BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 110138-EI

REBUTTAL TESTIMONY AND EXHIBIT

OF

J. TERRY DEASON

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1 GULF POWER COMPANY

2 Before the Florida Public Service Commission
Rebuttal Testimony and Exhibit of
3 J. Terry Deason
Docket No. 110138-EI
4 In Support of Rate Relief
Date of Filing: November 4, 2011
5

6 Q. Please state your name and business address.

7 A. My name is Terry Deason. My business address is 301 S. Bronough

8 Street, Suite 200, Tallahassee, Florida 32301.

9

10 Q. By whom are you employed and in what capacity?

11 A. I am employed by the law firm Radey Thomas Yon and Clark as a Special

12 Consultant specializing in the fields of energy, telecommunications, water

13 and wastewater, and public utilities generally.

14

15 Q. Please describe your educational background and professional

16 experience.

17 A. I have over thirty-four years of experience in the field of public utility

18 regulation spanning a wide range of responsibilities and roles. I served a

19 total of seven years as a consumer advocate in the Florida Office of Public

20 Counsel (OPC) on two separate occasions. In that role, I testified as an

21 expert witness in numerous rate proceedings before the Florida Public

22 Service Commission (Commission). My tenure of service at the Florida

23 Office of Public Counsel was interrupted by six years as Chief Advisor to

24 Florida Public Service Commissioner Gerald L. Gunter. I left OPC as its

25 Chief Regulatory Analyst when I was first appointed to the Commission in

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1 1991. I served as Commissioner on the Commission for sixteen years,
2 serving as its chairman on two separate occasions. Since retiring from the
3 Commission at the end of 2006, I have been providing consulting services
4 and expert testimony on behalf of various clients, including public service
5 commission advocacy staff and regulated utility companies, before
6 commissions in Arkansas, Florida, Montana, New York and North Dakota.
7 My testimony has addressed various regulatory policy matters, including:
8 regulated income tax policy; storm cost recovery procedures; nuclear cost
9 recovery procedures; austerity adjustments; depreciation policy;
10 subsequent year rate adjustments; appropriate capital structure ratios; and
11 prudence determinations for proposed new generating plants and
12 associated transmission facilities. I have also testified before various
13 legislative committees on regulatory policy matters and am a faculty
14 member of the NARUC Utility Rate School. I hold a Bachelor of Science
15 Degree in Accounting, summa cum laude, and a Master of Accounting,
16 both from Florida State University.
17
18 Q. Are you sponsoring an exhibit?
19 A. Yes. I am sponsoring the following rebuttal exhibit:
20 • TD-1, Biographical Information for Terry Deason.
21
22 Q. For whom are you appearing as a rebuttal witness?
23 A. I am appearing as a rebuttal witness for Gulf Power Company (Gulf or the
24 Company).
25

1 Q. What is the purpose of your rebuttal testimony?

2 A. The purpose of my rebuttal testimony is to respond to certain assertions
3 and recommendations made by intervenor Witnesses Chriss, Dismukes,
4 Meyer, Pollock, Ramas, Schultz and Woolridge. The issues I address in
5 rebuttal to these witnesses are: At-risk Compensation; Supplemental
6 Pension Expense; Directors and Officers Liability Insurance; Imputed
7 Revenues; Storm Damage Accrual; Construction Work in Progress;
8 Parent Debt Adjustment; O&M Benchmark; and Customer Impacts.

9

10

11 **AT-RISK COMPENSATION**

12

13 Q. What is the recommendation of Ms. Ramas concerning the amount of at-
14 risk compensation paid by Gulf to its employees?

15 A. Ms. Ramas refers to at-risk compensation as incentive compensation and
16 is recommending a disallowance of 100% of such compensation. If
17 accepted, the effect of her recommendation would be to deny cost
18 recovery of these costs on a going forward basis.

19

20 Q. Are at-risk compensation costs currently being recovered in Gulf's rates?

21 A. Yes, they are. Gulf's current rates were last established in 2002 in Docket
22 No. 010949-EI. In that case, Gulf's at-risk compensation costs were
23 included in rates and the associated costs have been included as part of
24 above-the-line earnings ever since.

25

1 Q. Do you agree with Ms. Ramas' recommendation?

2 A. No, I do not. Her recommendation to disallow 100% of at-risk
3 compensation costs is inconsistent with sound regulatory policy and basic
4 principles of ratemaking, is contrary to Commission precedent, is based
5 on simplistic assumptions that are not factually correct, and, if accepted,
6 would be detrimental to the long term interests of Gulf's customers.
7
8 Q. How is Ms. Ramas' recommendation inconsistent with sound regulatory
9 policy and basic principles of ratemaking?

10 A. A fundamental tenet of sound regulatory policy is to provide recovery of all
11 reasonable and necessary costs incurred to provide service to customers.
12 And a basic principle of ratemaking is to include all such costs as test year
13 expenses in calculating a regulated company's net operating income.
14 Only if the Commission finds that the expenses in question are
15 unreasonable or unnecessary should they be disallowed in calculating the
16 company's revenue requirement.
17
18 Another fundamental tenet of sound regulatory policy is to encourage
19 regulated utilities to be efficient and provide high quality service to their
20 customers over the long term. Sacrificing efficiency or quality of service
21 in the long run to achieve temporary rate reductions is not in the
22 customers' interest. All regulatory decisions have consequences and
23 good regulatory policy results when these consequences are adequately
24 considered.
25

1 Ms. Ramas' recommendation violates both of these tenets of sound
2 regulatory policy.
3
4 Q. Please explain how Ms. Ramas' recommendation violates the tenet of
5 recovery of reasonable and necessary costs.
6 A. Quite simply, Ms. Ramas has made no allegations nor has she presented
7 any evidence that the overall compensation paid to Gulf employees,
8 including at-risk compensation, is unnecessary or unreasonable. Neither
9 she, nor any other OPC witness, has presented an analysis of the
10 employment market to determine what amount of compensation is
11 reasonable and necessary to attract the workforce needed to efficiently
12 and reliably run an electric utility. This is in contrast to the testimony of
13 Gulf witnesses who explain that the overall compensation is reasonable,
14 that it is necessary to attract and retain a qualified workforce, and that it is
15 at or near the median of employee compensation paid by other regulated
16 utilities.
17
18 The sole basis for Ms. Ramas' recommended disallowance is that the at-
19 risk portion is based on financial and operational goals with which she
20 philosophically disagrees. While acknowledging that the operational goals
21 would benefit the ratepayers, she opines that the financial goals could be
22 detrimental to the level of service provided to customers and concludes
23 that 100% of at-risk compensation should be denied cost recovery. So
24 from this standpoint, the tenet of cost recovery for reasonable and
25 necessary costs is violated because costs are being excluded not

1 because they are unreasonable or unnecessary, but because she has a
2 philosophical disagreement with the basis on which they are paid.
3
4 Ms. Ramas' recommendation is further flawed because she likewise
5 makes no analysis of the reasonableness of the net amount of
6 compensation that remains after at-risk compensation is eliminated. She
7 has not provided any evidence that shows the level of compensation that
8 remains will ensure that Gulf is competitive in the market in terms of its
9 ability to attract and retain qualified employees.
10
11 Consequently, Ms. Ramas' testimony is totally devoid of any consideration
12 of reasonableness regarding either the overall amount of compensation or
13 of the net amount she has recommended.
14
15 Q. You have stated that Ms. Ramas' recommendation is contrary to
16 Commission precedent. How can that be the case when Ms. Ramas has
17 cited to a recent Progress Energy Florida (PEF) decision in which the
18 Commission disallowed incentive (at-risk) compensation costs?
19 A. First, I would note the decision she references never became final. The
20 case was closed after the Commission issued a subsequent order
21 approving a settlement and stipulation. Further, that non-final decision is
22 inconsistent with previous Commission decisions allowing at-risk
23 compensation.
24
25

1 Q. Has the Commission previously addressed at-risk compensation for Gulf?
2 A. Yes, in two previous Gulf rate cases cost recovery for at-risk
3 compensation was allowed. Order No. 23573 issued October 3, 1990, in
4 Docket No. 891345-EI, In re: Petition of Gulf Power Company for an
5 increase in its rates and charges, and Order No. PSC-02-0787-FOF-EI
6 issued June 10, 2002, in Docket No. 010949-EI, In re: Request for rate
7 increase by Gulf Power Company. The Commission's explanation at page
8 45 of this last order is particularly relevant to this present case:
9
10 To only receive a base salary would mean Gulf employees
11 would be compensated at a lower level than employees at
12 other companies. Therefore, an incentive pay plan is
13 necessary for Gulf salaries to be competitive in the market.
14 Another benefit of the plan is that 25% of an individual
15 employee's salary must be re-earned each year. Therefore,
16 each employee must excel to achieve a higher salary. When
17 employees excel, we believe that customers benefit from a
18 higher quality of service.
19
20 Q. Has the Commission addressed at-risk compensation for other
21 Florida utilities?
22 A. Yes. A prior Florida Power Corporation rate case also provided for cost
23 recovery of incentive (at-risk) compensation finding that: "Incentive plans
24 that are tied to achievement of corporate goals are appropriate and
25 provide an incentive to control costs." Order No. PSC-92-1197-FOF-EI

1 issued October 22, 1992, in Docket No. 910890-EI, In Re: Petition for a
2 rate increase by Florida Power Corporation. And in a Tampa Electric
3 Company (TECO) rate case, the Commission found that TECO's <u>total</u>
4 compensation package, including the component contingent on achieving
5 incentive goals, was set near the median level of benchmarked
6 compensation and allowed recovery of incentive compensation that was
7 directly tied to results of Tampa Electric:
8
9 > TECO's Success Sharing plan has been in place since
10 > 1990 and its appropriateness was approved in the
11 > Company's last rate case in 1992. Lowering or eliminating
12 > the incentive compensation would mean TECO employees
13 > would be compensated below employees at other
14 > companies, which would adversely affect the Company's
15 > ability to compete in attracting and retaining a high quality
16 > and skilled workforce. We therefore decline to do so.

17 Order No. PSC-09-0283-FOF-EI issued April 30, 2009, in Docket
18 No. 910890-EI.
19
20 So the PEF case is really a deviation. Prior to the PEF case, Commission
21 precedent was to allow incentive (at-risk) compensation.
22
23 Q. Are there any Florida Court cases relevant to the issue of Commission
24 disallowance of compensation expenses?
25

1 A. Yes, two cases are instructive in this regard and both dealt with the Commission's disallowance of executive compensation.
2
3
4 In *Florida Bridge Company v. Bevis*, the Florida Supreme Court reversed
5 a decision of the Commission disallowing a portion of the Company
6 President's salary. The Court observed:
7
8 > Indeed, the Commission has made no attempt to determine
9 > whether the president's compensation is excessive in view of
10 > the services he provides. The arbitrary ratio by which the
11 > Commission reduced the salary and expense account[,] the
12 > ratio of days physically absent from the home office to the
13 > total number of workdays in the test year[,] has no support in
14 > logic, precedent, or policy.

15 363 So.2d 799, 800-01 (Fla. 1978)
16
17 The Court found the Commission's action "was arbitrary and constitutes a
18 substantial departure from the essential requirements of law." Id.
19
20 The First District Court of Appeal reached a similar conclusion in *Sunshine*
21 *Utilities of Central Florida, Inc. v. Florida Public Service Commission*, in
22 finding fault with the Commission's disallowance of a portion of the
23 company president's salary:
24
25

1 In determining whether an executive's salary is reasonable
2 compared to salaries paid to other company executives, the
3 comparison must, at a minimum, be based on a showing of
4 similar duties, activities, and responsibilities in the person
5 receiving the salary.

6 624 So.2d 306, 311 (Fla. 1st DCA 1993)

7

8 Q. How are these cases related to the disallowance of at-risk compensation
9 recommended by Ms. Ramas?

10 A. They relate to the point I made earlier in my testimony regarding Ms.
11 Ramas' failure to determine whether overall compensation expense is
12 reasonable and necessary. The Florida Supreme Court and the First
13 District Court of Appeal reversed the Commission's decisions because the
14 basis for the disallowances did not address the reasonableness of the
15 salaries as compared to the market.

16

17 Ms. Ramas' analysis is similarly flawed because she has made no attempt
18 to compare the total compensation paid to Gulf executives or employees
19 to the market for similar services, duties, activities and responsibilities.
20 Nor has she, or any other witness, presented evidence that the salaries for
21 any executive or employee are excessive. Instead, she recommends a
22 portion be disallowed based on <u>how</u> it is paid: because it is at-risk, rather
23 than base salary, it is subject to disallowance notwithstanding whether the
24 total amount of compensation is reasonable. The focus of any
25 disallowance should be <u>how much</u> is paid, not <u>how</u> it is paid.

1 Q. How does Ms. Ramas' recommendation fail to encourage efficiency or
2 maintain or improve the quality of service?
3 A. Her recommendation would have longer term consequences that could
4 affect efficiency and service, and her recommendation takes away a
5 valuable managerial tool that is effective in increasing efficiency and
6 maintaining or improving the quality of service provided to customers.
7
8 Q. What do you mean by "takes away a managerial tool"?
9 A. Accepting Ms. Ramas' recommendation would, by necessity, cause Gulf
10 to rethink its long standing approach to employee compensation. If a
11 significant amount of otherwise valid and reasonable costs were
12 disallowed simply because of the method by which they are paid, Gulf
13 would be justified in implementing a different pay structure. While
14 accepting Ms. Ramas' recommendation would deny Gulf the opportunity
15 to recover necessary costs currently, adopting a different compensation
16 plan with no at-risk pay and a greater reliance on base pay would
17 presumably eliminate the issue in future rate proceedings. But by moving
18 more salary to base pay, employees don't have to re-earn that pay by
19 meeting goals that typically include efficiency and service objectives. A
20 compensation structure that pays employees regardless of performance
21 diminishes management's leverage to motivate and focus employees on
22 appropriate goals.
23
24 In essence, the Commission would be substituting its judgment for that of
25 Gulf's management as to how best to motivate and compensate its

1 employees. Consequently the incentive for Gulf's employees to be
2 motivated and productive would be lost.
3
4 Q. What would be the longer term consequences of accepting Ms. Ramas'
5 recommendations?
6 A. There are two primary negative consequences associated with Ms.
7 Ramas' recommendation. First, Gulf has successfully designed and
8 implemented an effective compensation plan which includes at-risk pay
9 that has been relied upon by its employees over many years. Accepting
10 Ms. Ramas' recommendation would place Gulf in the untenable position of
11 either reneging on its obligations to its employees or resigning itself to the
12 situation where it would be denied a reasonable opportunity to earn its
13 authorized rate of return. Denying Gulf a reasonable opportunity to earn
14 its authorized rate of return would have negative impacts on its overall risk
15 profile and cost of capital. This in turn would have negative consequences
16 for Gulf's customers in the form of higher borrowing costs. Reneging on
17 its obligations to its employees would also have negative consequences
18 through dissatisfied and less motivated and productive employees. It also
19 could lead to a loss of high performing employees to other companies
20 where they can be adequately compensated for their level of experience,
21 expertise and performance. Remember that highly skilled and
22 experienced utility workers are in high demand and could readily take their
23 skills elsewhere. This could be particularly problematic for Gulf where its
24 employees are knowledgeable of the Southern Company system and
25 could readily move to one of Gulf's sister companies.

1 Q. In response to an earlier question, you stated that Ms. Ramas'
2 recommendation is based on simplistic assumptions that are not factually
3 correct. Could you explain?
4 A. Yes. Ms. Ramas' recommendation is based upon two faulty assumptions.
5 First, she assumes that financial goals benefit only shareholders. Second,
6 she assumes that financial goals would be detrimental to customers
7 through a reduced quality of service. Both of these assumptions are
8 incorrect.
9
10 Financial goals also benefit customers. Regulated utilities are profit
11 making entities (hopefully) and must make a reasonable profit to be
12 sustainable and to access capital when needed and on reasonable terms.
13 This is the means by which customers receive the service that they expect
14 and deserve. A utility earning a reasonable profit is beneficial for both its
15 shareholders and its customers. Therefore, financial goals used to
16 establish compensation levels are also beneficial to customers.
17
18 Q. Can you give specific examples of how financial goals benefit customers?
19 A. Yes, I can. Return on equity (ROE) is a fundamental measure of financial
20 performance. It represents the earnings (revenues less expenses) as a
21 percentage of equity investment. It can be increased (or its erosion
22 diminished over time) in a number of ways. First, revenues can be
23 increased by serving more customers with the same amount of expenses
24 and investment. Second, expenses can be reduced by serving existing
25 and future customers more efficiently. Third, assets can be utilized more

1 efficiently so that the denominator in the equation (equity capital) is
2 minimized for each dollar of income that is generated. Each of these
3 scenarios (or a combination of them) will increase the ROE and provide
4 added value to customers by increasing the efficiency of utility operations.
5 This is particularly meaningful for regulated utilities which must keep rates
6 fixed in between rate cases. The fact that Gulf was able to keep base
7 rates fixed for almost 10 years is illustrative of the benefit of financial
8 goals. By meeting its financial goals and doing more with less, ratepayers
9 benefitted by deferral of the need for a rate case.
10
11 Q. Are you saying that the financial goals that are a part of Gulf's at-risk
12 compensation were the reason Gulf was able to avoid a rate case for
13 almost 10 years?
14 A. No, I could not say that with absolute certainty. But I do believe that Gulf's
15 overall compensation plan and the financial goals associated with at-risk
16 compensation played a role in this outcome, an outcome that has created
17 significant and real benefits for customers over many years.
18
19 Q. Ms. Ramas also disagrees with the use of financial goals to determine at-
20 risk compensation because it could be detrimental to the level of service
21 provided to customers. Do you agree that this is possible?
22 A. I agree that it is theoretically possible, but not likely. And in Gulf's case,
23 her theories are not borne out by actual performance. This is another
24 fundamental problem I have with Ms. Ramas' recommendation. Her
25

1 recommendation is based upon a philosophical supposition with no facts
2 to substantiate her claims.
3
4 Q. Please explain.
5 A. Ms. Ramas' theoretical disagreement is based on her belief that Gulf's
6 management would consciously and consistently make decisions to cut
7 expenses to the point that there is a significant degradation in the quality
8 of service provided to customers. Her belief is unsupported by any facts.
9 First, a full third of Gulf's performance pay program is based on
10 operational goals whose primary focus is service related. For Ms. Ramas'
11 disagreement to have merit, one must assume that the operational goals
12 would be ignored and that financial goals would be met exclusively by
13 cutting expenses that negatively impact the level of service provided.
14 Second, regulation in Florida requires a high level of service and the
15 Commission requires utilities to periodically report performance as
16 measured by generally accepted metrics. The Commission also has the
17 authority to consider the quality of service provided to customers when
18 setting a company's rates. Thus, a failure to provide quality service would
19 have consequences, including adverse financial ones that could
20 overshadow any temporary improvement in a company's earnings. And
21 third, actual experience over the last decade has shown that Gulf's
22 financial goals have not negatively impacted the level of service provided
23 to customers.
24
25

1 Q. Going back to your statement that this Commission's precedent is to
2 provide cost recovery for at-risk compensation, why has this been the
3 precedent in Florida?
4 A. While the Commission reviews each utility's compensation costs on the
5 facts unique to that utility, the Commission has consistently recognized
6 that at-risk compensation is an accepted and desirable way to achieve
7 corporate goals and to control costs for the benefit of customers. The
8 Commission has also determined that at-risk compensation is an
9 appropriate component to include within overall compensation to judge
10 whether the overall compensation paid to employees is reasonable. This
11 is precisely the decision that was made for Gulf in its last rate case in
12 Docket No. 010949-EI where the Commission declined to make any
13 disallowance of Gulf's at-risk compensation costs. Additionally, I am
14 aware of no time where the Commission has denied cost recovery of
15 100% of at-risk compensation on non-factual, philosophical grounds, as is
16 being proposed by Ms. Ramas.
17
18 I believe there are a number of reasons for this precedent. First, the
19 Commission's policy is consistent with the basic tenets of sound
20 regulatory policy that I described earlier. Second, the Commission has
21 recognized that having good management at utilities is essential for
22 regulators to achieve their mission of having safe, reliable and reasonably-
23 priced service delivered to customers. The Commission has further
24 understood that management needs sufficient tools and incentives to
25 achieve these goals and that regulators should not attempt to "micro-

1 manage" their regulated utilities. And third, the Commission has
2 appropriately recognized that not all issues in a rate proceeding are a
3 simple situation of "us vs. them", where every issue has a clear winner
4 and a clear loser. While at-risk compensation has been and is currently
5 being characterized as an "us vs. them" issue, in reality it is not.
6 Incorporating at-risk pay as part of an overall compensation plan is a good
7 example of a "win-win" situation.
8
9 Q. What do you mean by a "win-win" situation?
10 A. Including at-risk pay as part of an overall compensation plan enables all
11 stakeholders to win. Shareholders get to invest in a company with
12 employees motivated to achieve appropriate corporate goals.
13 Management gets to apply compensation tools that they think are best to
14 motivate and fairly compensate employees. And most importantly,
15 customers pay no more than a reasonable amount in their rates but get a
16 work force that is motivated to be efficient, to reduce costs where possible,
17 and to maintain a high level of safe and reliable service.
18
19
20 **SUPPLEMENTAL PENSION EXPENSE**
21
22 Q. What is the nature of supplemental pension benefits?
23 A. Supplemental pension benefits provide total retirement benefits for
24 qualifying employees that make their benefits comparable to other
25 employees as a percentage of overall compensation. This is necessary

1 because tax laws limit the amount of benefits which get preferential tax
2 treatment. In other words, these benefits put qualifying employees on
3 parity with all other employees. The supplemental pension benefits are
4 not additional benefits as described by Mr. Meyer. Gulf simply has to
5 incur greater expense to provide comparable benefits, because of the
6 applicable tax laws.
7
8 Q. What recommendation does Mr. Meyer make with regard to supplemental
9 pension expense?
10 A. Mr. Meyer recommends that supplemental pension expense be 100%
11 disallowed for cost recovery, stating that the regular pension plan offered
12 to all employees should be sufficient.
13
14 Q. Do you agree with Mr. Meyer's recommendation?
15 A. No, I do not.
16
17 Q. Why do you disagree?
18 A. First and foremost, Mr. Meyer is incorrect in his characterization of the
19 benefits as being additional. Second, his conclusion that the regular plan
20 should be sufficient for all employees is based on supposition and not fact.
21 Like Ms. Ramas' recommendation to disallow 100% of at-risk
22 compensation, Mr. Meyer does not present any evidence or analysis as to
23 why the amounts in question are unreasonable and not needed. He
24 arbitrarily concludes that the regular pension plan should be sufficient with
25

1 no analysis of the level of pension benefits needed to recruit and retain top
2 managers.
3
4 Q. Mr. Meyer states that the IRS may not allow the recognition of
5 supplemental pension expense for tax purposes. Is this relevant?
6 A. No, it is not. It is not unusual for there to be differences between amounts
7 that are deductible or non-deductible for tax purposes and expenses that
8 are recoverable or non-recoverable in rates. One is not dispositive of the
9 other. For example, the IRS allows bonus depreciation to be entirely
10 deductible in the year taken; however, the Commission only allows
11 depreciation expense consistent with Commission-prescribed depreciation
12 rates. Likewise, the IRS does not allow the deduction of the current year's
13 storm damage accrual. However, the Commission allows the annual
14 storm damage accrual to be recovered in rates as it is booked.
15
16 Q. Was supplemental pension expense included in Gulf's last rate case?
17 A. Yes. The final order in the case refers to a stipulation stating there was no
18 adjustment to be made to pension expense. Order No. PSC-02-0787-
19 FOF-EI issued June 12, 2002, in Docket No. 010949-EI, In re: Request
20 for rate increase by Gulf Power Company. In a prior Gulf case relating to
21 the tax savings refund in 1988, the Commission rejected OPC's
22 recommendation that supplemental pension benefits be disallowed:
23
24 We believe that the supplemental benefits plan should be
25 considered as part of the total compensation package for the

1 employees, and that the compensation plans for Gulf
2 employees appear to be reasonable. It also appears
3 reasonable that highly paid employees should not be
4 discriminated against due to tax considerations. Therefore,
5 we will make no adjustment for the supplemental benefits
6 plan in this tax savings docket.
7
8 Order No. 23536, issued September 27, 1990, in Docket No. 890324-EI,
9 In re: Petition of Gulf Power Company for approval of "Tax Savings"
10 refund for 1988.
11
12
13 **DIRECTORS AND OFFICERS LIABILITY INSURANCE**
14
15 Q. What is the recommendation made by Mr. Schultz regarding Directors and
16 Officers Liability (DOL) Insurance?
17 A. Mr. Schultz is recommending the disallowance of 50% of the cost of DOL
18 insurance premiums.
19
20 Q. Do you agree with this recommendation?
21 A. No, I do not.
22
23 Q. Why not?
24 A. I disagree for reasons similar to the points I made with regard to at-risk
25 compensation. The amount requested by Gulf for DOL insurance is

1 reasonable and is an ordinary and necessary cost of doing business for
2 any publicly-held company, and as such the entire amount should be
3 recovered in rates.
4
5 Q. Why are DOL insurance premiums a necessary and reasonable cost of
6 doing business?
7 A. DOL insurance is necessary to attract and retain knowledgeable,
8 experienced and capable directors and officers. DOL insurance is
9 purchased for the purpose of protecting the company and its directors and
10 officers from normal risks associated with managing the company.
11 Qualified and capable directors and officers would be reluctant to assume
12 the responsibilities of managing a publicly-held company without the
13 assurance that their personal assets would be shielded from legal
14 expenses, settlements or judgments arising from shareholder lawsuits.
15 The assets of the Company are likewise protected from lawsuits that could
16 divert capital to cover any losses. Increasing scrutiny of corporate
17 governance and the related risk exposure of directors and officers make
18 insurance a necessity in maintaining a high quality board and senior
19 management team. Adequate liability coverage gives directors and
20 officers the level of comfort necessary to enable them to make forward-
21 looking decisions that will provide operational and cost-efficiency benefits
22 for customers.
23
24 Q. Mr. Schultz argues DOL insurance primarily benefits shareholders. Do
25 you agree with that?

1 A. No, I do not. DOL insurance helps to retain and recruit qualified and
2 competent directors and officers that provide needed expertise in running
3 a utility, both financially and operationally. Having a well-run utility
4 benefits ratepayers and having adequate liability coverage helps assure
5 the delivery of safe and reliable service at a reasonable cost.
6
7 Q. Mr. Schultz states that there are Commission cases that have allowed
8 recovery of premiums for DOL insurance, have disallowed recovery, or
9 have required the expense be shared with stockholders. Can you
10 comment on those cases?
11 A. Yes. It appears to me that where there has been an adequate explanation
12 of the need for the insurance and a reasoned analysis of the need, full
13 recovery has been authorized. The Commission's rationale in the
14 People's Gas case and in the Tampa Electric case is instructive regarding
15 the need for DOL insurance:
16
17 DOL Insurance has become a necessary part of conducting
18 business for any company or organization and it would be
19 difficult for companies to attract and retain competent
20 directors and officers without it. Moreover, ratepayers
21 receive benefits from being part of a large public company,
22 including, among other things, access to capital. In addition,
23 DOL Insurance is necessary to protect the ratepayers from
24 allegations of corporate misdeeds.
25

1 Order No. PSC-09-0411-FOF-GU, page 37 issued June 9, 2009, in
2 Docket No. 080318-GU, In re: Petition for rate increase by Peoples Gas
3 System.
4
5 We find that DOL insurance is a part of doing business for a
6 publicly-owned company. It is necessary to attract and
7 retain competent directors and officers. Corporate surveys
8 indicate that virtually all public entities maintain DOL
9 insurance, including investor-owned electric utilities.
10
11 Order No. PSC-09-0283-FOF-EI, page 64 issued April 30, 2009, in Docket
12 No. 080317-EI, In re: Petition for rate increase by Tampa Electric
13 Company.
14
15 Q. Does Mr. Schultz claim DOL insurance is not a necessary and reasonable
16 expense?
17 A. No, he does not. Implicit in his recommendation that 50% of the premium
18 cost be recovered is an acknowledgement that it is a necessary and
19 reasonable business expense.
20
21 Disallowing a reasonable and necessary business expense, or requiring
22 the company to share part of the expense, is nothing more than a
23 backdoor approach to reducing the allowed ROE. Funds that should go to
24 shareholders as a fair return on investment instead are diverted to cover
25 costs that should otherwise be recovered in rates.

1 **IMPUTED REVENUES**

2

3 Q. What do you mean by imputed revenues?

4 A. Imputed revenues do not represent real revenues or payments for actual
5 services rendered. Instead they are amounts used for regulatory
6 purposes to assign a benefit from one entity to another.

7

8 Q. Does Ms. Dismukes recommend the use of imputed revenues for Gulf?
9 A. Yes, Ms. Dismukes recommends that the Commission assess a two
10 percent compensation payment on the revenue of Southern Company's
11 unregulated companies to be allocated to Southern Company's regulated
12 companies. She calculates the amount applicable to Gulf to be
13 $1.5 million. Of course, the Commission cannot compel an actual
14 payment of $1.5 million from the unregulated companies to Gulf, thus the
15 $1.5 million would be "imputed" for regulatory purposes.

16

17 Q. If accepted, what would the $1.5 million of imputed revenues mean for
18 Gulf?
19 A. It would mean that Gulf would not receive any actual cash from the
20 unregulated companies but would nevertheless have the amount of its
21 going forward revenues reduced by a comparable amount (net of any
22 associated taxes). This would mean that there would be less actual
23 revenue per year for Gulf to pay actual expenses or invest in infrastructure
24 to serve customers.

25

1 Q. Would this have financial implications for Gulf?

2 A. Yes, and the financial implications would be real, not imputed. All other
3 things being equal, Gulf's actual achieved ROE would decline, its interest
4 coverage would decline and it would be more prone to go to capital
5 markets to cover short term cash needs such as for restoring service after
6 a hurricane.

7

8 Q. What is Ms. Dismukes' stated purpose for her recommendation?

9 A. Ms. Dismukes' stated purpose is to compensate the regulated operating
10 companies for intangible benefits the unregulated companies allegedly
11 receive from the regulated companies. Of course, there is no real
12 compensation to Gulf. The real effect is a reduction in customer rates
13 simply because Southern Company obtained and deployed capital to
14 enter unregulated markets and those investments have created additional
15 revenues for the Southern Company.

16

17 Q. So under Ms. Dismukes' recommendation a portion of the real benefits of
18 Southern Company's investment in unregulated businesses would flow to
19 Gulf's customers, correct?

20 A. Yes, that would be the end result. And while it was the Southern
21 Company that made the investment and is at-risk for its capital investment
22 and while customers have made no investment and are not at-risk should
23 the unregulated businesses fail, customers would still receive benefits
24 equal to two percent of the unregulated companies' revenue.

25

1 Q. Ms. Dismukes references a 1988 order of the Commission involving
2 United Telephone Company of Florida, Order No. 18939 in Docket No.
3 870385-TI. Should this order be used as a basis to impute unregulated
4 revenues to Gulf?
5 A. No, it should not. The language quoted by Ms. Dismukes is incorrect.
6 The decision for United Telephone was relevant only to unique facts and
7 circumstances applicable to the telephone industry at that time. The
8 Commission in subsequent orders "backed away" from the United
9 decision, such that the United decision does not represent the policy of the
10 Commission. In addition, the United decision pre-dates the Commission's
11 adoption of Rule 25-6.1351, which sets forth the Commission's policy on
12 cost allocations and affiliate transactions.
13
14 Q. How did Ms. Dismukes misquote the United order?
15 A. On page 23, lines 9 through 15 of her testimony, Ms. Dismukes quotes the
16 fourth paragraph from page 10 of Order No. 18939. She relies upon this
17 paragraph to conclude that the Commission embraced the concept of
18 imputing revenue as an ongoing policy. What Ms. Dismukes fails to
19 mention is that the Commission, on its own motion, struck this paragraph
20 from the order. In its Order on Reconsideration No. 19734, dated July 27,
21 1988, the Commission stated:
22
23 Our first modification to Order No. 18393 will be to delete the
24 entire fourth paragraph on page ten of the order. We believe
25 this paragraph contemplates a policy much broader than the

1 one which may be drawn from our requirement of the
2 compensatory payment in this docket. Accordingly, the
3 paragraph will be stricken from the order.
4
5 Q. What were the unique facts and circumstances that led to the
6 Commission's original decision to impute revenues to United Telephone
7 Company?
8 A. It should be recognized that the decision was not part of a comprehensive
9 rate proceeding, rather the issue before the Commission was an
10 application of United Telephone Long Distance, Inc. (UTLD) for a
11 Certificate of Public Convenience and Necessity to enter the inter LATA
12 MTS and WATS (long distance) market. The telephone industry was
13 entering a new era of competition following divestiture and the distinction
14 between long-distance (competitive) and local service (regulated) was
15 important. The local exchange companies (LECs) were permitted to enter
16 the long distance market only after they opened up their local exchange
17 central offices to equal access. Equal access permitted other competitors
18 to enter the long distance market by gaining nondiscriminatory access to
19 the LECs central offices.
20
21 Q. Was the Commission aware of the unique nature of the UTLD's
22 application?
23 A. Yes, the Commission was very aware of this and knew that its decision
24 was laying a framework for the furtherance of competition in the
25

1 telecommunications industry. In Order No. 18939, page 3, the
2 Commission stated:
3
4 UTLD's application is significant because it represents the
5 first instance in which a major local exchange company
6 established a separate but wholly owned subsidiary to
7 provide long distance service. It also represents the first
8 instance in which a LEC-affiliated IXC will participate in
9 equal access conversion. Therefore, UTLD's application
10 raises significant public policy questions regarding both
11 structural and functional separation, cost allocation, and the
12 possibility that UTLD may enter the intraLATA competitive
13 market against UTF in the event the toll monopoly currently
14 reserved for the local exchange companies is eliminated.
15
16 Q. What was UTLD's corporate structure and how was it proposing to enter
17 the long distance market?
18 A. UTLD was a wholly-owned subsidiary of United Telephone Company (the
19 regulated entity). UTLD was not planning to obtain any financing on its
20 own and was planning to have no assets or facilities of its own. It planned
21 to have only one full-time employee with the majority of its functions being
22 performed by United Telephone Company employees. UTLD's business
23 plan was to resell long distance services to customers within the
24 certificated service territory of its parent, United Telephone Company.
25

1 Q. Did the Commission have concerns with UTLD's proposal?

2 A. Yes. The Commission was concerned that UTLD, by virtue of its close
3 association with the incumbent legacy telephone provider, would gain an
4 unfair competitive advantage in this newly opened market. On page 6 of
5 Order No. 18939, the Commission stated:

6

7 We view the IXC market as a developing one, with the
8 potential to be highly competitive. As such we must ensure
9 that the actions we take do not give any one IXC an undue
10 competitive advantage.

11

12 Q. Did the Commission require an imputation based on total revenue as Ms.
13 Dismukes is proposing for Gulf?

14 A. No, the Commission recognized that the services UTLD planned to
15 provide were inextricably linked with those of United Telephone Company.
16 Thus, the Commission allowed the revenue of UTLD to be reduced by the
17 access charges UTLD had to pay to reach the local network.

18

19 Q. Let's contrast the facts and circumstances leading to the Commission's
20 decision for United Telephone Company in 1985 and Ms. Dismukes'
21 recommendation to impute revenues to Gulf in 2011. Are the unregulated
22 subsidiaries used by Ms. Dismukes wholly owned subsidiaries of Gulf?

23 A. No.

24

25

1 Q. Do the unregulated subsidiaries used by Ms. Dismukes rely on the
2 employees and facilities of Gulf to provide their respective services?
3 A. No.
4
5 Q. Do the unregulated subsidiaries used by Ms. Dismukes provide services
6 that were previously provided by Gulf on a regulated basis and are they
7 inextricably linked?
8 A. No.
9
10 Q. Does the Commission have a responsibility to insure that the unregulated
11 companies used by Ms. Dismukes do not receive a competitive advantage
12 over other entrants in a new market being opened to competition for the
13 first time?
14 A. No.
15
16 Q. In subsequent decisions, has the Commission acknowledged the unique
17 facts and circumstances of the United case?
18 A. Yes, it has. In declining to impose a compensation payment requirement
19 in BellSouth Advanced Networks (BSAN), the Commission, in Order No.
20 20828 stated:
21
22 This situation is different from that found in UTLD's certification
23 proceedings. No evidence in this case was provided regarding the
24 logo of BSAN, the reliance of BSAN on the Southern Bell name, the
25 immediate access of BSAN to Southern Bell financing, or the ability

1 of BSAN to capitalize on a trained skilled workforce. Using the
2 UTLD proceeding as a guide, the basis for imposing a
3 compensation payment on BSAN at this time has not been clearly
4 established.
5
6 Q. Has there ever been a case involving an electric utility in Florida where the
7 Commission approved an imputation of revenue from an unregulated
8 company to the regulated electric utility?
9 A. No, not to my knowledge. It is not the Commission's policy to make such
10 an imputation.
11
12 Q. What is the Commission's policy on cost allocation and affiliate
13 transactions?
14 A. The Commission's policy is found in Rule 25-6.1351, F.A.C.
15
16 Q. Does Rule 25-6.1351, F.A.C. require or contemplate the imputation of
17 revenues from unregulated subsidiaries to a regulated utility?
18 A. It does not.
19
20 Q. Should the Commission accept Ms. Dismukes' recommendation to impute
21 revenues from unregulated companies to Gulf?
22 A. No. Ms. Dismukes' recommendation is not supported by the facts,
23 violates principles of good regulatory policy, is contrary to the
24 Commission's existing policy, and would penalize Gulf for merely being
25 part of the Southern Company system.

1 **STORM DAMAGE ACCRUAL**

2

3 Q. What is a storm damage accrual?

4 A. It is the annual amount credited to the storm damage reserve. It has a
5 corresponding debit entry to an expense account and is a cost of providing
6 service. Therefore, it is included in a company's rates. It is based upon
7 anticipated future costs and spreads these costs evenly from year to year
8 to minimize potential rate swings for customers.

9

10 Q. What is the storm damage reserve?

11 A. It is the net amount within Account No. 228.1 set aside to cover actual
12 restoration costs from storms. The annual accrual adds to the reserve
13 balance while actual storm-related costs reduce the reserve. The reserve
14 provides a "cushion" to absorb the sometimes severe fluctuations in
15 storm-related costs from year to year.

16

17 Q. Does the inclusion of a storm damage accrual in rates add to a utility's
18 earnings?

19 A. No, it does not. It is an expense that is used exclusively to provide for
20 future storm restoration costs. It does add to a company's cash flow.

21

22 Q. Does the reserve provide any benefit to Gulf's customers in addition to
23 covering storm restoration costs?

24 A. Yes, it is a reduction to Gulf's rate base and reduces rates proportionately.

25

1 Q. Have Florida's utilities always used storm reserves to cover storm
2 restoration costs?
3 A. Yes, the reserve has always been part of the accounting for storm costs.
4 However, most of the annual costs were covered by commercially
5 available insurance on transmission and distribution facilities. After
6 Hurricane Andrew, such insurance was no longer cost effective and the
7 Commission chose to implement a self-insurance plan by annual accruals
8 to the reserve. In essence, the annual accrual took the place of insurance
9 premiums that were previously included in rates as a cost of providing
10 service.
11
12 Q. What is the amount of annual accrual that Gulf is requesting to be
13 included in rates?
14 A. Gulf is seeking an annual accrual of $6.8 million based on a targeted
15 reserve of $52 million to $98 million. Gulf's current accrual is $3.5 million
16 and was based on a targeted reserve of $25.1 million to $36 million, which
17 was established by the Commission in 1996.
18
19 Q. On what basis did the Commission establish Gulf's existing annual accrual
20 and targeted reserve?
21 A. In 1995 the Commission required Gulf to prepare and submit a storm
22 damage study. That study determined the long-term average damage
23 costs to be $1.3 million annually. The Commission determined Gulf's
24 study to be adequate and set the annual accrual at $3.5 million to allow
25 the reserve to grow to an acceptable level. The Commission stated:

1

2 Our primary concern is that the accrual amount be sufficient to
3 cover annual damages and promote growth in the
4 Accumulated Provision for Property Insurance account
5 balance. Although, the study recommended an increase in
6 the annual accrual of $0.4 million, Gulf did not request said
7 increase. Assuming Gulf's estimate of $1.3 million in annual
8 losses is accurate, then an annual accrual amount of $3.5
9 million will be adequate to cover those losses and provide for
10 reasonable increases to the Accumulated Provision for
11 Property Insurance account balance.

12 Order No. PSC-96-1334-FOF-EI issued November 5, 1996, in Docket No.
13 951433-EI, In Re: Petition for approval of special accounting treatment of
14 expenditures related to Hurricane Erin and Hurricane Opal by Gulf Power
15 Company.

16

17 Q. Does Gulf's requested accrual contemplate an increase in its actual
18 reserve?

19 A. No, Gulf is conservatively asking for only the expected average annual
20 loss of $6.8 million which is reflected in its current study.

21

22 Q. What do witnesses Meyer, Pollock and Schultz recommend for Gulf's
23 annual storm damage accrual?

24 A. There is a wide spread among their recommendations. Mr. Meyer
25 recommends an increase from $3.5 million to $5.0 million to recognize that

1 costs and expected storm damages have increased since the accrual was
2 last set some 16 years ago. Mr. Pollock recommends that the reserve
3 accrual of $3.5 million remain unchanged. And Mr. Schultz recommends
4 an 83% reduction to $0.6 million.
5
6 Q. On what basis should the annual accrual be set?
7 A. The starting point should be the expected annual average storm loss
8 coupled with an evaluation of the adequacy of the existing level of the
9 reserve. The Commission should then make a determination whether the
10 accrual should be set at the expected average annual storm loss, above it,
11 or below it. If the Commission believes the current reserve is inadequate
12 to protect customers from most storm events or a series of storm events,
13 the annual accrual should be set at an amount higher than the expected
14 average annual loss. On the other hand, if the Commission believes the
15 current reserve is more than adequate to protect customers from most
16 storm events or a series of storm events, the annual accrual should be set
17 at an amount lower than the expected average annual loss. Only if the
18 Commission makes a determination that the existing reserve is either
19 inadequate or more than adequate, should the annual accrual be set at an
20 amount other than the expected average annual loss.
21
22 Q. Is this what Gulf is proposing?
23 A. Actually, no, it is not. Gulf believes the reserve target should be increased
24 from its existing level. However, Gulf is not proposing an annual accrual
25 above the expected average annual loss. Under this approach, the

1 existing reserve level is expected to neither increase nor decrease from its
2 current level. In this regard, Gulf's approach is conservative.
3
4 Q. How should the expected average annual loss be determined?
5 A. It should be based on a statistically valid study that looks at both the
6 expected frequency of all potential storm events and the expected dollar
7 amount of storm losses to be incurred from each event.
8
9 Q. Do witnesses Pollock and Schultz agree with this basis to determine the
10 expected average annual loss?
11 A. No, they do not. They suggest that the expected average annual loss
12 should be limited to only small storms.
13
14 Q. Do you agree with their approach?
15 A. No, I do not for two basic reasons. First, it is inconsistent with
16 Commission policy and second, it is not logical to intentionally eliminate
17 storm events that will eventually impact customers.
18
19 Q. How is the approach suggested by witnesses Pollock and Schultz
20 inconsistent with Commission policy?
21 A. Remember that the Commission's current use of the storm damage
22 reserve is the result of the Commission's decision to implement a self-
23 insurance approach to protect customers from storms. Prior to Hurricane
24 Andrew, the utilities and the Commission relied upon commercially
25 available insurance to cover costs from all storm events, not just small

1 storms. And the premiums for this insurance coverage were appropriately
2 included in rates, with no distinction made between the amount of the
3 premiums applicable to Category III and larger hurricanes and that
4 applicable to smaller storms. Following Hurricane Andrew, Florida Power
5 & Light (FPL) was required to submit a storm study to implement its self-
6 insurance mechanism. FPL's study included a statistical analysis of the
7 expected annual damage and included Category I through V storms. FPL
8 calculated its average annual loss to be $20.3 million and further
9 concluded that even if the accrual were set at the $20.3 million the
10 resulting reserve would not cover losses from all potential catastrophic
11 storms. FPL took a conservative approach and requested an initial annual
12 accrual of only $7.1 million.
13
14 Q. What did the Commission ultimately decide?
15 A. The Commission found that FPL's study was sufficient to determine the
16 expected average annual loss. However, in response to concerns
17 expressed that an increase above the $7.1 million was needed to grow the
18 reserve balance and to reduce dependence on special customer
19 assessments (surcharges), the Commission accepted an agreement to
20 increase the annual accrual to $10 million.
21
22 Q. So the Commission decided to set the annual accrual for FPL at an
23 amount lower than the amount indicated in the study?
24 A. Yes, that is correct. The Commission used its discretion and the facts
25 applicable to FPL at that time to set the average accrual at an amount

1 lower than the study's indicated expected average annual loss. What is
2 significant is the Commission's acceptance of the methodology that
3 included all hurricanes (Categories I through V) and recognition that even
4 doing so does not provide protection from all potential storm events or a
5 series of storm events. Also significant is the Commission's decision to
6 minimize dependence on surcharges to customers. In contrast, Mr.
7 Pollock and Mr. Schultz intentionally limit protection to only Category II
8 and smaller storms and encourage a dependency on customer
9 surcharges.
10
11 Q. How is this illogical?
12 A. We know that higher intensity storms will eventually impact Gulf's territory.
13 It would be illogical to ignore this reality and increase dependence on
14 surcharges. Going back to the insurance analogy, their proposal would be
15 like a homeowner insuring his or her house against small hurricanes, but
16 not the larger ones. While the frequency of larger hurricanes is less, if and
17 when one hits, customers would have a proportionately higher cost to pay
18 at that time, a time when they could least afford it.
19
20 Q. Are there any other concerns you have with the approach taken by Mr.
21 Pollock and Mr. Schultz?
22 A. Yes, there are. Both Mr. Pollock and Mr. Schultz place too much reliance
23 on recent history. In fact, Mr. Schultz's recommendation of $0.6 million is
24 based on an average of the last eight years (excluding larger storms) of
25 $576,000. Using only recent history and excluding larger storms skews

1 Mr. Schultz's recommendation to the point that it is unreasonable.
2 Likewise, if one were to only use the last eight years and include the large
3 storms of 2004 and 2005, the average annual cost is approximately
4 $19 million, greatly exceeding the $6.8 million indicated by Gulf's study.
5 Under either approach, using only an average of recent history can lead to
6 grossly understated or overstated estimates of expected average annual
7 storm costs. This is not surprising, given the large fluctuations possible in
8 year-to-year storms.
9
10 Q. Both Mr. Pollock and Mr. Schultz opine that customers would rather pay
11 later for actual storm costs than to pay in advance for storm accruals. Do
12 you agree?
13 A. I do not disagree that given an option, customers would generally prefer to
14 pay later rather than currently. However, I do not agree that an
15 appropriate annual storm cost accrual is the same as paying in advance.
16
17 Q. Why is an appropriate annual storm cost accrual not the same as paying
18 in advance?
19 A. A storm reserve is an accounting technique that provides a uniform and
20 systematic means of matching costs to revenue recovery so that such
21 costs will not be concentrated in a particular year. When customers
22 receive service they are not only receiving the electrons flowing through
23 their meter, but also the reasonable expectation that their service will be
24 restored as quickly and safely as possible should an interruption occur
25 from a storm or other event. This is part of the package of services

1 customers are currently receiving and should properly be included in cost
2 of service. To a great extent, it is analogous to purchasing insurance
3 coverage through a monthly premium. Even though a claim may not be
4 filed, the premium is still a current cost of providing service.
5
6 Q. In addition to smoothing out rate impacts and properly matching costs and
7 revenues, what other benefit does an appropriate annual storm reserve
8 accrual provide?
9 A. It provides assurances to customers and the investment community that
10 sufficient resources will be available to quickly and safely restore service
11 following a storm. Following a storm, when a utility is striving to obtain
12 outside assistance and goods and services from vendors, securing
13 eventual payment should not be an impediment to service restoration.
14
15 Q. Was this a consideration when the Commission first decided to implement
16 a self-insurance mechanism for storms?
17 A. Yes, it was. At the Commission's Agenda Conference where FPL's self-
18 insurance plan was approved, the Commission expressed the need to
19 recognize the storm accrual costs as legitimate costs and to offer comfort
20 to the investment community that the Commission's approach would
21 maintain the operational and financial integrity of the company.
22
23 Q. Should the Commission place greater reliance on surcharges as a means
24 to recover storm costs?
25

1 A. No, the Commission should not. Both Mr. Pollock and Mr. Schultz argue
2 that surcharges are not only permissible but should be preferred. It is not
3 in the customer's interest to be overly dependent on surcharges. An
4 appropriate annual storm reserve accrual will lessen the likelihood of any
5 surcharge being imposed. And when one is absolutely necessary, an
6 appropriate annual storm reserve accrual will lessen its amount and thus
7 the burden imposed on customers. While an appropriate annual storm
8 reserve accrual may slightly increase rates currently, it can and will
9 provide greater benefits to customers when they need it the most.
10
11
12 **CONSTRUCTION WORK IN PROGRESS (CWIP)**
13
14 Q. What is CWIP?
15 A. CWIP is Account 107 which includes the total of work order balances for
16 electric plant that is in the process of being constructed.
17
18 Q. Is CWIP a necessary part of providing quality utility service?
19 A. Yes, it is. A well managed utility focused on providing quality and cost
20 effective service will deploy capital to construct new and/or modernize
21 existing facilities to meet these objectives.
22
23 Q. Recognizing that CWIP is a necessary part of providing quality utility
24 service, should it be permitted to earn a return?
25 A. Yes, it should.

1 Q. How should this be accomplished?

2 A. It should be accomplished in one of two ways. First, balances in CWIP
3 could be allowed to accrue an Allowance for Funds Used During
4 Construction (AFUDC). The Commission has adopted Rule 25-6.0141,
5 F.A.C., which sets forth the calculation of AFUDC and the eligibility
6 requirements of those construction projects which qualify. The second
7 way is to allow CWIP in rate base.

8

9 Q. Is there a fundamental difference between the two approaches?

10 A. Yes, there is. Accruing AFUDC adds to the capital costs of a project. The
11 return is an accounting entry only and is actually realized when the capital
12 asset is included in rate base and is depreciated. Including CWIP in rate
13 base avoids increasing the capital cost of the project through AFUDC and
14 earns a return in rates while the project is being constructed.

15

16 Q. What are the main reasons why a CWIP project would not qualify for
17 AFUDC?

18 A. There are two main reasons. First, if the project's construction period is
19 less than12 months, it does not qualify. Second, if the project is allowed in
20 rate base, it does not qualify for AFUDC.

21

22 Q. What are witnesses Chriss and Ramas recommending for CWIP for Gulf?

23 A. Both Mr. Chriss and Ms. Ramas recommend that $60.9 million of CWIP be
24 excluded from Gulf's rate base and be denied a return.

25

1 Q. How is a return being denied?

2 A. The $60.9 million represents short-term construction projects which do not
3 qualify for AFUDC. If they are not included in rate base, Gulf will be
4 denied an opportunity to earn a return on capital that it has deployed to
5 adequately meet its customers' need for service.

6

7 Q. Mr. Chriss and Ms. Ramas justify their recommended disallowances on
8 the grounds that the $60.9 million is not used and useful. Do you agree
9 with their rationale?

10 A. No, I do not. First, it needs to be understood that an accounting
11 classification does not mean that invested amounts are not providing
12 benefits to customers. Customers expect and deserve to have facilities in
13 place to serve them when needed and to modernize existing facilities
14 when it is cost-effective and/or improves service. In fact, if Gulf did not
15 make these investments, it could be sanctioned by the Commission for not
16 doing so.

17

18 Second, capital projects take time to construct, some longer than others.
19 Costs are incurred to carry these projects to their ultimate completion. A
20 project with a construction time of less than 12 months still incurs these
21 carrying costs and these costs should be recognized in setting rates. Not
22 doing so would be analogous to a bank not having to pay interest on CDs
23 of less than 12 months. Obviously, investors expect a return on capital for
24 the entire time that it is invested, not for just when it exceeds 12 months.

25

1 Third, labeling an investment as "not used or useful" does not mean that it
2 should automatically be excluded from rate base and denied the
3 opportunity to earn a return. The Commission pursuant to Rule 25-6.041,
4 F.A.C., and its orders recognizes that CWIP can be allowed in rate base.
5 Even long-term projects that otherwise would qualify for AFUDC can be
6 included in rate base to maintain a utility's financial integrity.
7
8 Q. How is financial integrity threatened by large amounts of CWIP?
9 A. A large construction program can put financial strains on a utility, even if
10 AFUDC is allowed. AFUDC is a non-cash accounting entry with delayed
11 realization of earnings. With insufficient cash flows bond ratings can be
12 threatened. In addition, denying both AFUDC and rate base inclusion, as
13 Mr. Chriss and Ms. Ramas suggest, would only exacerbate potential
14 negative financial impacts.
15
16 Q. Has the Commission allowed the inclusion in rate base of CWIP which is
17 ineligible for AFUDC?
18 A. Yes, the Commission did so in Gulf's last rate case. The Commission has
19 acknowledged that short term construction projects are a necessary part
20 of providing quality service and should be allowed in rate base as opposed
21 to accruing AFUDC.
22
23 Q. Has the Commission ever conducted an investigation into the proper
24 accounting and ratemaking treatment for CWIP?
25

1 A. Yes, the Commission conducted such an investigation in Docket No.
2 72609-PU and issued its findings in Order No. 6640 dated April 28, 1975.
3
4 Q. What were the Commission's findings?
5 A. The Commission reaffirmed its previous findings that there should be two
6 (and only two) options for CWIP. The Commission stated:
7
8 > The Commission's currently prescribed accounting treatment of
9 > AFDC was established by Order No. 3143 in Docket No. 6655
10 > issued in 1962. It provides the companies with two options:
11 >
12 > a. Charge AFDC on CWIP and not include CWIP
13 > in rate base.
14 > b. Not charge AFDC and include CWIP in rate
15 > base.
16 >
17 > Further, we hereby conclude that the amount of CWIP
18 > includable in the rate base should be equal to or less than
19 > the normal average amount of CWIP outstanding over a
20 > reasonable period of time and that CWIP amounts in excess
21 > of this level should receive AFDC.
22
23 Q. Did the Commission address the proper treatment of construction projects
24 with shorter construction times?
25

1 A. Yes, the Commission did and generally referred to such projects as
2 "blanket work orders", recognizing that such projects were generally not
3 great in individual dollar amounts, and were routine or recurring in nature.
4 Such projects were accounted for on a blanket work order basis.
5
6 Q. What did the Commission decide for these type projects?
7 A. The Commission recognized that such projects generally do not receive
8 AFUDC and thus should be included in rate base. The Commission
9 stated:
10
11 Due to the differences in operating characteristics of the
12 various companies, we deem it inappropriate and impractical
13 to attempt to set a standard for the dollar amount or time
14 span that would be used to determine the eligibility of certain
15 construction projects as blanket work orders. However,
16 since blanket work orders do not receive AFDC and thus are
17 permitted under our optional provisions of being included in
18 the rate base, we believe the levels set by the companies
19 should be reviewed by this Commission for purposes of
20 testing their reasonableness.
21
22 It should also be emphasized that in order to be eligible for
23 inclusion in the rate base, blanket work orders should not
24 receive AFDC at any time, either in the past or future.
25

1 Q. Has the $60.9 million of CWIP that Gulf is requesting to be included
2 in its rate base ever accrued AFUDC?
3 A. No, it has not and therefore, should be included in Gulf's rate base.
4
5 Q. Ms. Ramas attempts to justify her position by stating that short term
6 projects still provide the Company a return by either increasing sales or
7 decreasing operating costs. Do you agree with her rationale?
8 A. I do not agree. While I appreciate her implicit acknowledgement that a
9 return should be earned, a closer look at her statement reveals the fallacy
10 of it. The only way that a project can increase sales is to be completed
11 and closed out of CWIP and placed in plant in service. Her so called
12 "return" through increased sales does nothing for the time period that it
13 was under construction. Likewise, a construction project that decreases
14 costs cannot achieve its purpose until it is completed. So, very desirable
15 projects that ultimately increase sales or reduce costs would be denied
16 recovery of a return during their construction time. Regulation should be
17 encouraging the deployment of capital for such projects, not denying a
18 return as Ms. Ramas suggests. Accepting Ms. Ramas' suggestion would
19 constitute bad regulatory policy.
20
21 Q. Ms. Ramas characterizes the increased revenue and the reduced costs
22 from the construction projects as a "return" to Gulf. Do you agree?
23 A. No, I believe a better characterization is that these projects are providing
24 customer benefits. And if these projects provide customer benefits, they
25 should be allowed to earn a return during construction.

1

2 Q. Ms. Ramas further justifies her recommendation to deny a return on these

3 projects because they constitute only 19% of total CWIP. Do you agree?

4 A. No. I agree that denying a return on 19% of total necessary and

5 reasonable costs is better than denying a return on 100% of total

6 necessary and reasonable costs. However, the principle is being violated

7 regardless of whether it is 19% or 100%. Ms. Ramas' recommendation is

8 analogous to a bank paying interest on only $81,000 of $100,000 invested

9 in CDs, because $19,000 is invested in CDs maturing in less than 12

10 months.

11

12 Q. Mr. Chriss asserts that there should be a match of costs and benefits. Do

13 you agree?

14 A. I believe in the principle of matching cost and benefits. It is for this reason

15 that I disagree with his recommendation to deny a return on construction

16 projects that are needed to meet customer demands and/or improve

17 service. If a return is denied, a mismatch occurs.

18

19

20 **PARENT DEBT ADJUSTMENT**

21

22 Q. What is a parent debt adjustment?

23 A. It is a ratemaking adjustment wherein an amount of debt issued by the

24 parent is imputed to the capital structure of the regulated utility for

25 purposes of calculating the amount of income tax expense to be included

1 in rates. It is premised on the presumption that debt issued by the parent
2 is invested in the equity of the regulated utility, i.e., that double leverage
3 exists. Therefore, it essentially is a double leverage adjustment.
4
5 Q. What do you mean by the term "double leverage"?
6 A. Leverage is a financial term used to describe a situation where debt is
7 used to finance an enterprise. Debt is generally a fixed-obligation source
8 of capital and it can be used to "leverage" returns on equity capital. It
9 introduces an element of risk to meet the fixed obligations, but when
10 combined with equity capital in appropriate proportions can enhance the
11 equity return.
12
13 Double leverage refers to a situation where a parent entity issues debt to
14 invest in a subsidiary that also issues its own debt, hence the leverage is
15 doubled. This practice introduces even more risk for the consolidated
16 operations of the parent and subsidiary. Given the increased risk, the
17 amount of debt so issued needs to be evaluated to insure that there is not
18 an over reliance on debt capital. This is also true for regulated utilities and
19 regulators should make an evaluation of the amount a debt that is prudent
20 to finance regulated operations.
21
22 Q. Does the Commission have a policy of making double leverage
23 adjustments?
24 A. No, the Commission has a policy of not making double leverage
25 adjustments. The Commission has shown a distinct preference for using

1 the actual capital structure of the regulated utility as long as the actual
2 capital structure ratios are not imprudent on their face. The Commission
3 has found that the funding source of funds invested in a regulated utility's
4 equity is not relevant and that making double leverage adjustments can
5 distort the true cost of equity capital for a regulated utility.
6
7 Q. Why then does the Commission make a parent debt adjustment?
8 A. The Commission makes an exception for the calculation of income tax
9 expense. It deviates from its general policy against double leverage
10 adjustments to recognize the tax deduction of interest on parent debt that
11 is presumed to be invested in the equity of the regulated utility. Even
12 though the debt exists at the parent level and ratepayers are not obligated
13 to pay the interest in their rates, the tax deduction is nevertheless imputed
14 to the benefit of ratepayers.
15
16 Q. So there is a discrepancy between the amount of debt used to determine
17 a regulated utility's cost of capital and the amount of debt used to
18 determine the regulated utility's income tax expense?
19 A. Yes, that is correct.
20
21 Q. How did the Commission's policy on parent debt adjustment come to be?
22 A. One of the earliest adjustments to recognize the "tax effect of consolidated
23 debt" was made in a 1975 case involving Southern Bell Telephone and
24 Telegraph Company, a subsidiary of AT&T. The Commission used a
25 consolidated capital structure and made the adjustment on the basis of the

1 accounting principle of consistency which "necessitates that the tax effect
2 of AT&T debt be recognized" when a consolidated capital structure is used
3 to determine revenue requirements. (Docket No. 74805-TP, Order No.
4 7018 dated December 4, 1975)
5
6 This same argument of consistency was used to not make an adjustment
7 in a 1976 case involving General Telephone Company of Florida. In that
8 case, the Commission did not use a consolidated capital structure and
9 concluded that consistency required that no recognition of the tax effect of
10 parent debt be given. (Docket No. 760464-TP, Order No. 7669 dated
11 March 7, 1977) The Office of Public Counsel appealed the Commission's
12 order arguing that a failure to recognize the parent's debt-equity mix in the
13 computation of tax expense permits General Telephone to receive an
14 allowance greater than its actual income tax liability on a consolidated
15 basis. The Florida Supreme Court (Court) remanded the case to the
16 Commission, stating that it was unable to conclude with the majority of the
17 Commissioners that the use of the subsidiary approach for determining
18 cost of capital dictates the use of the same approach for the tax effect
19 calculations. The Court went on to say "Each determination must be
20 based on specific independent findings supported by competent
21 substantial evidence. There was no such independent finding in this case,
22 and what evidence there is in the record supports the consolidated
23 approach as being more accurate." *Citizens of the State of Fla. v.*
24 *Hawkins*, 356 So.2d 254 (Fla. 1978).
25

1 Q. Does the Commission have a rule on parent debt adjustments?

2 A. Yes, the Commission adopted Rule 25-14.04, F.A.C. (now designated as
3 Rule 25-14.004, F.A.C.) in 1982. When the Commission adopted the rule,
4 it included a provision presuming that the parent debt is invested in the
5 equity of the regulated utility in the same ratios as the parent's overall
6 capital structure. The Commission also included a provision that this
7 presumption is a rebuttable one.

8

9 Q. Has the Commission ever considered repealing Rule 25-14.004, F.A.C.?

10 A. Yes, in Docket No. 870386-PU, the staff of the Commission filed a
11 recommendation concerning the potential repeal of Rule 25-14.004. The
12 technical staff recommended repeal of the rule. Legal staff recommended
13 against repeal.

14

15 Technical staff explained that the relevant court cases do not require the
16 rule and it is within the Commission's discretion to make adjustments as
17 the record evidence supports. The technical staff argued that ratepayers
18 should pay the taxes associated with or receive the tax benefit of only the
19 items that are included in the cost of service and net operating income
20 directly attributable to them. Technical staff referred to this as the "cause
21 and effect relationship" and went on to explain the true effect of a parent
22 debt adjustment:

23

24 The effect of the parent debt adjustment is an indirect
25 reduction of equity return, not a correction of income tax

1 expense. This equity return adjustment can be directly
2 achieved by reducing the allowed cost of equity or the
3 amount of equity. Either of these adjustments will have the
4 direct effect of also reducing the allowed income tax
5 expense and will be within the cause and effect relationship.
6 Staff Recommendation at page 5, issued September 8, 1988 in Docket
7 No. 870386-PU, Repeal of Rule 25-14.004, Florida Administrative Code,
8 Effect of Parent Debt on Federal Corporate Income Tax.
9
10 Technical staff further explained why the rule is inappropriate and
11 unnecessary:
12
13 The parent company debt adjustment necessarily assumes
14 that the debt of parent company funds the equity of the utility
15 subsidiary. This is known as double-leverage. We believe
16 that the capital structure found reasonable by the
17 Commission should determine the interest used for tax
18 purposes. This is known as interest reconciliation. It makes
19 no sense to use one interest amount for capital structure and
20 another for tax purposes. In developing capital structure, the
21 parent subsidiary relationship is reviewed. **The key is the**
22 **reasonableness of the utility's capital structure.**
23 [Emphasis added]
24
25

1 All parties in proceedings before this Commission are
2 offered the opportunity to provide expert testimony regarding
3 the appropriate level of income tax expense, capital structure
4 and rate of return. All appropriate adjustments may be made
5 without invoking Rule 25-14.004. Because Rule 25-14.004
6 is unnecessary, it should be repealed.

7 ID. at 7-8

8

9 In Order No. 20206 dated October 24, 1988, the Commission chose not to
10 repeal Rule 25-14.004. In a one paragraph order, the Commission simply
11 stated: "We do not wish to revisit the rule at this time."

12

13 Q. You mentioned the rebuttable presumption in Rule 25-14.004, F.A.C. Did
14 Gulf rebut this presumption in its direct testimony?

15 A. Yes, Mr. Teel explained why it is incorrect to presume that debt issued by
16 the Southern Company is invested in the equity of Gulf.

17

18 Q. Does Dr. Woolridge address the presumption and Mr. Teel's rebuttal of it?

19 A. Yes, Dr. Woolridge cites a previous Commission order and concludes that
20 Mr. Teel's rebuttal is not persuasive because it is impossible to "trace
21 dollars". He further concludes that because there is debt that exists at the
22 parent level that the parent debt adjustment is appropriate for Gulf.

23

24

25

1 Q. Do you agree with Dr. Woolridge's conclusion?

2 A. No, I do not agree. Dr. Woolridge essentially argues that the presumption
3 can never be rebutted. His concluding statement on the subject is quite
4 revealing. He concludes with this statement: "Therefore, in the absence of
5 an all equity capital structure at the parent level, a PDA is appropriate for
6 Gulf Power." With this view point, the presumption can never be rebutted.
7 This is inconsistent with the clear language of the Rule.

8

9 Q. Dr. Woolridge also refers to the impossibility of tracing dollars. Do you
10 agree with this argument?

11 A. I find his reasoning curious. While stating it is impossible to trace dollars,
12 he ignores the reality that the presumption in the Rule and his own
13 conclusion are exactly that, a tracing of dollars from parent debt
14 (Southern) to subsidiary equity (Gulf). I agree that these dollars from
15 Southern to Gulf cannot be traced or proven with certainty, hence the
16 presumption. However, if one is to rebut the presumption which is based
17 on tracing, one has to engage in similar "tracing" to show that the dollars
18 were not, or more likely not, to have been invested in Gulf's equity. By his
19 dividend analysis, Mr. Teel shows that it is more likely that the Southern
20 debt was not invested in Gulf's equity. Dr. Woolridge makes no such
21 analysis to rebut Mr. Teel's assertion. He simply relies on arguments that
22 say the presumption can never be rebutted.

23

24

25

1 Q. Dr. Woolridge cites the Indiantown case, Order No. PSC-00-2054-PAA-
2 WS, for the proposition that the parent debt adjustment was not rebutted.
3 Do you agree?
4 A. Yes, I do agree that in the Indiantown case, the parent debt adjustment
5 was not sufficiently rebutted and that an adjustment was made. This case
6 does not stand for the proposition that the presumption can never be
7 rebutted. It does stand for the proposition that each case rests on its own
8 unique set of facts.
9
10 Q. Were there any unique facts in the Indiantown case relevant to the parent
11 debt adjustment?
12 A. Yes, the Commission was concerned with the high equity ratio that existed
13 at the regulated utility level.
14
15 Q. What was the equity ratio and why is it relevant?
16 A. The equity ratio was 80.17%. Remember that a parent debt adjustment is
17 essentially a double leverage adjustment. The higher the equity ratio, the
18 more likely that the regulated utility's capital structure is inappropriate and
19 the likelihood that parent debt supports the high equity ratio, i.e., that there
20 is in fact double leverage taking place.
21
22 Q. Has the Commission ever recognized the appropriateness of a utility's
23 capital structure and chosen not to make a parent debt adjustment?
24
25

1 A. Yes, it has. In Docket No. 040247-WS involving St. James Island Utility
2 Company, Order No. PSC-04-0755-PAA-WS issued August 5, 2004, the
3 Commission stated:
4
5 In this case, we do not approve a parent/debt adjustment.
6 The parent company, St. Joe, is capitalized with an equity
7 ratio of 60%, whereas St. James' proposed capital structure
8 consists of 40% equity and 60% debt. We find the utility's
9 proposed capital structure to be reasonable and note that
10 the parent company has significantly more equity.
11
12 Q. Does the Southern Company (unconsolidated) have significantly more
13 equity than Gulf?
14 A. Yes, it does.
15
16 Q. Does Dr. Woolridge express an opinion on the appropriateness of Gulf's
17 capital structure?
18 A. Yes, he does. Dr. Woolridge uses Gulf's recommended capital structure
19 and finds it to be in line with its recent capital structure as well as the
20 consolidated capital structure of Southern Company.
21
22 Q. Did the Commission make a parent debt adjustment for Gulf in its last rate
23 case?
24 A. No, it did not.
25

1 Q. If the Commission were to make a parent debt adjustment for Gulf in this
2 case, while concluding that Gulf's recommended capital is appropriate,
3 what would be the result?
4 A. Once the Commission makes a determination as to Gulf's rate base,
5 revenues, expenses, capital structure, and capital costs which it deems to
6 yield reasonable results, then the addition of the parent debt adjustment
7 will reduce Gulf's achieved net operating income and return on equity.
8 This could preclude Gulf from realizing its authorized return on equity.
9
10 Q. You earlier quoted from technical staff's recommendation regarding
11 possible repeal of Rule 25-14.004, F.A.C. Do you agree with those
12 opinions?
13 A. Yes, I do. I particularly agree with technical staff's "cause and effect"
14 rationale and their conclusion that the real issue is the reasonableness of
15 a regulated utility's capital structure.
16
17 Q. Why is that?
18 A. Remember that a parent debt adjustment is essentially a double leverage
19 adjustment. It implies that the regulated utility should have issued more
20 debt than it actually did. If the regulated utility's capital structure and the
21 amount of debt it actually issues are found to be reasonable, the need for
22 a parent debt adjustment is substantially diminished, if not totally
23 eliminated.
24
25

1 Q. Should the reasonableness of Gulf's regulated capital structure be a
2 consideration in determining if the rebuttable presumption in Rule 25-
3 14.004, F.A.C. has been met?
4 A. Yes, it should. The reasonableness of Gulf's capital structure further
5 substantiates Mr. Teel's arguments that Southern's debt is not invested in
6 Gulf's equity and that Gulf's capital structure can be used to correctly
7 determine Gulf's cost of providing service.
8
9
10 **O&M BENCHMARK**
11
12 Q. Mr. Chriss, on behalf of the Florida Retail Federation, suggests that Gulf
13 Power should have used the Commission's O&M Benchmark in its
14 budgeting process. Do you agree?
15 A. No, I do not. That is not the purpose of the O&M Benchmark.
16
17 Q. What is the purpose of the O&M Benchmark?
18 A. The Commission's O&M Benchmark is simply a tool or indicator used by
19 the Commission to flag certain expenses for careful review. It is not
20 intended to be a floor or a ceiling for O&M expenses. Commission orders
21 have consistently confirmed the O&M Benchmark is an analytical tool
22 used as part of the Commission's overall evaluation of a utility's O&M
23 expenses in a rate case proceeding.
24
25

1 Q. Should the Commission be concerned if Gulf actually used the O&M
2 Benchmark to set its budgets?
3 A. Yes, it should. The Commission should expect and, in fact, require Gulf
4 and all other regulated utilities to budget for forecasted demands,
5 workloads and costs that are reasonably necessary to provide reliable and
6 cost-effective service. A strict adherence to a regulatory guideline like the
7 O&M Benchmark cannot be a substitute for an effective and dynamic
8 budgeting process that considers customer expectations, changes in
9 technology, changes in fuel costs, and changes in environmental and
10 other regulatory requirements, just to name a few.
11
12

13 **IMPACT ON CUSTOMERS**

14
15 Q. Do witnesses Chriss and Pollock address the impact on customers of
16 Gulf's proposed rate increase?
17 A. Yes, they do. They address customer impacts, the state of the economy,
18 and the competitiveness of Gulf's rates. Mr. Pollock states: "the
19 Commission must ensure that Gulf's request for a rate increase minimizes
20 the impact on all customers." Mr. Chriss, while acknowledging that costs
21 are required to provide reliable and adequate service, which include a
22 reasonable return, states: "However, the Commission needs to ensure
23 that service is provided at the lowest possible cost."
24
25

1 Q. Do you agree with their exhortations?

2 A. I agree that customer impacts are important and should be a primary
3 consideration. I further agree that regulation should make decisions and
4 adopt policies which encourage utilities to be efficient and provide high
5 quality service in a cost-effective manner. In this way, customer impacts
6 can be minimized. However, the Commission should not deny the
7 recovery of needed and prudent costs or unnecessarily defer recovery of
8 needed and prudent costs in an effort to minimize customer impacts
9 because of the state of the economy or to keep rates artificially low as a
10 means to enhance economic development.
11
12 Q. Why do you add this qualification to the exhortations of witnesses Pollock
13 and Chriss?

14 A. The primary responsibility of setting a utility's rates is to provide rates
15 which give a utility a reasonable opportunity to completely and timely
16 recover all prudent and necessary costs incurred to provide service. This
17 is true regardless of the state of the economy or the desire to stimulate
18 economic development. To deny a regulated utility this opportunity would
19 be contrary to good regulatory policy, would be unsustainable and would
20 be harmful to customers in the long-term.
21
22 Q. How would rates so set be unsustainable?

23 A. The true economic cost of providing service has to be recovered. This is
24 economic reality. If not, service will suffer and the regulated utility would
25 not be able to obtain capital to adequately serve existing customers and

1 meet demands of new and growing customers. This is what I mean by
2 being unsustainable.
3
4 Q. Why are sustainable rates needed even in an economic downturn?
5 A. Regulated utilities have an obligation to serve all customers on reasonable
6 terms. This is one of their fundamental obligations under the regulatory
7 compact and a fundamental reason why their access to capital on
8 reasonable terms must be preserved. Regulated utilities do not have the
9 ability to curtail service offerings or exit unprofitable markets during an
10 economic downturn, as competitive firms do. To the contrary, regulated
11 utilities must obtain and deploy capital when customers demand it, not
12 when it may be economically advantageous or convenient to do so.
13
14 Q. Why are sustainable rates needed to enhance economic development?
15 A. While industrial and commercial customers are legitimately concerned
16 with the cost of electric service, they are equally concerned with the
17 reliability of their service and assurances that their electric utility has the
18 means to modernize equipment, respond to changes in technology and
19 deploy capital to build needed infrastructure to serve them as they grow.
20 Unsustainable rates will not meet these needs and expectations.
21
22 Q. Can Gulf play an important role in the economic recovery in Northwest
23 Florida?
24 A. Yes, Gulf has been and continues to be a leader in economic
25 development efforts in Northwest Florida. As contained in the testimony of

1 Gulf witnesses, Gulf made a conscious decision to delay its request for a
2 rate increase as long as it could without jeopardizing its financial integrity.
3 A rate increase is now necessary to position Gulf to provide cost-effective,
4 quality electric service to its customers. Gulf needs to be positioned to
5 meet the growing needs of Northwest Florida as economic trends improve.
6
7 Q. Does this conclude your testimony?
8 A. Yes, it does.
9
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AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF LEON)

Docket No. 110138-EI

Before me the undersigned authority, personally appeared J. Terry Deason, who being first duly sworn, deposes, and says that he is a Special Consultant for the law firm Radey Thomas Yon and Clark, and that the foregoing is true and correct to the best of his knowledge, information, and belief. He is personally known to me.

The signed original affidavit is attached to the original testimony on file with the FPSC.

s/____________________________
J. Terry Deason

Sworn to and subscribed before me this ______ day of __________________,

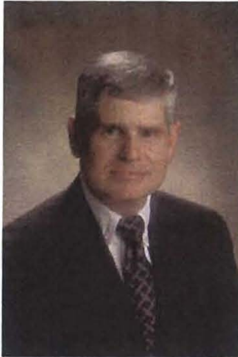
2011.

____
Notary Public, State of Florida at Large

Commission No. ________________________

My Commission Expires ____________________

Terry Deason*



Special Consultant (Non-Lawyer)*
Phone: (850) 425-6654
Fax: (850) 425-6694
E-Mail: tdeason@radeylaw.com

Practice Areas:

- Energy, Telecommunications, Water and Wastewater and Public Utilities

Education:

- United States Military Academy at West Point, 1972
- Florida State University, B.S., 1975, Accounting, summa cum laude
- Florida State University, Master of Accounting, 1989

Professional Experiences:

- Radey Thomas Yon & Clark, P.A., Special Consultant, 2007 - Present
- Florida Public Service Commission, Commissioner, 1991 - 2007
- Florida Public Service Commission, Chairman, 1993 - 1995, 2000 - 2001
- Office of the Public Counsel, Chief Regulatory Analyst, 1987 - 1991
- Florida Public Service Commission, Executive Assistant to the Commissioner, 1981 - 1987
- Office of the Public Counsel, Legislative Analyst II and III, 1979 - 1981
- Ben Johnson Associates, Inc., Research Analyst, 1978 - 1979
- Office of the Public Counsel, Legislative Analyst I, 1977 - 1978
- Quincy State Bank Trust Department, Staff Accountant and Trust Assistant, 1976 - 1977

Professional Associations and Memberships:

- National Association of Regulatory Utility Commissioners (NARUC), 1993 - 1998, *Member, Executive Committee*
- National Association of Regulatory Utility Commissioners (NARUC), 1999 - 2006, *Board of Directors*

RADEY THOMAS YON & CLARK, P.A.
301 South Bronough Street, Suite 200
Tallahassee, FL 32301
www.radeylaw.com

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- National Association of Regulatory Utility Commissioners (NARUC), 2005-2006, *Member, Committee on Electricity*
- National Association of Regulatory Utility Commissioners (NARUC), 2004 - 2005, *Member, Committee on Telecommunications*
- National Association of Regulatory Utility Commissioners (NARUC), 1991 - 2004, *Member, Committee on Finance and Technology*
- National Association of Regulatory Utility Commissioners (NARUC), 1995 - 1998, *Member, Committee on Utility Association Oversight*
- National Association of Regulatory Utility Commissioners (NARUC) 2002 *Member, Rights-of-Way Study*
- Nuclear Waste Strategy Coalition, 2000 - 2006, *Board Member*
- Federal Energy Regulatory Commission (FERC) South Joint Board on Security Constrained Economic Dispatch, 2005 - 2006, *Member*
- Southeastern Association of Regulatory Utility Commissioners, 1991 - 2006, *Member*
- Florida Energy 20/20 Study Commission, 2000 - 2001, *Member*
- FCC Federal/State Joint Conference on Accounting, 2003 - 2005, *Member*
- Joint NARUC/Department of Energy Study Commission on Tax and Rate Treatment of Renewable Energy Projects, 1993, *Member*
- Bonbright Utilities Center at the University of Georgia, 2001, *Bonbright Distinguished Service Award Recipient*
- Eastern NARUC Utility Rate School - Faculty Member