's request to produce documents in an OCR searchable format on the grounds that doing so would be unduly burdensome and otherwise beyond Gulf's discovery obligations under applicable law. Furthermore, Gulf objects to any request that calls for Gulf to create documents that it otherwise does not have because there is no such requirement under the applicable rules and law.

Additionally, Gulf generally objects to OPC's Requests to the extent that they call for documents protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law. Gulf will provide a privilege log in accordance with the applicable law or as may be agreed to by the parties to the extent, if at all, that any document request calls for the production of privileged or protected documents.

Further, in certain circumstances, Gulf may determine upon investigation and analysis that documents responsive to certain requests to which objections are not otherwise asserted are confidential and proprietary and should be produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to provide such information in response to such a request, Gulf is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement, protective order, or the procedures otherwise provided by law or in the Order Establishing Procedure. Gulf hereby asserts its right to require such protection of any and all information that may qualify for protection under the Florida Rules of Civil Procedure, the Order Establishing Procedure, and all other applicable statutes, rules and legal principles.

Gulf generally objects to OPC's Requests for Production to the extent that they call for the production of "all" documents of any nature, including, every copy of every document responsive to the requests. Gulf will make a good faith, reasonably diligent attempt to identify and obtain responsive documents when no objection has been asserted to the production of such documents, but it is not practicable or even possible to identify, obtain, and produce "all" documents. In addition, Gulf reserves the right to supplement any of its responses to OPC's Request for Production if Gulf cannot produce documents immediately due to their magnitude and the work required to aggregate them, or if Gulf later discovers additional responsive documents in the course of this proceeding.

Gulf also objects to any request that calls for projected data or information beyond the year 2012 because such data or information is wholly irrelevant to this case and has no bearing on this proceeding, nor is such data or information likely to lead to the discovery of admissible evidence.

Gulf objects to the instruction to provide documents on or before August 24, 2010 [sic]. Pursuant to the Order Establishing Procedure, Gulf Power has 30 days to respond to document requests. Consequently, Gulf will serve responsive documents on August 25, 2011.

Gulf generally objects to each Request to the extent that it calls for information that is not relevant to this case. Where practical, Gulf has made efforts to redact irrelevant information with a notation regarding the nature of the redaction.

By making these general objections at this time, Gulf does not waive or relinquish its right to assert additional general and specific objections to OPC's discovery at the time Gulf's response is due under the Florida Rules of Civil Procedure and the Order Establishing Procedure.

Gulf provides these general objections at this time to comply with the intent of the Order Establishing Procedure to reduce the delay in identifying and resolving any potential discovery disputes.

### **SPECIFIC OBJECTIONS**

**Request 2:** Gulf objects to OPC's request number 2 to the extent that the request calls for Gulf to obtain documents from other parties (i.e., all subsidiaries of The Southern Company) that are not within Gulf Power's possession, custody or control. Additionally, as the request relates to entities other than Gulf, Gulf objects because the data requested is not relevant to this case, has no bearing on this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence.

**Request 3:** Gulf objects to OPC's request number 3 to the extent that the request calls for Gulf to obtain documents from other parties (i.e., The Southern Company and each of its subsidiaries, affiliates or divisions) that are not within Gulf Power's possession, custody or control. Additionally, as the request relates to entities other than Gulf, Gulf objects because the data requested is not relevant to this case, has no bearing on this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence.

**Request 4:** Gulf objects to OPC's request number 4 to the extent that it directs Gulf to "explain all assumptions and calculations used." This directive is in the nature of an interrogatory and exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 5:** Gulf objects to OPC's request number 5 to the extent that it directs Gulf to "explain all assumptions and calculations used." This directive is in the nature of an interrogatory and exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 6:** Gulf objects to OPC's request number 6 to the extent that it directs Gulf to "explain all assumptions and calculations used." This directive is in the nature of an interrogatory and exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 17:** Documents produced in response to this request will include some affiliate data which is not relevant to this case. Due to the large volume of documents involved and timing constraints, Gulf has chosen not to redact this affiliate data. Gulf's decision not to redact affiliate in this instance shall not amount to a waiver of Gulf's general objection to providing affiliate data which has no bearing on this case.

**Request 18:** Documents produced in response to this request will include some affiliate data which is not relevant to this case. Due to the large volume of documents involved and timing constraints, Gulf has chosen not to redact this affiliate data. Gulf's decision not to redact affiliate in this instance shall not amount to a waiver of Gulf's general objection to providing affiliate data which has no bearing on this case.

**Request 21:** Gulf objects to OPC's request number 21 to the extent that the request calls for Gulf to obtain documents from other parties (i.e., The Southern Company) that are not within Gulf Power's possession, custody or control. Additionally, as the request relates to entities other than Gulf, Gulf objects because the data requested is not relevant to this case, has no bearing on this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence.

**Request 22:** Gulf objects to OPC's request number 22 to the extent that the request calls for Gulf to obtain documents from other parties (i.e., Southern Company) that are not within Gulf Power's possession, custody or control. Additionally, as the request relates to entities other than

Gulf, Gulf objects because the data requested is not relevant to this case, has no bearing on this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence.

**Request 33:** Gulf objects to OPC's request number 33 to the extent that it directs Gulf to "explain all assumptions and calculations used." This directive is in the nature of an interrogatory and exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 34:** Gulf objects to OPC's request number 34 to the extent that it directs Gulf to "explain all assumptions and calculations used." This directive is in the nature of an interrogatory and exceeds Gulf's obligation under Rule 1.350 to produce responsive documents. Further, Gulf objects to subsection (d) of this request to the extent that it calls for creation of reconciliation work papers which may not otherwise exist.

**Request 37:** Gulf objects to OPC's request number 37 to the extent that it directs Gulf to "explain all assumptions and calculations used." This directive is in the nature of an interrogatory and exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 38:** Gulf objects to OPC's request number 38 to the extent that it directs Gulf to "identify" certain documents and materials. This directive is in the nature of an interrogatory and exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 39:** Gulf objects to OPC's request number 39 to the extent that it directs Gulf to "identify" certain documents and materials. This directive is in the nature of an interrogatory and exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 40:** Gulf objects to OPC's request number 40 to the extent that it directs Gulf to "identify" certain documents and materials. This directive is in the nature of an interrogatory and exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 46:** Gulf objects to OPC's request number 46 to the extent that it directs Gulf to provide documentation relating to use of aircraft by all Southern Company employees. Gulf will produce documentation relating to Gulf Power employees' use of aircraft and use of aircraft by other persons within the Southern Electric system on Gulf Power's behalf. All other information is irrelevant, beyond the scope of this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence.

**Request 47:** Gulf objects to OPC's request number 47 on the ground that it is vague. Gulf further objects to the extent that the request calls for Gulf to obtain documents from other parties (i.e., all subsidiaries, affiliates and divisions of The Southern Company) that are not within Gulf Power's possession, custody or control. Additionally, as the request relates to entities other than Gulf, Gulf objects because the data requested is not relevant to this case, has no bearing on this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence.

**Requests 53-56:** Gulf objects to OPC's requests numbered 53-56 to the extent that the requests call for Gulf to obtain documents from other parties (i.e., The Southern Company) that are not within Gulf Power's possession, custody or control. Additionally, as the requests relate to entities other than Gulf, Gulf objects because the data requested is not relevant to this case, has no bearing on this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding these objections, as a courtesy, Gulf will provide

information relating to The Southern Company to the extent that such information is otherwise publicly available.

**Request 57:** Gulf Power objects to OPC's request number 57 to the extent that it calls for production of correspondence unrelated to Gulf Power that is not within Gulf Power's possession, custody or control. As the request relates to entities other than Gulf, Gulf objects because the data requested is not relevant to this case, has no bearing on this proceeding, and is not reasonably calculated to lead to the discovery of admissible evidence.

**Request 59:** Gulf objects to this request number 59 to the extent it calls for documents regarding utility subsidiaries of Southern Company other than Gulf, except to the extent such documents are publicly available. Such documents, if they exist, are not in the possession, custody or control of Gulf and do not relate to transactions between Gulf and any of its affiliates. Further, the production of such documents, if they exist, is not reasonably calculated to lead to the discovery of admissible evidence.

**Request 60:** Gulf objects to OPC's request 60 the extent that it directs Gulf to develop an "index" which may not otherwise exist. This directive exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 62:** Gulf objects to OPC's request 62 the extent that it directs Gulf to develop an "index" which may not otherwise exist. This directive exceeds Gulf's obligation under Rule 1.350 to produce responsive documents.

**Request 67:** Gulf objects to OPC's request 67 the extent that it directs Gulf to produce work papers and data related to the updated study by State Street Financial Advisors. Such documents are not within Gulf Power's possession, custody or control.

Respectfully submitted this 15<sup>th</sup> day of August, 2011.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and via U.S. Mail this 15<sup>th</sup> day of August, 2011 to all counsel of record as indicated below:

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