

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for rate increase by Gulf Power Company

DOCKET NO. 160186-EI

In Re: Petition for approval of 2016 approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company.

DOCKET NO. 160170-EI

FILED March 6, 2017

OFFICE OF PUBLIC COUNSEL'S MOTION TO STRIKE A PORTION OF REBUTTAL TESTIMONY FILED BY GULF POWER COMPANY'S WITNESS JEFFREY A. BURLESON

The Citizens of the State of Florida, by and through the Office of Public Counsel ("OPC" or "Citizens"), file this Motion to Strike Rebuttal Testimony of Gulf Power Company (Gulf) Witness Jeffrey A. Burleson filed February 8, 2017. As grounds in support of this Motion, Citizens state as follows:

1. By Order No. PSC-16- 0473-PCO-EI, the Commission established the procedures to be followed in this docket.
2. Pursuant to the Order Establishing Procedure (OEP), direct testimony was due on October 20, 2016. The OEP further required that any motion to strike be made in writing prior to the prehearing conference.
3. On February 8, 2017, Gulf filed rebuttal testimony of Witness Jeffrey A. Burleson including Exhibit JAB-3 including specific testimony that referred to the Exhibit. The specific testimony provisions page 14, line 7 through page 20, line 14. and the Exhibit JAB-3 Schedule 2, Excerpt from response to Staff ROG 376, which provides a comparative analysis between Scherer 3 and the replacement CT.

4. The exhibit and associated rebuttal testimony is actually testimony that could have and should have been addressed in Gulf's direct testimony of Witness Jeffrey A. Burleson and filed in a timely manner as the OPC learned on February 28, 2017 in Mr. Burleson's deposition. These are not "newly discovered facts" that were not previously known to the scheduled direct testimony filing date. Since the conclusion of the deposition at 6 PM on February 28th the OPC has endeavored to determine with its expert witness on this issue about whether to seek to file supplemental responsive testimony to the Exhibit JAB-3 related testimony. That determination was concluded the morning of the prehearing conference and this motion ensued. The Citizens submit that the OPC acted in good faith to address this issue promptly and Gulf is not prejudiced as filing immediately prior to the prehearing conference would have still allowed them to respond. No prejudice occurs by the filing coincident with the prehearing conference.

5. Citizens are unduly prejudiced by Gulf's attempt to bolster their direct case through rebuttal. The Commission should strike this evasion of the Commission's procedures and other parties due process rights.

WHEREFORE, Citizens request that the Prehearing Officer strike Gulf rebuttal testimony of Witness Jeffrey A. Burleson.

J.R. KELLY
PUBLIC COUNSEL
s/Charles J. Rehwinkel

Charles J. Rehwinkel
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Rm. 812
Tallahassee, FL 32399-1400

(850) 488-9330

Attorney for the Citizens
of the State of Florida

