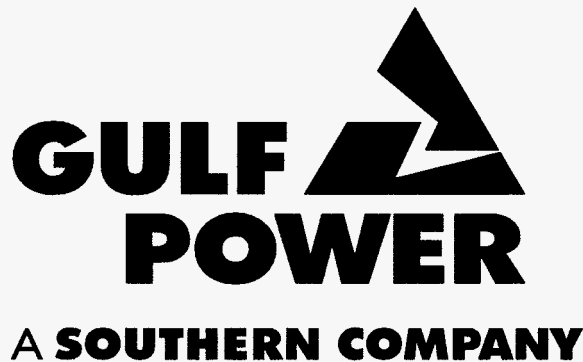


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 110138-EI

SUPPLEMENTAL REBUTTAL TESTIMONY
OF
J. TERRY DEASON



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APA	1
ECR	5
GCL	1
RAD	1
SRC	1
ADM	
OPC	
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DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

1 GULF POWER COMPANY

2 Before the Florida Public Service Commission
3 Supplemental Rebuttal Testimony of
4 J. Terry Deason
5 Docket No. 110138-EI
6 In Support of Rate Relief
7 Date of Filing: November 29, 2011

8 Q. Please state your name and business address.

9 A. My name is Terry Deason. My business address is 301 S. Bronough
10 Street, Suite 200, Tallahassee, Florida 32301.

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

12 A. I am employed by the law firm Radey Thomas Yon and Clark as a Special
13 Consultant specializing in the fields of energy, telecommunications, water
14 and wastewater, and public utilities generally.

15 Q. Did you file rebuttal testimony in this docket?

16 A. Yes.

17 Q. What is the purpose of your supplemental rebuttal testimony?

18 A. The purpose of my supplemental rebuttal testimony is to respond to the
19 supplemental direct testimony of OPC witness Donna Ramas and to
20 address the proper ratemaking treatment for Gulf Power's Crist Unit 6 and
21 Crist Unit 7 turbine upgrades.
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FPSC-COMMISSION CLERK

1 Q. What position does Ms. Ramas take with regard to the turbine upgrades?

2 A. Ms. Ramas recommends that the full annualization of the turbine
3 upgrades be disallowed. She would limit recovery to the 13-month
4 average of the turbine upgrade costs.

5

6 Q. Why does Ms. Ramas recommend disallowance of the full annualization of
7 the turbine costs?

8 A. Ms. Ramas takes the position that annualizing the turbine costs would
9 result in a mismatch of test year investment, revenues and costs, because
10 the turbines are not to be completed until May and December of the test
11 year.

12

13 Q. Would this be the result of Gulf's proposed treatment of the turbine
14 upgrade costs?

15 A. No, it would not. Gulf is not proposing to achieve rate recovery before the
16 turbine upgrades are completed.

17

18 Q. How does Gulf's proposal accomplish this?

19 A. Gulf has proposed two alternative approaches. Gulf's primary proposal is
20 to include the turbine upgrade costs in the test year as if they were in
21 service for the entire test year and then issue a credit through the
22 Environmental Cost Recovery Clause (ECRC) for the difference. Gulf's
23 alternative proposal is to include the turbine upgrades at their 13-month
24 average amounts in the test year and then to implement a subsequent
25 year adjustment to recognize the full annualized costs on a going-forward

1 basis. Under either approach, there is no mismatch in test year
2 investment, revenues and costs.

3

4 Q. Why is Gulf's primary proposal to issue a credit through the ECRC
5 particularly relevant for the turbine upgrade costs?

6 A. The costs for Gulf's initial turbine upgrade are currently being recovered
7 through the ECRC. The subsequent turbine upgrades could also receive
8 similar treatment, because they too are integral to environmental
9 compliance projects at Crist Units 6 and 7. However, to be in compliance
10 with an apparent change in Commission policy concerning the recovery of
11 similar type projects, Gulf stipulated to have the turbine upgrade costs
12 afforded recovery through base rates and be included in its pending rate
13 case. The timing of the recovery of the turbine upgrade projects would not
14 be an issue if they were to be recovered through the ECRC.

15

16 Q. What then is the issue in regards to the timing of the turbine upgrade costs
17 in the rate case?

18 A. As I earlier stated, under either of Gulf's proposed treatments, there is no
19 mismatch in the 2012 test year. The real issue is the recovery of turbine
20 upgrade costs subsequent to the 2012 test year. Ms. Ramas would limit
21 recovery to only the 13-month average test year amounts. This ignores a
22 substantial portion of the investment in these upgrade projects on a going-
23 forward basis. This, in turn, results in a mismatch in investment, revenues
24 and costs starting in 2013. Thus, in an attempt to eliminate an imaginary

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1 mismatch in the 2012 test year, Ms. Ramas' position would cause an
2 actual mismatch to occur beginning in 2013.

3

4 Q. How would there be a mismatch starting in 2013?

5 A. Rates would not reflect the full investment in the turbine upgrade projects
6 beginning in 2013. In addition, there would be a further mismatch in costs
7 and benefits.

8

9 Q. What would be the mismatch in costs and benefits?

10 A. The turbine upgrade projects were undertaken in conjunction with
11 environmental compliance projects to help offset their parasitic load and to
12 increase the overall efficiency of the plants. The upgrades benefit
13 customers by reducing fuel costs from what they otherwise would be.
14 Therefore, while customers would be receiving the full benefits of the
15 upgrades through lower fuel costs, Gulf would be receiving a return on
16 only a portion of its investment that generates the fuel savings. This is a
17 mismatch of costs and benefits.

18

19 Q. Ms. Ramas asserts that Gulf's proposed treatment would be inconsistent
20 with Commission policy. Do you agree?

21 A. No, I do not agree. Either of Gulf's proposed treatments would be
22 consistent with Commission policy.

23

24

25

1 Q. How is Gulf's proposed treatment consistent with Commission policy?

2 A. In addition to matching costs and benefits, the Commission has a policy of
3 setting rates based on costs that are reasonably known to be incurred
4 during the time that rates are to be in effect. The goal is to set rates on a
5 going forward basis that will enable a utility to recover its costs and have a
6 reasonable opportunity to actually achieve its authorized rate of return.
7 The Commission has implemented this policy by various means, including
8 adjustments for known and measurable changes and allowing subsequent
9 year adjustments in rates.

10

11 Q. Is the Commission's policy reflected in statute?

12 A. Yes, it is. Section 366.076(2), Florida Statutes, authorizes the
13 Commission to adopt rules that provide for "adjustments of rates based on
14 revenues and costs during the period new rates are to be in effect and for
15 incremental adjustments in rates for subsequent periods." The
16 Commission adopted Rule 25-6.0435, Florida Administrative Code, to
17 implement this statutory provision.

18

19 Q. Has the Commission's policy to set rates on a going-forward basis ever
20 been addressed by the Florida Supreme Court?

21 A. Yes, it has. The Florida Supreme Court has held that the Commission's
22 authority to grant this type of relief predates and is independent of Section
23 366.076. In a 1985 challenge to a Commission order granting FPL a rate
24 increase for 1984 and a subsequent year adjustment for 1985, the court

25

1 found it unnecessary to rule on the constitutionality of the recently enacted
2 Section 366.076, saying:

3

4 We agree that PSC's authority to grant subsequent year
5 adjustments predated the enactment of [section 366.076] and
6 it is therefore unnecessary to address the constitutionality of
7 the chapter.

8

9 At the heart of this dispute is the authority of PSC to combat
10 "regulatory lag" by granting prospective rate increases which
11 enable utilities to earn a fair and reasonable return on their
12 investments. We long ago recognized that rates are fixed for
13 the future and that it is appropriate for PSC to recognize
14 factors which affect future rates and to grant prospective rate
15 increases based on these factors.

16

17 *Floridians United for Safe Energy, Inc. vs. Public Service*
18 *Commission*, 475 So. 2d 241, 242 (Fla. 1985) (citations
19 omitted).

20

21 Q. The Court uses the term "regulatory lag". What is regulatory lag?

22 A. Regulatory lag is the difference in time between when a change in rates is
23 needed due to changes in costs and when a rate change can be
24 implemented. Regulatory lag can have the effect of denying a regulated

25

1 company a reasonable opportunity to actually achieve its authorized
2 return.

3

4 Q. If it were adopted, would Ms. Ramas' position result in regulatory lag?

5 A. It could have that effect. If the full cost of the turbine upgrades is not
6 recognized in this case starting in 2013, Gulf may have to seek recovery
7 through other means. If the other means of cost recovery could not be
8 achieved effective January 1, 2013, then regulatory lag would result.

9

10 Q. Even if the other means of rate recovery could be effective by January 1,
11 2013, would this be the best approach?

12 A. No, it would not. Consistent with Commission policy, the current rate case
13 is an appropriate vehicle to recognize these costs. Ignoring the costs now
14 and requiring Gulf to seek recovery by other means would only add an
15 element of increased risk and additional regulatory costs. This would not
16 be in the customers' best interest.

17

18 Q. Has the Commission previously addressed a situation where significant
19 capital investments were being made during the course of a test year?

20 A. Yes, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa
21 Electric Company, the Commission was faced with that factual situation.
22 Tampa Electric (TECO) was seeking cost recovery of five separate
23 combustion turbine units, two to be completed in May 2009 and three to
24 be completed in September 2009. TECO sought recovery by fully
25 annualizing the costs of the combustion turbine units in its 2009 test year.

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Q. What did the Commission decide for the costs of the five combustion turbine units?

A. The Commission rejected TECO's full annualization of the units, but allowed cost recovery through a subsequent increase in rates. The Commission determined that the costs of the five combustion turbine units should be recovered as part of the rate case and not put off into a subsequent limited proceeding. The Commission further acknowledged that denying cost recovery of the full costs of the five units could deny TECO a reasonable opportunity to actually achieve its authorized return in 2010. In its non-final Order No. PSC-09-0283-FOF-EI, the Commission stated at page 6:

Under normal circumstances, the Company's pro forma adjustments for the five simple cycle combustion turbine units would have been eliminated from the test year results because we believe it violates the principle of matching revenue, expenses, and rate base for the projected test year. We do not want consumers paying for items that are not in commercial service during the test year. However, the five simple cycle combustion turbine units represent a significant expenditure for the Company if placed into service in the 2009 test period. Thus, as stated, TECO may experience a significant adverse impact on earnings in 2010, and would most likely lead to

1 it petitioning the Commission for a limited proceeding
2 within a very short period of time after our decision herein.

3

4 To avoid a significant cost to consumers and significant
5 length of time to conduct a limited proceeding, we have
6 decided to grant TECO a step increase in rates, effective
7 January 1, 2010, for the cost of the five CT units. ...

8

9 Q. You stated that the Commission's Order was non-final. Why did the Order
10 not become final?

11 A. The intervenors in the TECO case filed a motion for reconsideration of the
12 Commission's decision. The intervenors alleged that they were denied
13 due process since the step increase was not part of TECO's original
14 request. The intervenors further alleged that the step increase violated
15 various statutes and rules and would result in a mismatch of sales and
16 revenues. The Commission denied all aspects of the intervenors' motion
17 for reconsideration and the intervenors subsequently appealed the
18 Commission's decision. The parties then resolved the appeal through a
19 Commission-approved stipulation and thus the Order did not become final.

20

21 Q. How do the facts of the TECO case differ from those in Gulf's case?

22 A. There are two main differences. First, there are no allegations of a lack of
23 due process concerning Gulf's proposed treatment of the upgrade
24 projects: all parties stipulated that the recovery of the cost of these
25 projects should be considered in this docket and agreed on a schedule for

1 the filing of direct and rebuttal testimony addressing that cost recovery.
2 And second, Gulf is not requesting a full annualization of the upgrade
3 projects that would result in rates being collected before the upgrade
4 projects are completed. Gulf's annualization proposal contains a credit
5 through the ECRC which would prevent that potential outcome.

6

7 Q. Do you believe the TECO case is instructive on how Gulf's turbine
8 upgrades should be treated?

9 A. Yes, I do. The TECO case stands for the principle that known and
10 measurable changes, such as increased investments made during the
11 course of a rate case test year, should be reflected in rates such that rates
12 will be designed to recover costs on a going-forward basis. Absent such
13 recognition, a utility could be denied a reasonable opportunity to actually
14 achieve its authorized return. The TECO case further stands for the
15 proposition that limited scope proceedings should not be pursued when
16 the relevant costs can be reasonably included within a full revenue
17 requirements rate case.

18

19 Q. Even though Gulf is not requesting full annualization of the turbine
20 upgrades for 2012, has the Commission ever allowed a full annualization
21 of similar costs?

22 A. Yes, in a rate case involving Florida Public Utilities Company (FPUC), the
23 Commission allowed the full annualization of an investment in a new
24 transformer as opposed to including the rental on a temporary

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1 transformer. In Order No. PSC-08-0327-FOF-EI at page 23, the
2 Commission stated:

3

4 Although allowing a full 13-month average recovery of the
5 transformer increases the impact on rates, we believe it is
6 more representative of the future than the inclusion of a
7 rental transformer that will be gone before the rates even
8 go into effect, as FPUC pointed out. Accordingly, we find it
9 is appropriate in this instance to allow recovery of the
10 transformer as if it were in service December 31, 2007.

11

12 Q. So either of Gulf's proposed treatments for the turbine upgrade costs
13 would be consistent with Commission policy and precedent?

14 A. Yes.

15

16 Q. Do you have any other policy concerns with Ms. Ramas' proposed
17 treatment?

18 A. Yes, as I stated earlier, her treatment would deny recovery of a portion of
19 investments that create fuel savings. The Commission has a long history
20 of encouraging such investments and allowing full cost recovery of such
21 costs, either through the fuel adjustment clause or base rates. I am
22 concerned that adopting Ms. Ramas' position would violate this long-
23 standing practice and send the wrong message to utilities and their
24 investors.

25

1 Q. What is your recommendation with regard to Gulf's investment in its
2 turbine upgrades?

3
4 A. The Commission should approve either one of Gulf's proposals. This
5 would be consistent with Commission policy and precedent. In addition, it
6 would send the correct message to utilities and their investors, that
7 regulation in Florida supports the deployment of capital which generates
8 benefits for customers.

9
10 Q. If the Commission accepts Gulf's proposed treatment, Ms. Ramas
11 recommends further adjustments to Gulf's deferred income taxes. Please
12 comment on Ms. Ramas' recommendation.

13 A. I take no position on the deferred income taxes. However, I do note that
14 her position is inconsistent with a position taken by Dr. Woolridge.

15
16 Q. How is Ms. Ramas' recommendation on deferred income taxes
17 inconsistent with Dr. Woolridge's testimony?

18 A. Dr. Woolridge states that sources of capital cannot be traced. However,
19 Ms. Ramas' recommendation is based on the premise that a portion of the
20 deferred taxes can be traced as being invested in the turbine upgrades.

21
22 Q. Does this conclude your testimony?

23 A. Yes, it does.

24

25

AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF ESCAMBIA)

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.



J. Terry Deason

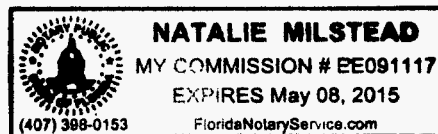
Sworn to and subscribed before me this 28th day of November,
2011.



Notary Public, State of Florida at Large

Commission No. EE091117

My Commission Expires May 8, 2015



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for Increase in Rates)
by Gulf Power Company)
)
)
_____)

Docket No. 110138-EI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished by overnight delivery the 28th day of November, 2011, on the following:

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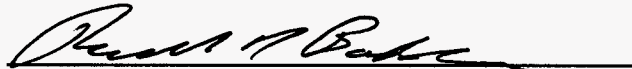
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