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ORIGINAL



August 12, 1999

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0870

Dear Ms. Bayo:

RE: Docket No. 990947-EI

Enclosed are an original and fifteen copies of Gulf Power Company's Motion to Dismiss Public Counsel's Petition for Full Revenue Requirements Rate Case to be filed in the above docket.

Also enclosed is a 3.5 inch double sided, high density diskette containing the Motion in WordPerfect for Windows 8 format as prepared on a Windows NT based computer.

Sincerely,

Susan D. Ritenour
Assistant Secretary and Assistant Treasurer

- AFA
- APF
- CCF
- CIG
- CTR
- EAG
- LEG
- MAS
- OPC
- PAI
- SEC
- WAW
- OTH

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2 Enclosures

cc: Beggs and Lane
Jeffrey A. Stone, Esquire

DOCUMENT NUMBER-DATE

09617 AUG 13 99

RECORDS AND REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a full revenue requirements rate case for Gulf Power Company.) Docket No. 990947-EI) Date filed: August 13, 1999)

GULF POWER COMPANY'S MOTION TO DISMISS PUBLIC COUNSEL'S PETITION FOR FULL REVENUE REQUIREMENTS RATE CASE

Gulf Power Company ("Gulf Power", "Gulf", or "the Company"), by and through its undersigned counsel, hereby moves to dismiss the petition for full revenue requirements rate case for Gulf Power Company filed on July 22, 1999 by the Office of Public Counsel ("OPC"), stating:

1. Under the applicable rules of procedure, a motion to dismiss, if any, must be served within 20 days after service of the petition. The time frame for serving a motion to dismiss is extended under the rules by five additional days when, as in this case, the petition is served by U.S. Mail. Therefore, this motion to dismiss is timely.

2. OPC's petition states that it is filed under the authority granted by Section 350.0611(1) of the Florida Statutes which in pertinent part authorizes Public Counsel "[t]o recommend to the Commission, by petition, the commencement of any proceeding . . .". In this instance, Public Counsel is recommending that the Florida Public Service Commission ("Commission") commence a proceeding to examine Gulf Power's Commission-approved rates and charges to determine whether they provide Gulf Power with excessive profits in terms of the Company's allowed return on equity ("ROE") range and in terms of prevailing financial market conditions.

3. The Commission, on its own initiative, has previously commenced proceedings to examine the earnings and authorized return on equity of Gulf Power Company. Docket No. 990250-EI, entitled "Investigation into the earnings and authorized return on equity of Gulf Power Company" is currently pending before the Commission with a hearing already scheduled.¹ The Commission entered Order No. 99-1047-PAA-EI on May 24, 1999 that included rate credits, determination of authorized ROE levels, and a revenue sharing plan. That order was protested on June 14, 1999. These and other relevant issues will be the subject of the hearings already scheduled in Docket No. 990250-EI. The issues Public Counsel has raised should be addressed in the context of that docket rather than by opening a separate proceeding.

4. OPC's petition suggests that the Company is earning above the top of its presently authorized ROE range. That is not the case. As reflected in monthly surveillance reports Gulf has filed with the Commission pursuant to its rules and orders, the Company's current earnings as well as projections for year end 1999 (based on actual experience year to date and forecast data) are below the top of the presently authorized range. As a consequence, there are no revenues contributing to earnings above the top of the currently authorized ROE range and therefore no revenues to be held subject to refund as requested by OPC.

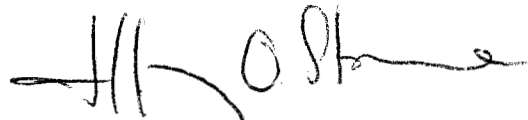
5. OPC requests the Commission to require Gulf Power to file a full set of the documents set forth as minimum filing requirements ("MFRs") for a rate case based upon a six-months

¹According to the Case Assignment and Scheduling Record ("CASR") for Docket No. 990250-EI dated July 12, 1999, the hearing is scheduled for January 25, 2000, with a prehearing conference scheduled for January 12, 2000. In an August 2, 1999 update to the Commission Calendar, the hearing date appears to have been changed to November 1, 1999, with a prehearing conference scheduled for October 13, 1999.

historic and six-months projected 1999 test year. OPC's petition contains no basis in rule or statute administered by the Commission for this particular relief. Gulf submits that the cost of preparing a "full set" of MFRs is very high and would require the dedication of a significant portion of Gulf's resources for an extended period of time. Moreover, Gulf Power submits that Rule 25-6.043, Florida Administrative Code, governing the filing of MFRs, does not contemplate entry of an order such as that requested by OPC.

WHEREFORE, Gulf Power Company respectfully requests the Florida Public Service Commission to enter an order dismissing the petition filed by the Office of Public Counsel in favor of pursuing the issues OPC raises in the proceedings previously initiated by the Commission scheduled in Docket No. 990250-EI.

Respectfully submitted this 12th day of August 1999.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a full revenue requirements)
rate case for Gulf Power Company.) Docket No. 990947-EI
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished this 12th day of August, 1999 by U. S. Mail to the following:

ROBERT V. ELIAS
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