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May 21, 2021

**-VIA ELECTRONIC FILING-**

Mr. Adam Teitzman  
Division of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

**RE: Docket No. 20200151-EI - Petition for approval of a regulatory asset to record costs incurred due to COVID-19, by Gulf Power Company.**

**Docket No. 20200189-WS - Petition for approval of a regulatory asset to record costs incurred due to COVID-19, by Utilities, Inc. of Florida.**

**Docket No. 20200194-PU – Petition for approval of regulatory assets to record costs incurred due to COVID-19, by Florida Public Utilities Company, Florida Public Utilities Company - Indiantown Division, Florida Public Utilities Company - Fort Meade, Florida Division of Chesapeake Utilities Corporation.**

Dear Mr. Teitzman:

Please find enclosed, for electronic filing in the referenced consolidated dockets, the pre-filed rebuttal testimony of Gulf Power Company (“Gulf Power”) witness Mitchell P. Goldstein. In addition, please find enclosed the rebuttal testimony of witness J. Terry Deason, which is being filed jointly by Gulf Power and Florida Public Utilities Company.

Thank you for your assistance. Please contact me should you or your staff have any questions regarding this filing.

Sincerely,

/s/ Joel T. Baker

Joel T. Baker  
Fla. Bar No. 0108202

cc: Counsel for parties of record (w/encl.)

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **GULF POWER COMPANY**

3 **REBUTTAL TESTIMONY OF MITCHELL P. GOLDSTEIN**

4 **DOCKET NO. 20200151-EI**

5 **May 21, 2021**

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3 **I. INTRODUCTION**

4 **Q. Please state your name and business address.**

5 A. My name is Mitchell Goldstein. My business address is Gulf Power Company (“Gulf  
6 Power”), One Energy Place, Pensacola, Florida, 32520.

7 **Q. Did you previously submit direct testimony in this proceeding?**

8 A. Yes. I submitted written direct testimony on April 2, 2021, together with Exhibit MG-  
9 1.

10 **Q. Are you sponsoring any rebuttal exhibits in this case?**

11 A. No.

12 **Q. What is the purpose of your rebuttal testimony?**

13 A. The purpose of my rebuttal testimony is to address and correct erroneous statements  
14 made by the Office of Public Counsel (“OPC”) witness Daniel Lawton in his testimony  
15 related to: 1) Gulf Power’s accounting for the deferral of incremental bad debt expense  
16 related to the COVID-19 regulatory asset; and 2) whether Gulf Power’s request to defer  
17 costs to a regulatory asset satisfies the requirements under applicable accounting rules  
18 and the Uniform System of Accounts (“USOA”).

19 **II. BACKGROUND**

20  
21 **Q. What is the context of your rebuttal testimony?**

22 A. In my direct testimony, I supported the amount of incremental costs, less savings, that  
23 Gulf Power has incurred and reasonably anticipates incurring, associated with the

1 COVID-19 pandemic. I made clear that the costs from April 2020 through February  
2 2021 were the actual amounts that Gulf incurred and that amounts from March 2021  
3 through December 2021 were forecast amounts based on the best information available  
4 at that time.

5  
6 For the forecast amounts, Gulf Power's intention has always been that the amounts  
7 deferred to the regulatory asset would be based on our actual experience during the  
8 remaining months of 2021. OPC witness Lawson has completely misread the context  
9 of Gulf Power's request.

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### III. COVID-19 REGULATORY ASSET

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13 **Q. OPC witness Lawton's testimony asserts that the amounts Gulf Power proposes**  
14 **to defer for bad debt expenses are based on estimates and therefore not actual bad**  
15 **debt written-off. Does his assertion have any impact on Gulf Power's proposal**  
16 **for the deferral of incremental bad debt expense requested in this Commission**  
17 **docket?**

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A. No. Mr. Lawton's statements demonstrate a lack of understanding of Generally Accepted Accounting Principles ("GAAP") and how bad debt expenses are recorded. In addition, Mr. Lawton's statements indicate that he is not aware or does not understand that Gulf Power's accounting and recording of these expenses has no impact on Gulf Power's request to defer incremental bad debt expense to the COVID-19 regulatory asset.

1 As noted in Gulf Power's response to OPC's discovery, Gulf Power's entries for bad  
2 debt expense each month are made to ensure the Company has a sufficient  
3 Uncollectible Accounts Receivable reserve to cover billed amounts which may be  
4 written-off in the future. The process ensures an appropriate matching of bad debt  
5 expense with the period in which the associated revenue is earned, recognizing that the  
6 actual write-offs for specific uncollectible account balances take place several months  
7 later.

8  
9 Gulf Power's forecast in each month for the amount of accounts receivable that will  
10 ultimately be written-off (and therefore that month's bad debt expense) is based on  
11 several factors, including, prior accounts receivable balances, the age of the balances,  
12 recent collections activity, and the overall economic outlook. Thus, Gulf Power's bad  
13 debt expense each month reflects an expectation on the magnitude of customer  
14 accounts which will not be collected timely and will be disconnected, as well as the  
15 proportion of the outstanding balances which will ultimately be written-off. In each  
16 subsequent month, prior estimates are trued-up based on experience with actual write-  
17 offs and changes in future outlook.

18  
19 As such, each month's bad debt expense explicitly incorporates experience and data  
20 from actual write-offs. Gulf Power has decades of experience with billing and  
21 collections, and with the process of truing-up estimates based on actual write-offs. This  
22 experience provides an appropriate basis for the bad debt expense incurred to date and  
23 forecast to be incurred in 2021.

1 In contrast to OPC witness Lawton's erroneous statements, Gulf Power's accounting  
2 approach with respect to estimating bad debt reserves is consistent with the requirements  
3 under GAAP.

4 **Q. Do you agree with OPC witness Lawton's contention that Gulf Power's bad debt**  
5 **estimates are overstated, not reflecting rapid economic recovery through 2021?**

6 A. No. Gulf Power's estimate of the amount of incremental bad debt expense to be deferred  
7 to the regulatory asset is based on: 1) Gulf Power's actual experience to date; 2) current  
8 levels and aging of accounts receivable; and 3) a forecast of economic activity and  
9 customer behavior through 2021. The first two of these factors is known. As for the  
10 third factor, the forecast used by Gulf Power is based on the best information available  
11 at this time.

12 **Q. Will the forecast of economic activity and customer behavior affect the actual**  
13 **amount of the deferral of incremental bad debt expense requested in this**  
14 **proceeding?**

15 A. No. In the hypothetical case posed by OPC witness Lawton, reflecting a more rapid  
16 economic recovery through 2021, it is possible our actual bad debt expense would be  
17 lower than our current forecast. It is, of course, possible to pose other hypothetical  
18 situations including the opposite scenario where our actual bad debt expense is  
19 ultimately higher than our current forecast. In any event, as I discussed above, the actual  
20 amount that Gulf Power defers to the regulatory asset will reflect its actual bad debt  
21 experience based on actual events between now and the end of 2021.

1 **Q. OPC witness Lawton indicates in his testimony that the amount that Gulf Power**  
2 **proposes to defer to the regulatory asset does not satisfy requirements of the**  
3 **USOA and therefore should be denied. Do you agree with this statement?**

4 A. No, I do not agree. Based on my review of the USOA, the 5% threshold referenced by  
5 Mr. Lawton is only applicable to extraordinary items and has nothing to do with  
6 regulatory assets. The USOA definition for Regulatory Assets and Liabilities  
7 establishes that they can be created by “rate actions of regulatory agencies,” with no  
8 quantitative standard required for the magnitude of such Regulatory Assets. Further,  
9 the account description for Account 182.3 Other Regulatory Assets does not have a 5%  
10 or any other quantitative standard, leaving it to a regulatory agency to define what is  
11 permissible as a Regulatory Asset.

12 **Q. Does this conclude your rebuttal testimony?**

13 A. Yes.

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **GULF POWER COMPANY**

3 **FLORIDA PUBLIC UTILITIES COMPANY**

4 **REBUTTAL TESTIMONY OF J. TERRY DEASON**

5 **DOCKET NOS. 20200151-EI AND 20200194-PU**

6 **MAY 21, 2021**

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1 I. INTRODUCTION

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3 **Q. Please state your name and business address.**

4 A. My name is Terry Deason. My business address is 4377 NW Torreya Park Road,  
5 Bristol, Florida 32321.

6 **Q. Did you previously submit direct testimony in this proceeding?**

7 A. Yes. I submitted written direct testimony on April 2, 2021, on behalf of Gulf Power  
8 Company (“Gulf Power”).<sup>1</sup> In my direct testimony, I supported the use of a regulatory  
9 asset approach from an overall regulatory policy perspective to appropriately address  
10 the net incremental bad debt and safety-related cost increases with the COVID-19  
11 pandemic (the “COVID Costs”).

12 **Q. For whom are you submitting rebuttal testimony in this proceeding?**

13 A. Gulf Power and Florida Public Utilities Company (“FPUC”).

14 **Q. Do you have any exhibits to your rebuttal testimony?**

15 A. No.

16 **Q. What is the purpose of your rebuttal testimony?**

17 A. The purpose of my rebuttal testimony is to address policy arguments raised in the  
18 testimony of Office of Public Counsel (“OPC”) Witness Daniel Lawton filed in Docket  
19 Nos. 20200151-EI and 20200194-PU regarding the petitions for approval of regulatory  
20 assets associated with COVID-19 related costs filed by Gulf Power and FPUC.

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<sup>1</sup> Florida Power & Light Company (“FPL”) and Gulf Power were merged legally on January 1, 2021, but Gulf Power continues to exist as a separate ratemaking entity. On January 11, 2021, pursuant to Rule 25-9.044, F.A.C., FPL submitted a notice of the change in ownership of Gulf Power effective January 1, 2021 and FPL’s adoption and ratification of Gulf Power’s existing rates and tariffs on file with the Commission.

1           **II. RESPONSES TO OPC WITNESS LAWTON’S POLICY ARGUMENTS**

2  
3   **Q.    Do you agree with the testimony filed by OPC Witness Daniel Lawton?**

4    A.    No. As I will discuss further in greater detail in my rebuttal testimony, Mr. Lawton  
5           does not correctly describe and apply Commission policy and precedent for creation  
6           and approval of a regulatory asset to address significant unforeseeable costs such as the  
7           costs experienced with the COVID-19 pandemic. Following Mr. Lawton’s  
8           recommendations would distort the existing balance between customers and  
9           shareholders and place unnecessary and burdensome requirements that would impede  
10          the Commission’s ability to proactively respond to emergency conditions and set rates  
11          which are fair and reasonable. I do agree with Mr. Lawton’s testimony that the COVID  
12          Costs are unusual, infrequent, and were not previously recognized or included in rates.  
13          (See Direct Testimony of OPC Witness Daniel Lawton at page 7, lines 19-21.)

14   **Q.    OPC Witness Lawton’s testimony asserts that the Gulf Power and FPUC requests**  
15       **are designed only to enhance shareholder earnings. Do you agree?**

16    A.    No, and this is but one example of Mr. Lawton’s inappropriate focus on earnings instead  
17          of the fundamental purpose of a regulatory asset. Gulf Power’s and FPUC’s requests  
18          are not designed to enhance earnings, rather they are designed to maintain earnings at  
19          their existing levels as if the pandemic had not occurred. This is an appropriate outcome  
20          given that the COVID Costs are unusual, infrequent, and were not previously  
21          recognized or included in rates. The regulatory asset tool is also appropriate because  
22          it allows Gulf Power and FPUC management to promptly take all necessary and  
23          reasonable steps to protect customers, employees, and vendors from the impacts of the

1 pandemic without regard to potential impacts on the companies' earnings. As a matter  
2 of regulatory policy, customer protections should be the number one priority, and a  
3 utility's management should be afforded the tools to achieve this objective without the  
4 utility having to diminish its return. The use of a regulatory asset enables this to be  
5 accomplished. Gulf Power and FPUC are simply seeking to employ a valid and useful  
6 regulatory accounting tool that, if approved by the Commission, would serve to maintain  
7 existing earnings and protect their customers.

8 **Q. OPC Witness Lawton's testimony asserts that the Gulf Power and FPUC requests**  
9 **fail to balance the benefits and burdens between the customers and shareholders.**  
10 **Do you agree?**

11 A. No. Gulf Power's and FPUC's requests equitably balance the benefits and burdens  
12 between customers and shareholders. Without question, the COVID pandemic has  
13 placed burdens on both companies and their customers. The question is how to address  
14 these burdens within the context of a regulatory compact that is designed to balance the  
15 interests of utilities and their customers. Within that compact, utilities are required to  
16 provide quality service to all customers and at all times (even during pandemics). Also,  
17 within this compact, customers are required to pay reasonable rates which include the  
18 recovery of all necessary and prudent expenses (including pandemic-related expenses)  
19 plus a reasonable return on the investments made to serve them. Gulf Power's and  
20 FPUC's requests to use a regulatory asset to account for the net incremental costs of  
21 the pandemic are consistent with this compact and result in an equitable balance.

22 **Q. Please describe this equitable balance.**

23 A. As fully acknowledged by Mr. Lawton, the COVID Costs are not included in Gulf

1 Power's and FPUC's rates. Therefore, there needs to be a fair mechanism to allow for  
2 eventual recovery of these costs, as deemed appropriate by the Commission. The  
3 requested regulatory assets are the appropriate mechanisms to accomplish this. Gulf  
4 Power and FPUC customers receive the benefit of continued reliable and safe service  
5 during the pandemic, but also have the burden to pay for all reasonable and necessary  
6 costs. The customers also receive the benefit that any eventual rate impacts will likely  
7 be implemented post-pandemic over a number of years in the future when customers  
8 should be in a better position to pay. Gulf Power and FPUC have the burden to continue  
9 to provide safe and reliable service during the pandemic and to incur all reasonable and  
10 necessary costs of so doing. Gulf Power and FPUC will receive the benefit of eventual  
11 cost recovery with no adverse impact on their earnings, but certainly no enhancement  
12 of their earnings.

13 **Q. OPC Witness Lawton recommends that the Commission adopt a standard**  
14 **requiring a financial integrity test before a regulatory asset can be implemented**  
15 **in Florida. Should Witness Lawton's recommendation be adopted?**

16 A. No, such a standard would be ill-advised, and I oppose it for many reasons. First,  
17 requiring a financial integrity test before implementing a regulatory asset is not current  
18 Commission policy, and there are good reasons for this, which I detail below.  
19 Moreover, to adopt such a standard of general applicability in this proceeding would  
20 be beyond the scope of this proceeding.

21

22 Second, such a standard is not consistent with ratemaking in Florida and the use of a  
23 rate of return range to set and monitor earnings. Florida typically sets rates at the mid-

1 point of the return on equity (“ROE”) range. It is hoped and anticipated that the  
2 resulting rates will be reasonable for multiple years, thereby avoiding the need for  
3 another rate case until the cumulative effect of the moderate swings in revenues and  
4 costs over several years results in earnings either above or below the ROE range. The  
5 range is not set to anticipate and allow for recovery of major infrequent, unanticipated,  
6 and essential costs, like responding to a pandemic. Applying Mr. Lawton’s standard  
7 would disrupt this approach and would likely result in more frequent rate cases for costs  
8 that could be appropriately recognized with a regulatory asset. This could result in  
9 more rate volatility and a loss of the rate-smoothing benefits of regulatory assets.

10  
11 Third, Mr. Lawton’s recommended standard would be impractical and burdensome –  
12 essentially opening a relatively straight-forward request to establish a regulatory asset  
13 to a review of earnings and the rate case-type issues that would be sure to follow. This  
14 would add costs and ultimately delay a Commission decision. This is particularly  
15 troubling when time is of the essence to respond to an emergency situation like a  
16 pandemic.

17  
18 Fourth, Mr. Lawton’s recommended standard could overly complicate matters and  
19 eliminate much needed Commission discretion to utilize regulatory assets. For  
20 example, the Commission regularly approves the deferral of rate case expenses from  
21 the period incurred and allows them to be recovered in rates over a number of years in  
22 the future. This would not be possible under Mr. Lawton’s standard because rates  
23 would have just been set, and it would be unlikely that the rate case expenses would

1 cause the affected utility to earn below its just established ROE range.

2 **Q. Are there other areas where adoption of OPC Witness Lawton's financial**  
3 **integrity standard could threaten established Commission practice?**

4 A. Yes. Witness Lawton's financial integrity standard would impact and potentially  
5 imperil any Commission action to approve use of deferred accounting to set fair and  
6 reasonable rates. A notable example would be hurricane restoration costs. Like a  
7 pandemic, hurricanes do not occur every year. However, when they do, their impacts  
8 can be catastrophic. The Commission has often included an allowance in rates to fund  
9 a storm damage reserve. When hurricane frequency or the severity of their impacts  
10 exceed those anticipated by the reserve, reserve deficiencies can and do result. In such  
11 situations, the Commission has allowed such costs in excess of the reserve (and  
12 amounts to replenish the reserve) to be deferred for future recovery through a surcharge  
13 mechanism. This is done without regard to the level of earnings currently being  
14 achieved by the effected utility. However, a financial integrity standard could threaten  
15 this well-established mechanism by making such deferred recovery subject to a  
16 mechanical financial standard as defined by Mr. Lawton.

17 **Q. How does OPC Witness Lawton define financial integrity?**

18 A. Mr. Lawton uses two approaches to define or measure financial integrity for purposes  
19 of his proposed financial integrity standard. His first approach is to require reported  
20 earnings to be below the bottom of the company's ROE range. Thus, his standard  
21 would be for the company in question to be on the verge of having to file a rate case  
22 before it would be eligible to seek a regulatory asset. In other words, he would expect  
23 a company to incur all of the unanticipated and significant costs to protect its customers

1 from a pandemic (or to restore service from a hurricane as the case may be) while  
2 limiting the recovery of such historical costs. His approach would only allow recovery  
3 of future costs that may still be incurred and included in a company's test year in a rate  
4 case. The only time a regulatory asset would be considered is if the company is eligible  
5 to file a rate case but chooses not to do so and gets authorization to establish a  
6 regulatory asset. However, the regulatory asset would be only for the amount of costs  
7 which cause earnings to fall below the minimum of the company's ROE range. This  
8 strikes me as being unfair and borderline punitive. It would certainly be inconsistent  
9 with Florida's regulatory approach of encouraging its utilities to do the right thing for  
10 its customers.

11 **Q. What is the second way that OPC Witness Lawton defines financial integrity?**

12 A. Mr. Lawton uses bond ratings and the ability of a company to access capital. He  
13 concludes that candidates for deferred accounting should be limited to those companies  
14 that have experienced bond rating reductions or otherwise experienced limitations on  
15 access to capital on reasonable terms. (See Direct Testimony of OPC Witness Daniel  
16 Lawton at page 47 lines 11-13.)

17 **Q. Do you agree with these qualifiers before a company could be eligible for deferred  
18 accounting?**

19 A. No. Access to capital on reasonable terms is essential for all companies, but especially  
20 for utilities which are by their nature capital intensive. Regulated utilities must provide  
21 service to all customers at all times and must have reasonable access to capital to fulfill  
22 this obligation, in both good times and bad. A strong bond rating is a good tool to  
23 maintain reasonable access to capital and is a prized possession which greatly benefits

1 customers and should be jealously guarded. Obtaining and maintaining such a rating  
2 takes sustained effort over a long period of time. However, it can be quickly eroded,  
3 to the detriment of a company's customers. Mr. Lawton's proposed approach to wait  
4 until there is a bond rating downgrade is analogous to favoring the use of the fire  
5 department to put out a fire over taking reasonable steps (building maintenance,  
6 installing sprinklers, etc.) to avoid a fire in the first place. In other words, the damage  
7 is already done under Mr. Lawton's approach, with great effort needed to repair and  
8 rebuild the damage.

9 **Q. What has been Florida's regulatory approach to bond ratings?**

10 A. Regulation in Florida has consistently recognized the need for strong bond ratings for  
11 its regulated utilities. This is founded in the fact that strong bond ratings are essential  
12 to enable access to capital needed to provide safe, efficient, and reliable service. In  
13 short, Florida has recognized that strong bond ratings are good for customers. As such,  
14 Florida has taken steps to proactively support bond ratings, where it can reasonably do  
15 so. I can think of no instance where Florida has made a conscious decision to deny  
16 regulatory support until there has been a bond rating downgrade.

17 **Q. Does OPC Witness Lawton cite a credit analysis report from Moody's?**

18 A. Yes, he cites a June 17, 2020 Update to Credit Analysis from Moody's. Based on his  
19 interpretation of this report, Mr. Lawton concludes there are no substantial risk issues  
20 for Gulf Power as a result of COVID-19.

21 **Q. Is OPC Witness Lawton's interpretation correct?**

22 A. The Moody's report needs to be viewed in the context in which it was presented. First,  
23 the Moody's report was written very early in the pandemic, at a time when the course



1 of the pandemic was unknown. In addition, the Moody's analyst had no actual  
2 information on the incremental bad debt and other COVID-related expenses that Gulf  
3 Power was incurring, making any of the report's conclusions preliminary.

4  
5 Second, the Moody's report was not presented as supporting a denial of deferred  
6 accounting for Gulf Power's COVID Costs. It was presented to investors within the  
7 context of Moody's understanding that Gulf Power is a Florida regulated utility and  
8 that this Commission's regulatory policies would impact recovery of COVID Costs.  
9 Moody's is fully aware of Florida's regulatory policies supporting credit quality and  
10 that Florida has used deferred accounting to permit possible recovery of such  
11 unanticipated expenses. I believe it is likely that Moody's took Florida's regulatory  
12 climate into consideration when issuing its report.

13 **Q. What would be the impact on Gulf Power's bond rating should the Commission**  
14 **adopt OPC Witness Lawton's standard to deny deferred accounting until there is**  
15 **a bond rating downgrade?**

16 A. A company's bond rating determination is intricate with many factors and metrics  
17 affecting the outcome. Included in this process would be both quantitative as well as  
18 qualitative considerations. A single decision on deferred accounting would not  
19 significantly "move the needle" on Gulf Power's bond rating. However, an adoption  
20 of a standard as proposed by Mr. Lawton would be a significant shift in Florida's  
21 regulatory climate and would be noted by Moody's and other bond rating agencies. It  
22 is fair to say that the adoption of such a standard would not be viewed favorably.

23

1 **Q. What does OPC Witness Lawton recommend for the general O&M savings, not**  
2 **related to COVID-19 impacts, achieved by Gulf Power since its last rate case?**

3 A. First, let me say that the O&M savings achieved by Gulf Power are precisely the type  
4 of efficiencies and cost-savings that Florida's regulatory approach incentivizes. Gulf  
5 Power was able to identify costs previously included in its rates and take managerial  
6 action to reduce them and create efficiencies and savings. However, Mr. Lawton  
7 recommends that the Commission take these savings, which it has encouraged, and use  
8 them to offset COVID costs. Such a position would clearly send the wrong message to  
9 utility management that it should not seek to reduce O&M expenses overall for the  
10 utility in the face of unusual and unforeseen costs such as the COVID Costs.

11 **Q. Beyond sending the wrong message, are there any other reasons why it would be**  
12 **improper to offset the COVID costs with O&M savings?**

13 A. Yes, there are at least three reasons. First, Mr. Lawton is mixing apples and oranges.  
14 The COVID Costs are unusual, infrequent, and were not previously recognized or  
15 included in rates. In contrast, the O&M costs which Gulf Power has reduced are usual  
16 in nature, frequently incurred, and were previously included in its rates. Second, the  
17 O&M savings achieved by Gulf Power were the result of managerial actions taken over  
18 which management had discretion and control. In contrast, the COVID Costs were the  
19 result of a pandemic over which management had no control. Management had no  
20 choice but to incur the costs or else it would fail its customers in terms of safety and  
21 reliability. Beyond that, Gulf Power had a moral responsibility to do what it could to  
22 prevent the spread of the virus. And third, Mr. Lawton's recommendation to offset Gulf  
23 Power's COVID Costs with its O&M savings is inconsistent with his recommendation

1 for FPUC.

2 **Q. What does OPC Witness Lawton recommend for FPUC?**

3 A. In an apparent reversal of positions, Mr. Lawton recommends that FPUC's cost  
4 increases since its last rate case be ignored. Mr. Lawton criticizes Gulf Power for not  
5 proposing a deferred credit for its cost savings. (See Direct Testimony of OPC Witness  
6 Daniel Lawton at page 9, lines 16-18.) While criticizing Gulf Power for not proposing  
7 a deferred credit for its cost savings, Mr. Lawton does not propose a deferred debit for  
8 FPUC's cost increases. He states that FPUC's failure to earn a reasonable return (for  
9 most of its business units) is not related to COVID-19 impacts, but rather, is related to  
10 other structural rate and cost recovery problems. (See Direct Testimony of OPC  
11 Witness Daniel Lawton at page 11, lines 18-22 and page 12, line 1.) Mr. Lawton further  
12 recommends that FPUC's COVID regulatory asset be determined without regard to its  
13 earnings. (See Direct Testimony of OPC Witness Daniel Lawton at page 12 lines 15-  
14 20.) This is clearly inconsistent with his financial integrity standard and his  
15 recommendation that Gulf Power's earnings should be considered to reject its requested  
16 regulatory asset.

17 **Q. Do you agree with OPC Witness Lawton?**

18 A. No, I cannot agree with a position which is internally inconsistent. However, I do agree  
19 that COVID Costs should not be increased for non-COVID cost increases. I likewise  
20 believe that COVID Costs should not be diminished for non-COVID cost savings, like  
21 Gulf Power's O&M savings. The overriding principle is that the regulatory asset  
22 should be only for COVID-related costs net of COVID-related savings, just as Gulf  
23 and FPUC are proposing. Non-COVID cost increases or non-COVID cost savings and

1 overall earnings levels are irrelevant to appropriately determine whether a COVID  
2 regulatory asset is appropriate.

3 **Q. Do you agree with Mr. Lawton that it would be a better regulatory practice for the**  
4 **utilities to not record deferred COVID Costs until after the Commission has a final**  
5 **order approving the requested deferred accounting and regulatory assets?**

6 A. No. Such an approach is completely impractical. This proceeding began last year and  
7 will not conclude until later this year. The vast majority of the COVID Costs at issue  
8 would likely not be available for recovery if the standard were to wait until a final order.  
9 The overriding considerations are two-fold. First, were the utilities correct to  
10 immediately take steps to protect their customers from the pandemic? The answer is  
11 yes, and regulatory procedure should not be an impediment for this outcome. Second,  
12 based on Commission precedent, is there a reasonable degree of confidence that such  
13 costs are eligible to be recorded as a regulatory asset? The answer is again, yes. This  
14 is particularly true in this case where there have been two previous orders approving the  
15 use of a regulatory asset for Gulf and one for FPUC, the last of which for each Company  
16 was protested. Simply stated, there should not be regulatory and/or procedural barriers  
17 to prevent the possibility of eventual recovery of all the necessary and prudent COVID  
18 Costs.

19 **Q. Does a utility's deferred accounting for costs like the COVID Costs prior to final**  
20 **Commission approval have a negative rate impact on utility customers?**

21 A. No. It simply allows the utility to track the costs subject to ultimate Commission  
22 approval.

23

1 **Q. Do you have any concluding thoughts on OPC Witness Lawton's proposals and**  
2 **recommendations?**

3 A. Yes. It is obvious that I have many disagreements with Mr. Lawton's proposals and  
4 recommendations. There is one revealing passage in Mr. Lawton's testimony which  
5 fairly encapsulates one of the most basic and fundamental reasons for my many  
6 disagreements. This passage is found in Mr. Lawton's introductory summary of his  
7 findings and conclusions related to Gulf Power's petition for approval of a regulatory  
8 asset. While this passage is included in his summary for Gulf Power, I believe it is fair  
9 to say that Mr. Lawton believes it is applicable to FPUC as well.

10  
11 In this passage, Mr. Lawton concludes that Gulf Power (and any other regulated utility)  
12 should be treated like **all** other businesses in terms of business risk. He further concludes  
13 that any increases in expenses or decreases in revenues by exogenous factors should be  
14 borne by shareholders. (See Direct Testimony of OPC Witness Daniel Lawton at page  
15 7, lines 5-8.)

16  
17 This statement and conclusion are inconsistent with the foundation for and the purposes  
18 of regulation, which is ultimately designed to protect customers and make regulatory  
19 decisions in their best long-term interests. Regulated utilities are fundamentally  
20 different from other businesses; hence they are regulated and need to be treated as such,  
21 consistent with sound and proven regulatory principles. It is too simplistic to conclude  
22 that all increases in expenses or reductions in revenues caused by exogenous factors  
23 should be borne by shareholders. I have discussed in my testimony that such changes

1           need to be viewed in light of the circumstances giving rise to those changes and in the  
2           context of the overall regulatory compact. As I describe in my testimony, decisions  
3           made inconsistent with that compact can be unfair, punitive, erode credit quality,  
4           potentially cause rate volatility, send incorrect signals to management, and limit needed  
5           Commission discretion. I further discussed how the use of a regulatory asset fairly  
6           balances the benefits and burdens of the COVID Costs between customers and  
7           shareholders, consistent with the regulatory compact. The ultimate goal of regulation  
8           is to have an essential service consistently provided at reasonable rates and at a high  
9           quality under all circumstances, including unforeseen ones like a pandemic. Mr.  
10          Lawton's recommendations are not consistent with this overall goal.

11   **Q.    Does this conclude your rebuttal testimony?**

12    A.    Yes.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of a regulatory asset to record costs incurred due to COVID-19, by Gulf Power Company	)	Docket No.: 20200151-EI
	)	
	)	
	)	
In re: Petition for approval of a regulatory asset to record costs incurred due to COVID-19, by Utilities, Inc. of Florida.	)	Docket No. 20200189-WS
	)	
	)	
	)	
In re: Petition for approval of regulatory assets to record costs incurred due to COVID-19, by Florida Public Utilities Company, Florida Public Utilities Company - Indiantown Division, Florida Public Utilities Company - Fort Meade, Florida Division of Chesapeake Utilities Corporation.	)	Docket No. 20200194-PU
	)	
	)	
	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by electronic mail this 21st day of May, 2021 to the following:

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