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BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In The Matter of Application of GULF POWER COMPANY for an increase in rates and charges.	: : : : : :	DOCKET NO. 891345-EI HEARING FIRST DAY MORNING SESSION
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VOLUME - I

Pages : through 109

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JUN 11 1990

Florida Public Service Commission

FPSC Hearing Room 106
 Fletcher Building
 101 E. Gaines Street
 Tallahassee, Florida 32399

Monday, June 11, 1990

Met pursuant to notice at 9:30 a.m.

BEFORE: COMMISSIONER MICHAEL McK. WILSON, CHAIRMAN
 COMMISSIONER GERALD L. GUNTER
 COMMISSIONER THOMAS M. BEARD
 COMMISSIONER BETTY EASLEY

APPEARANCES:

G. EDISON HOLLAND, JR., and JEFFREY A. STONE,
 of the firm of Beggs and Lane, Post Office Box 12950,
 Pensacola, Florida 32576-2950, Telephone No. (904)
 432-2451, appearing on behalf of Gulf Power Company.

DOCUMENT NO.
U514 96
6-11-90

1 Appearances Continued:

2 STEPHEN BURGESS and JACK SHREVE, Office of
3 the Public Counsel, the Florida House of
4 Representatives, The Capitol, Tallahassee, Florida
5 32399-1300, Telephone No. (904) 488-9330, appearing on
6 behalf of the Citizens of the State of Florida.

7 ROB VANDIVER, MICHAEL PALECKI and MARSHA E.
8 RULE, FPSC Division of Legal Services, 101 East Gaines
9 Street, Tallahassee, Florida 32399-0863, Telephone No.
10 (904) 487-2740, appearing on behalf of the Staff of the
11 Florida Public Service Commission.

12 JOSEPH A. MCGLOTHLIN, of the office of
13 Lawson, McWhirter, Grandoff & Reeves, 522 East Park
14 Avenue, Suite 200, Tallahassee, Florida 32301,
15 Telephone No. (904) 222-2525, appearing on behalf of
16 the Industrial Intervenors: Monsanto, American
17 Cyanamide, Exxon, Air Products and Chemicals, Champion
18 International and Stone Container Corporation.

19 RONALD C. LaFACE, of the firm of Roberts,
20 Baggett, LaFace & Richard, 101 East College Avenue, P. O.
21 Drawer 1838, Tallahassee, Florida 32302, Telephone No.
22 (904) 222-6891, appearing on behalf of the Florida Retail
23 Federation.

24

25

1 Appearances Continued:

2 MAJOR GARY A. ENDERS, United States Air
3 Force, Utility Litigation Team, Headquarters USAF/ULT,
4 Stop 21, Tyndall AFB, Florida 32403-6001, Telephone No.
5 (904) 283-6347, appearing on behalf of the Federal
6 Executive Agencies.

7 PRENTICE P. PRUITT, FPSC Office of General
8 Counsel, 101 East Gaines Street, Tallahassee, Florida
9 32399, Telephone No. (904) 488-7463, appearing as
10 Counsel to the Commissioners.

11 ALSO PRESENT:

12 Margaret Meeter, Class II Practitioner, FPSC,
13 Division of Electric and Gas.

15 REPORTED BY:

JOY KELLY, CSR, RPR
SYDNEY C. SILVA, CSR, RPR
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and
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I N D E X

WITNESSES

Name:

Page No.

DOUGLAS L. McCRARY

Direct Examination by Mr. Holland

20

Cross Examination by Mr. Burgess

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Index Continued:

EXHIBITS

Number:

Identified Admitted

1 through 535

9

2 (McCrary)

22

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3 (McCrary)

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4 (McCrary)

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P R O C E E D I N G S

(Hearing convened at 9:35 a.m.)

CHAIRMAN WILSON: The hearing will come to order. Please read the notice.

MR. PALECKI: Pursuant to notice issued on March 5, 1990, this time and date was set for hearing in Docket No. 891345-EI, the application of Gulf Power Company for an increase in rates and charges.

The purpose of this hearing shall be to allow Gulf Power Company to present its testimony and exhibits in support of its application for an increase in rates and charges; to permit Commission Staff and any intervenors to present testimony and exhibits concerning this matter. The purpose of the hearing is more fully set out in the notice.

CHAIRMAN WILSON: All right. We'll take appearances of Counsel.

MR. HOLLAND: Commissioners, my name is Ed Holland. With me is Jeff Stone of the law firm of Beggs and Lane, 700 Blount Building, Pensacola, Florida, 32501, appearing on behalf of Gulf Power Company.

MR. BURGESS: Commissioners, I'm Steve Burgess here on behalf of the Office of Public Counsel, representing the Citizens of the State of Florida.

1 MR. MCGLOTHLIN: My name is Joe McGlothlin,
2 of the firm Lawson, McWhirter, Grandoff and Reeves, 522
3 East Park, Tallahassee. We represent 6 PXT customers
4 who've intervened on -- to be heard on issues of
5 cost-of-service methodology and rate design. They are
6 Monsanto, American Cyanamide, Exxon, Air Products and
7 Chemicals, Champion International and Stone Container
8 Corporation. And I will refer to them as the
9 Industrial Intervenors.

10 MR. LaFACE: Ronald C. LaFace, of the law firm
11 of Roberts, Baggett, LaFace and Richard, appearing on
12 behalf of Florida Retail Federation. Our appearance is
13 primarily concerned with the rate design aspect of the
14 case so we may not be here for large portions of the
15 hearing, as indicated by my client's desire to pay me.

16 (Laughter)

17 CHAIRMAN WILSON: That's fine.

18 MR. VANDIVER: Robert Vandiver, 101 East
19 Gaines Street, Tallahassee, Florida, appearing on
20 behalf of the Commission Staff.

21 MR. PALECKI: Mike Palecki, 101 East Gaines
22 Street, Tallahassee, Florida, appearing on behalf of
23 Commission Staff.

24 MS. RULE: Also on behalf of Commission
25 Staff, Marsha Rule, same address.

1 MR. PRUITT: Prentice Pruitt, same address,
2 Counsel to the Commissioners.

3 CHAIRMAN WILSON: Is Major Enders going to be
4 here or does anyone know?

5 MR. BURGESS: We saved a place for him.

6 MR. VANDIVER: We expect him

7 CHAIRMAN WILSON: He'll be conspicuous then
8 by his absence.

9 COMMISSIONER BEARD: He's been here for many
10 years.

11 MR. VANDIVER: We received no communication
12 this morning. I would assume that he's on the way.

13 COMMISSIONER BEARD: Air Force 10 is running
14 a little late.

15 CHAIRMAN WILSON: Any preliminary matters
16 that we need to address?

17 MR. VANDIVER: Yes, Commissioner.

18 Due to a lot of cooperation from all of the
19 parties to this docket, we have stipulated into the
20 record 535 exhibits. We will need not go through the
21 normal routine of authentication and verification by
22 each individual witness. That's reflected in a
23 corrected exhibit list that you all have. You will
24 also have a list of five exhibits that have been
25 objected to by the parties. We have agreed to deal

1 with those as they come up.

2 (Exhibit Nos. 1 through 535 stipulated into
3 evidence, except for 390, 393, 394, 460 and 535.)

4 so apart from these exhibits, and you do have
5 a copy of all of them except those noted in a
6 memorandum that you have, I think there is about ten of
7 them. It will just be late-filed exhibits that you
8 have to deal with during the course of this hearing.

9 CHAIRMAN WILSON: You and all the other
10 parties are to be commended and from the bottom of my
11 heart I thank you.

12 COMMISSIONER GUNTER: Mr. Chairman, do we
13 have a completed one document on the Audit? I got this
14 morning a cover letter dated June 11th of '90, the
15 Company's responses. Do we have the -- so we don't have
16 to look at two documents, do we have all that together?

17 MR. VANDIVER: Yes, we do. The Audit is in
18 the record as 430, Exhibit No. 430. That is in the
19 packet that you have been provided.

20 COMMISSIONER GUNTER: Okay.

21 COMMISSIONER GUNTER: Is that a completed audit?

22 MR. VANDIVER: Yes, sir, to our knowledge. I
23 understand there's some typographical errors in it; but
24 apart from that, that is the completed audit. The
25 response, although we just got it today, does have an

1 exhibit number as well. And so everything is --

2 COMMISSIONER GUNTER: Is the response included
3 in the audit we have? I guess that's what I'm asking.

4 CHAIRMAN WILSON: Is the response part of
5 Exhibit 430?

6 MR. VANDIVER: No.

7 COMMISSIONER GUNTER: That was my --

8 MR. VANDIVER: It is numbered. It just has
9 another number.

10 COMMISSIONER GUNTER: That was my problem, the
11 number I looked at did not have the Company's
12 responses.

13 COMMISSIONER EASLEY: What is the number on
14 the Company's response?

15 MR. VANDIVER: I think 230.

16 MR. STONE: I think 299.

17 COMMISSIONER EASLEY: 299?

18 MR. VANDIVER: You're right.

19 MR. STONE: I think that number is reflected
20 in the transmittal letter.

21 COMMISSIONER GUNTER: Yep.

22 CHAIRMAN WILSON: Anything else at this point?

23 MR. BURGESS: Commissioners, I have one thing --

24 CHAIRMAN WILSON: Just a moment, Mr. Burgess.

25 Anything further, Mr. Vandiver?

1 MR. VANDIVER: Yes. We have also agreed to
2 stipulate the ROE testimony of each individual ROE
3 witness. That will take place as those witnesses
4 appear in order, we will insert it into the record as
5 though read when their turn comes up.

6 COMMISSIONER GUNTER: Does that mean we won't
7 have --

8 COMMISSIONER BEARD: Let me -- I think there
9 is one witness that testifies in another area and only
10 that part of the testimony that is ROE is stipulated
11 in?

12 MR. VANDIVER: That's correct. I think that's
13 Mr. Rothschild.

14 CHAIRMAN WILSON: Anything further, Staff, at
15 this point?

16 MR. VANDIVER: No, sir.

17 MR. STONE: I have some confusion on that.
18 It's my understanding Mr. Rothschild was stipulated in
19 but Mr. Palecki, who testified on two different areas.

20 MR. VANDIVER: That's correct.

21 COMMISSIONER BEARD: I can dig my memo out.

22 CHAIRMAN WILSON: Mr. Rothschild will or will
23 not be here?

24 MR. BURGESS: I think he will not be here. He
25 was not planning on being here.

1 CHAIRMAN WILSON: His testimony was stipulated
2 in?

3 MR. BURGESS: As I recall.

4 CHAIRMAN WILSON: All right, we all
5 understand. Anything further from Staff? Mr. Stone?

6 MR. STONE: Mr. Chairman, I have a few minor
7 corrections to the prehearing order. I think,
8 considering the length of the document, I think it's
9 quite admirable there are so few changes. I would like
10 to make those on the record.

11 On Page 4, for Witness No. 5, part of his
12 subject matter was left off. His subject matter, in
13 addition to those items listed, would include the rate
14 case cost of capital and the revenue requirements. On
15 the same page, Witness No. 6, two additional issues
16 need to be listed, numbers 104 and 105.

17 On Page 5, Witness No. 9, Mr. Howell, there
18 are two stray issues listed there, 100 and 101 are not
19 his responsibility, they should be deleted.

20 The same change needs to be made at Page 7 for
21 his rebuttal. He's Witness No. 36, we need to delete
22 100 and 101.

23 On Page 8, Witness No. 42, Mr. Bell, Issue 87
24 should read 86.

25 Skip to Page 15. Gulf's position at the top

1 of the page, which would be Gulf's position on Issue 9,
2 Mr. Scarbrough's name was left off as the witness.

3 Page 36, on Issue 63, we need to add the
4 witness name of Bushardt.

5 On Page 47, on the Issue 94, the last two
6 words in Gulf's position should be "base rates,"
7 instead of, "rates base."

8 On Pages 52 and 53, Issues 104 and 105 both
9 need to have Mr. Bowers' name added to Gulf's position.
10 And on Page 73, Issue No. 139 somehow got changed
11 between drafts and we were not aware of this. We
12 believe that the issue, as originally framed, is more
13 appropriate --

14 CHAIRMAN WILSON: Wait a minute. What pages
15 are you on?

16 MR. STONE: Page 73.

17 COMMISSIONER GUNTER: I got page 74.

18 MR. HOLLAND: I believe that's Issue 138.

19 MR. STONE: I'm sorry, 138.

20 COMMISSIONER GUNTER: All right.

21 MR. STONE: We believe the issue as originally
22 framed is more appropriate. To do that, you need to
23 delete the word "separate" and the words "rate
24 schedule" and in the place of the words "rate schedule"
25 put the parenthetical expression "optional rider."

1 COMMISSIONER GUNTER: Who?

2 MR. STONE: Optional rider.

3 CHAIRMAN WILSON: Kind of like Red Rider.

4 COMMISSIONER GUNTER: Kind of like Red Rider.

5 CHAIRMAN WILSON: Anybody have a problem? Was
6 that the way the issue was originally worded? I don't
7 have a copy of it. Does it make any difference?

8 MR. PALECKI: That issue was inadvertently
9 changed. I'll check the original language, but I
10 believe that's correct.

11 CHAIRMAN WILSON: Is there an objection to
12 change back to the -- if that was the original
13 language?

14 MR. PALECKI: The original language reads,
15 "How should rates for the supplemental optional energy
16 rider be designed?"

17 COMMISSIONER EASLEY: Which is what counsel
18 stated. Do you have a problem changing it back?

19 MR. PALECKI: No.

20 CHAIRMAN WILSON: We'll change the wording
21 then.

22 MR. STONE: I have a couple of --

23 CHAIRMAN WILSON: Pivotal wording.

24 MR. STONE: I have a couple of corrections or
25 just things to note on the exhibit list that may help

1 people further down the road. On Page 116 --

2 CHAIRMAN WILSON: Are you working from the
3 corrected --

4 MR. STONE: Working from the corrected exhibit
5 list you were handed this morning.

6 CHAIRMAN WILSON: 115?

7 MR. STONE: 116, I'm sorry. Item No. 177
8 simply duplicates Item No. 176, so we will just
9 introduce under 176 and not duplicate it.

10 On Page 121, the exhibit identified as 231 is
11 the cost of service study which the Company has called
12 the No Migration Study. And that was what was provided
13 in response to the interrogatory listed. In addition
14 to that study, we have made a correction to the
15 development of the standby service CPKW, development of
16 that. So, we've revised the study and both studies
17 will be attached under the same exhibit number.

18 COMMISSIONER GUNTER: I'm not sure I
19 understand that.

20 MR. STONE: We did a revised cost of service
21 study which we labeled a No Migration Study. It took
22 into account the fact that there was a customer that
23 had been expected to migrate from the FXT class to the
24 LPT class. And it turned out that the customer did not
25 migrate to period, so we revised the study for that,

1 but in revising that study, we -- there was an error in
2 the development of the SS CPKW. So we, in order to
3 have the corrected study in the record at that time, we
4 did that over the last couple of weeks, and we're
5 attaching that to the same exhibit so you'll have both
6 studies. I just wanted to bring that to everyone's
7 attention, especially the parties. That revised study
8 will be available this morning.

9 CHAIRMAN WILSON: We have Exhibit 231, which
10 is cost of service study, which you've titled No
11 Migration Study. That -- okay, that the customer that
12 isn't now going to migrate that you thought he would,
13 it revises this to take account of that, and now you
14 have a corrected study because of some other error.

15 MR. STONE: A minor error in the development
16 of the SS CPKW. And just so that it was a clean study
17 we decided we would go ahead and provide that for
18 everyone.

19 CHAIRMAN WILSON: That would be two studies as
20 exhibits to 231, correct?

21 MR. STONE: That's correct.

22 CHAIRMAN WILSON: And we're going to have
23 those when?

24 MR. STONE: This morning.

25 On Page 128, Item No. 294 duplicates No. 295.

1 We would just propose to delete 294 and add Mr. Bower's
2 name as a co-sponsor to 295.

3 MR. STONE: On Page 139, Exhibit 352, the
4 docket number should be listed as 881167. On Page 145
5 it appears to us, from reviewing the interrogatory
6 responses that Mr. Bushart would have nothing to do
7 with exhibits 442 and 444. In addition, Interrogatory
8 Response No.69 under 442, Mr. Howell is the appropriate
9 witness for that and it has been identified as Exhibit
10 476 on a later page.

11 COMMISSIONER EASLEY: Wait. Under 443?

12 MR. STONE: 442, I'm sorry.

13 COMMISSIONER EASLEY: 442, I'm sorry.

14 MR. STONE: You'll see in the midst of that
15 description Interrogatory No. 69 --

16 COMMISSIONER EASLEY: Right.

17 MR. STONE: Mr. Howell is the appropriate
18 witness for that interrogatory response and that
19 interrogatory response has also been identified later
20 in this corrected exhibit list as Exhibit 476.

21 COMMISSIONER GUNTER: Let me make sure I'm
22 right now. On 442, struck Bushardt, added Howell, so
23 you have Bowers and Howell on 442, is that right?

24 MR. STONE: Well, Mr. Howell would only be on
25 Item No. 69, and what I'm trying to indicate is that

1 No.69 is identified later. If you could strike 69 it
2 would solve the problem, but again it's not my exhibit,
3 so I'm just offering that as a problem.

4 CHAIRMAN WILSON: Any problem with that?

5 MR. VANDIVER: No, I think we can deal with
6 most of this as it came up. In the process of
7 compiling more than 300 separate exhibits, there were a
8 couple of duplications, and basically, late Thursday
9 afternoon when this was going down to the print shop,
10 Staff elected to punt most of these.

11 MR. STONE: I'll skip the duplications. Let
12 me point out two other errors and then I'll be through.

13 COMMISSIONER GUNTER: Hold on a minute. On
14 434 we struck Bushardt, so we have Bowers and Jordan?

15 MR. STONE: That's correct, Commissioner.

16 COMMISSIONER GUNTER: All right.

17 MR. STONE: Mr. Jordan's only interrogatory
18 in that set, as far as we could determine, is No. 133.
19 I need to also point out that Item No. 142 in that
20 particular exhibit is Mr. Howell's responsibility not
21 Mr. Bowers.

22 COMMISSIONER GUNTER: 142, so we'd add
23 Howell?

24 MR. STONE: I believe so.

25 COMMISSIONER GUNTER: All right.

1 MR. STONE: For that response only.

2 COMMISSIONER GUNTER: All right.

3 Finally, on Page 148, Exhibit No. 470, the
4 Interrogatory Response No. 109 is Mr. Bower's
5 responsibility, not Mr. Parson's or Mr. Howell.

6 COMMISSIONER GUNTER: Do you add him?

7 MR. STONE: For that one response only. And
8 that completes our observations about the exhibit list
9 in the Prehearing Order.

10 CHAIRMAN WILSON: All right. Anything
11 further, anything to deal with preliminarily with Gulf
12 Power?

13 MR. BURGESS: Oh, yes, Commissioner, I don't
14 think this will really come up. Mr. Larkin has a
15 scheduling conflict and the earliest he can be here is
16 late Wednesday or Wednesday afternoon.

17 CHAIRMAN WILSON: I don't think that's going
18 to be a problem. If it comes to one, we'll deal with
19 it.

20 MR. VANDIVER: Ms. Bass is unavailable on the
21 18th.

22 CHAIRMAN WILSON: I'm sorry?

23 MR. VANDIVER: Ms. Bass is unavailable on the
24 18th as well.

25 MR. ENDERS: Mr. Chairman, I'd like to make

1 an appearance. Major Gary Enders, Federal Executive
2 Agencies.

3 CHAIRMAN WILSON: Is Commissioner Beard
4 correct, Air Force 10 was late this morning or what?

5 MR. ENDERS: Yes, we were, sir. (Laughter)

6 COMMISSIONER BEARD: Fogged in.

7 CHAIRMAN WILSON: Anything further before we
8 begin? Does any party desire to make an opening
9 statement? No? Good. All right, we're ready then.

10 Let me have all the witnesses who will be
11 testfying who are present in the room, I'll go ahead
12 and swear you all in, save a little time at this point.
13 If you would stand and raise your right hand.

14 (Witnesses collectively sworn)

15 CHAIRMAN WILSON: Call your first witness.

16 MR. STONE: Call Mr. D.L. McCrary.

17 CHAIRMAN WILSON: Mr. LaFace, if you want to
18 be excused at this point, that's all right.

19 MR. MCGLOTHLIN: I would like to be excused.

20 CHAIRMAN WILSON: Sorry.

21

- - - - -

22

DOUGLAS L. MCCRARY

23 was called as a witness on behalf of Gulf Power Co.,
24 and having been first duly sworn, testified as follows:

25

DIRECT EXAMINATION

1 BY MR. HOLLAND:

2 Q Mr. McCrary, would you state your full name,
3 your business address and your position with Gulf Power
4 Company?

5 A My name is Douglas L. McCrary, 500 Bayfront
6 Parkway, Pensacola, Florida. I'm president of Gulf
7 Power Company.

8 Q And Mr. McCrary, have you prefiled testimony
9 in this docket, entitled, "The Direct Testimony of the
10 D.L. McCrary"?

11 A Yes, I have.

12 Q Do you have any corrections to the testimony?

13 A Yes, I have three. On Page 17, Line 14,
14 change 1120 to 1163.

15 CHAIRMAN WILSON: Page 17, Line 14, change
16 1120 to what?

17 WITNESS To 1163.

18 CHAIRMAN WILSON: All right.

19 A Page 18, Line 21, change "September" to
20 "October." On Page 19, Line 4, change 84 million to 8,
21 million.

22 Q Is that all your corrections?

23 A Yes.

24 Q With those corrections, Mr. McCrary, if I
25 were to ask you the questions today contained in your

1 testimony would your answers be the same?

2 A Yes, they would.

3 MR. HOLLAND: Mr.Chairman, we would ask that
4 Mr. McCrary's testimony be inserted into the record as
5 though read.

6 CHAIRMAN WILSON: His testimony will be so
7 inserted into the record.

8 MR. HOLLAND: And Mr. McCrary, I believe
9 you've also -- the exhibits have been stipulated to and
10 have been premarked as Exhibits 2, 3 and 4, the three
11 schedules attached to your testimony.

12 (Exhibit Nos. 2, 3 and 4 marked for
13 identification and admitted.)

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GULF POWER COMPANY

Direct Testimony of
D. L. McCrary
In Support of Rate Relief
Docket No. 891345-EI
Date of Filing December 15, 1989

5
6 Q. Please state your name, your business address,
7 and your position with Gulf Power Company.

8 A. My name is Douglas L. McCrary and my business
9 address is 500 Bayfront Parkway, Pensacola,
10 Florida 32501. I am President and Chief
11 Executive Officer of Gulf Power Company and a
12 member of the Company's Board of Directors. I
13 am also a member of the Board of Directors of
14 The Southern Company and Southern Company
15 Services, Inc.

16
17 Q. Please describe briefly your educational
18 background and business experience.

19 A. I attended public school in Alabama and
20 thereafter served three years in the United
21 States Air Force. I graduated from Auburn
22 University with a Bachelor of Science degree in
23 Mechanical Engineering. I also received a
24 Master of Science degree in Mechanical
25 Engineering from Auburn University. In 1953, I

1 joined Alabama Power Company as a junior
2 engineer. Since then, I have held several
3 different management and executive positions,
4 including positions with Alabama Power Company,
5 Southern Company Services, Inc.; and Gulf Power
6 Company.

7 I became Vice President-Construction at
8 Alabama Power in 1971. In 1977, I became Senior
9 Vice President at Southern Company Services,
10 Inc. From January 1980 to May 1983, I served
11 as Executive Vice President at Southern Company
12 Services, Inc. On May 1, 1983, I was elected
13 to my present position at Gulf Power Company.
14 As a result of 36 years of experience within
15 the Southern electric system and service in
16 varied management and executive positions, I am
17 familiar with the operations of the Southern
18 electric system including the operations of
19 Gulf Power Company.

20
21 Q. Do you have an exhibit that contains
22 information to which you will refer in your
23 testimony?

24 A. Yes.

25 Counsel: We ask that Mr. McCrary's

1 exhibit, consisting of 3
2 schedules, be marked for
3 identification as Exhibit
4 No. 2-4 (DLM-1).
5

6 Q. What is the purpose of your testimony?

7 A. The primary purpose of my testimony is to
8 summarize for the Commission, Gulf's need for
9 immediate rate relief. As clearly reflected in
10 the testimony of Mr. Scarbrough, the other
11 witnesses and the supporting documentation, the
12 financial integrity of the Company is
13 substantially at risk. I would also like to
14 address certain of the events of the past few
15 years which could easily detract from the
16 merits of our case. These events, including
17 the numerous investigations of the Company, and
18 the Company's recent plea of guilty are of
19 understandable concern to the Commission. I
20 believe the record reflects that we have been
21 likewise concerned and have taken those actions
22 necessary to prevent a recurrence. Although of
23 no less importance to management, the amount of
24 money involved in the violation is minimal.
25 With the adjustments which we have made, there

1 should be no impact on Gulf's rate case. Even
2 so, there are those who would take the actions
3 of a few and cast aspersions on the whole.
4 This is extremely unfair to those who
5 throughout this entire process have maintained
6 their high standards and cooperated fully in
7 our efforts to ferret out any illegal or
8 unethical conduct. We will cooperate in the
9 Commission's continuing examination of these
10 events. We trust, however, that the Commission
11 and its staff will focus on those areas truly
12 relevant to the rate case. We have removed
13 from the rate case filing all of the expense
14 and rate base items associated with the
15 investigations.

16
17 Q. Mr. McCrary, in this regard, did you not
18 petition the Commission for rate relief in
19 November of 1988 and then file a "Notice of
20 Voluntary Dismissal" on June 12, 1989?

21 A. Yes. At the time of Gulf's filing for
22 permanent rate relief in November 1988, Gulf
23 Power Company -- its parent corporation, The
24 Southern Company, and its other operating
25 companies --- were under investigation by the

1 Federal Grand Jury for the Northern District of
2 Atlanta. At that time Gulf had hoped that the
3 investigation would be completed as it related
4 to Gulf by the time for the rate hearings. This
5 did not happen.

6 Although very few of the allegations
7 before the Grand Jury impacted upon Gulf's
8 request for rate relief, Gulf realized that the
9 cloud of rumor and innuendo surrounding the
10 investigation necessitated a full and complete
11 explanation of these events. Aware of its
12 obligation to prove its need for rate relief by
13 the appropriate evidentiary standard before the
14 Commission, yet constrained by the effect of
15 the pending Grand Jury proceedings, the Company
16 felt that it should withdraw its request for
17 rate relief in order to respect the sanctity of
18 the Grand Jury process and the concept of due
19 process, and to allay the justifiable concerns
20 which the Commission had. On October 31, 1982,
21 the Company entered into a plea agreement with
22 the United States government, finally disposing
23 of the issues under investigation.

24 In order to avoid prolonged, expensive and
25 divisive legal proceedings, the Company pleaded

1 guilty to two federal offenses:

- 2 * conspiring to violate a section of
3 the Public Utility Holding Company
4 Act, which prohibits regulated
5 utilities from making political
6 contributions; and
7 * conspiring to impede the Internal
8 Revenue Service through the creation
9 of false or inflated invoices.

10 After a thorough review of actions taken
11 by those named in the criminal information
12 filed by the Government, the Company
13 acknowledged with deep regret that federal
14 statutes were violated. As indicated in
15 the Government's Statement of Facts
16 Regarding the Gulf Power Company Plea, the
17 illegal activities were orchestrated by the
18 Company's former Senior Vice President and
19 carried out at his direction by a handful of
20 employees and were unauthorized by Gulf. As the
21 Government's Statement of Facts acknowledges,
22 "Gulf Power Company has suffered from the
23 dishonesty of the senior vice president and
24 certain others who acted under his direction
25 without the approval of the board of directors

1 of Gulf Power Co." Nevertheless, the Company
2 believes that the decision to plead to the
3 charges made by the government was
4 responsible and proper. The alternative,
5 a lengthy criminal trial, would only
6 contribute to continued publicity and
7 trauma for the company and its employees,
8 and would likely have resulted in a much
9 harsher indictment and fine than that
10 negotiated in the plea agreement. Gulf
11 certainly does not condone the abuses that
12 occurred, and is determined to prevent such
13 abuses in the future.

14 I want to emphasize that, during the
15 investigation of the Company's records, we
16 cooperated fully with the Grand Jury and the
17 office of the United States Attorney.

18
19 Q. Has the Company taken the initiative in
20 investigating internal wrongdoing?

21 A. Absolutely. With respect to the Grand Jury
22 investigation, the Government itself recognized
23 in its Statement of Facts that "Gulf Power Co.
24 itself, by its own initiative, has
25 substantially contributed to the investigation

1 and the uncovering of the wrongdoing by this
2 now deceased senior vice president and a
3 handful of other employees who worked under
4 him." In fact, independently of the Grand Jury
5 investigation, the Company's internal auditors,
6 security personnel, managers, employees and
7 attorneys have consistently endeavored to
8 ferret out and eliminate internal wrongdoing.

9 Beginning in 1983, shortly after I came to
10 Gulf Power, I responded promptly to rumors of
11 theft and corruption at the General Warehouse
12 by appointing an investigative team to prepare
13 an independent report of conditions at the
14 Warehouse. Where illegal activities
15 were proven, as in the case of Kyle Croft,
16 General Warehouse Manager, decisive corrective
17 action was taken. Employees found to be
18 involved were, as appropriate, reprimanded,
19 fired, allowed to resign, or demoted.

20 Since the time of the investigative report
21 conducted in late 1983-early 1984, allegations
22 of vendor kickbacks and employee fraud have
23 continued to surface. Most of the allegations
24 arose from statements made by Kyle Croft in
25 connection with his wrongful termination

1 lawsuit against the Company. A Grand Jury in
2 Pensacola thoroughly investigated his
3 allegations, and properly dismissed them. His
4 civil suit against the Company and its
5 executives has likewise been appropriately and
6 finally dismissed. Other substantiated
7 allegations of vendor kickback schemes
8 resulted in Gulf's termination of contractual
9 business relationships with all but one of the
10 vendors involved. The one remaining vendor
11 never profited from the actions requested of
12 him by Company employees, and has cooperated
13 extensively with Gulf and the authorities in
14 investigating these issues. Because of this
15 vendor's consistently low bids and excellent
16 quality of service, Gulf saw no benefit to
17 terminating the relationship.

18 Unfortunately, other charges concerning
19 political contributions and unsubstantiated
20 billing by Gulf vendors, as documented in the
21 plea agreement between Gulf Power Company and
22 the United States Government, have proven to be
23 true. For a variety of reasons, these
24 improprieties were only relatively recently
25 substantiated.

1 Q. Should Gulf's management have been aware
2 earlier of the improper activities described in
3 the plea agreement and Government's Statement
4 of Facts?

5 A. It is difficult to say what more could have
6 been done under the circumstances to uncover
7 the illegal and unauthorized acts of Gulf's
8 former Senior Vice President and those who
9 acted at his direction. This Vice President,
10 Jake Horton, was a well-respected and
11 influential man in the Pensacola community. He
12 was able to accomplish a great deal of good for
13 the citizens of Northwest Florida. One does
14 not ordinarily suspect such a man of illegal or
15 unethical conduct. It was not until September
16 of 1988 that I became aware of the details of
17 the ledger kept by the Appleyard Agency
18 documenting questionable expenditures made and
19 billed back to the Company. I immediately
20 instructed our internal auditors to begin a
21 comprehensive review of all of the Company's
22 accounts with advertising vendors. It was this
23 internal audit and subsequent investigations by
24 the Internal Audit Committee of the Board which
25 indicated that Mr. Horton had circumvented

1 Company policies and procedures by authorizing
2 political and other contributions by vendors to
3 be billed back to the Company. The
4 Government's Statement of Facts documents the
5 thorough investigation conducted by Gulf's
6 internal auditors into this matter and reflects
7 that the activities of Mr. Horton and others
8 were unauthorized by the Company. Since Gulf
9 Power does not have the subpoena power
10 available to the United States Government
11 agencies, certain of the illegal acts were
12 unknown to the Company until settlement
13 discussions were begun with the United States
14 Attorney's office.

15
16 Q. What steps has the Company taken to ensure that
17 these abuses do not occur in the future?

18 A. The Company has taken many specific steps to
19 ensure, within reason, that future abuses do
20 not occur. Management structure has been
21 reorganized to better divide responsibilities
22 and authority. Specific guidelines have been
23 published which strictly define the acceptable
24 use of outside firms providing professional
25 services to the Company. Purchasing and

1 invoice approval policies have been scrutinized
2 and, where appropriate, strengthened. Each and
3 every vendor and contractor doing business with
4 Gulf has been clearly advised that they are not
5 expected or required in any way to make
6 political or charitable contributions as a
7 condition of doing business with Gulf Power.
8 In addition, we have adopted a comprehensive
9 employee ethics program to ensure integrity
10 throughout the Company. All employees are
11 required to read, sign, and adhere to a Code of
12 Ethics which has been described as one of the
13 most rigorous in the corporate marketplace.
14 Violations of the Code of Ethics result in
15 disciplinary action up to and including
16 dismissal. Our ethics awareness program
17 provides ongoing guidance to all employees,
18 from top management to the newest hire. The
19 institution of a confidential Employee Concerns
20 Program which reports directly to me enhances
21 our ability to ensure that proper business
22 practices continue to be followed without
23 exception, encouraging all employees to report
24 any activity which appears to them to be
25 illegal or unethical.

1 A summary of certain of the actions we
2 have taken since 1983 to improve security over
3 Company materials and assets is attached as
4 Schedule 1 to my exhibit.

5 Although in our plea agreement we accept
6 the responsibility for the unauthorized actions
7 of a few employees, we do not accept or condone
8 what happened. I am confident that we have
9 taken reasonable and appropriate corrective
10 action both with our employees and in revision
11 of our policies and procedures to prevent
12 anything of this type from happening in the
13 future.

14
15 Q. Mr. McCrary, are there any other comments which
16 you would like to make about the investigation
17 and Gulf's responses to them?

18 A. Enough has probably already been said. It is
19 important to note, however, that it was our
20 actions, beginning in 1983, which precipitated
21 all the external investigations which occurred
22 subsequently. In other words, we have
23 attempted to clean up our own house. It was
24 recognition of this by and our cooperation with
25 the federal authorities which enabled us to

1 achieve a favorable plea agreement. While we
2 are perhaps justifiably criticized for having
3 failed to prevent these things from occurring,
4 we have taken those steps necessary to
5 disassociate those responsible and assure that
6 they do not reoccur. Again, the focus of
7 Gulf's request for rate relief should not be on
8 the actions of the past, but on the actions
9 taken for the future and on Gulf's need for
10 rate relief.

11
12 Q. Mr. McCrary, what is the amount of rate relief
13 the Company is requesting in this docket?

14 A. The Company is requesting retail rate relief
15 totaling \$26.3 million. The testimony of Mr.
16 Scarbrough and others discuss the
17 appropriateness of this amount. Mr. Haskins'
18 testimony discusses the appropriateness of the
19 allocation of these revenue requirements on the
20 basis of the Company's cost to provide service
21 to the various customer groups. Our panel of
22 witnesses present testimony demonstrating that
23 the operation and maintenance expense level we
24 are requesting is necessary to continue to
25 provide the quality of service that our

1 customers expect and deserve. These witnesses
2 also present testimony describing the
3 investment that has been made in facilities
4 used in providing this service to our
5 customers. Their testimony demonstrates that
6 this investment has been appropriately made in
7 response to our obligation to provide service.
8 Finally, our witnesses will present testimony
9 supporting the return that must be earned on
10 this investment if we are to be competitive in
11 attracting additional capital so that our
12 future service obligations can be met.

13 Certainly, no one likes to go through the
14 agony and turmoil that accompanies a request
15 for an increase in rates, least of all myself.
16 But, as you will see from the testimony
17 presented, this request is necessary given the
18 financial condition in which we find ourselves.
19 Gulf does not operate in a vacuum. We have
20 been impacted by the forces of inflation and
21 regulation in the five years since our last
22 increase. We should not be penalized and
23 constrained financially, or our ability to meet
24 usual financial obligations or attract sources
25 of capital will be eroded. Clearly our

1 obligation is to provide efficient and adequate
2 electric service to the citizens of Northwest
3 Florida, and to do that we must be afforded the
4 opportunity to collect these additional
5 revenues.

6
7 **Q. Please describe the principal reason for**
8 **requesting rate relief at this time.**

9 **A. The principal reason for our need for rate**
10 **relief is the need to earn an adequate return**
11 **on the additional investment associated with**
12 **power generation resources, specifically Plant**
13 **Daniel and Plant Scherer, and the associated**
14 **operating and maintenance expenses.**
15 **Mr. Scarbrough presents in graphic detail the**
16 **revenue requirement impact which the additional**
17 **capacity is having on our need for rate relief.**
18 **Very simply, as both Mr. Parsons and Mr.**
19 **Scarbrough state in their testimony, a utility**
20 **the size of Gulf cannot add over 500 mw of**
21 **capacity without an increase in rates to**
22 **support the investment.**

23 **These power plants and their corresponding**
24 **investment were discussed at length during our**
25 **1984 rate case. As we indicated at that time,**

1 1989 was projected as the year these facilities
2 are needed to meet our retail load growth. Mr
3 Parsons discusses this at length in his
4 testimony. As he also discusses, this capacity
5 is being made available to our retail customers
6 at bargain prices relative to what additional
7 capacity is currently costing other utilities
8 Specifically, the Plant Daniel capacity
9 represents a current investment level of only
10 \$265 per kilowatt and Plant Scherer is only
11 \$760 per kilowatt. This compares to the
12 construction of new capacity with an initial
13 in-service date of 1990 at an estimated cost
14 of ¹¹⁶²~~1120~~ per kilowatt.

15 In spite of the relatively low cost of
16 this additional capacity, it certainly requires
17 revenue support; and hence, we must have an
18 increase in retail rates. Fortunately, this
19 small increase will not be the "rate shock"
20 that other utilities adding capacity have
21 experienced. This price performance of our
22 Company provides a value and quality of service
23 that our customers appreciate when they compare
24 our prices with the prices faced by consumers
25 by other utilities throughout the nation.

1 Q. Have operation and maintenance expenses
2 contributed to your need for rate relief?

3 A. Yes, they have. The Company has incurred
4 significant increases in operating and
5 maintenance expenses, primarily due to
6 inflation and customer growth. As other
7 witnesses describe in detail, our operation and
8 maintenance expense level is above the
9 Commission's benchmark calculation. In
10 accordance with the Commission's admonition in
11 1984, we have not attempted to defer or delay
12 any necessary maintenance activities because of
13 revenue deficiencies. As the needs in power
14 plant maintenance, research and development
15 have increased, we have responded by spending
16 the necessary funds to meet those needs. These
17 efforts have resulted in tangible benefits,
18 with the power production area being a prime
19 example. We have improved our heat rate from
20 10,909 btus per kwh in 1980 to 10,636 btus per
21 kwh by the end of ^{October}~~September~~ 1989, resulting in
22 \$67 million in fuel cost savings to our
23 customers since 1980. Additionally, these
24 maintenance efforts have increased our
25 demonstrated net system peak hour generating

1 capability by 74.9 mw over the last nine years
2 At today's cost for an avoided coal unit, this
3 additional capacity represents an added value
4 of ~~54~~ million.

5
6 Q. What are some of the reasons why Gulf Power has
7 been able to operate since 1984 without an
8 increase in base rates?

9 A. We recognized the need for rate relief in 1989.
10 However, as I discussed earlier in my
11 testimony, we withdrew our request for rate
12 relief until the Federal Grand Jury
13 investigation was concluded. Several external
14 and internal factors made it possible to delay
15 the need for rate relief until 1989, and these
16 factors are fully discussed by other witnesses.
17 In addition to the obvious impact of the
18 corporate income tax rate change and retail
19 sales growth, the capital markets stabilized
20 substantially from 1984 through 1989.
21 Consequently, the cost of capital is somewhat
22 lower now than it was in 1984 and that has been
23 reflected in our filing.

24 Internally, all areas of Gulf Power
25 Company have been devoted to preventing having

1 to ask this Commission for an increase in our
2 rates. We have worked hard at effectively
3 marketing our base generating plant resources
4 through off-system sales, economic development
5 activities, supplemental energy sales and other
6 end use and demand side load management
7 programs.

8 We have also diligently worked over these
9 years to increase the efficiency of our
10 workforce. As Mr. Howell, Mr. Lee and Mr.
11 Jordan discuss in their testimony, we have
12 instituted productivity enhancement and
13 efficiency measurement programs to ensure that
14 both our people and our equipment are working
15 efficiently and effectively. A significant
16 portion of our workforce is now included in
17 quantitative productivity measurement programs.
18 As shown in Mr. Scarbrough's Schedule 10, our
19 operation and maintenance expense level has
20 consistently been below the Southeastern
21 Electric Exchange average; and we are making
22 every effort to continue that tradition.
23 Additionally, we have increased our generating
24 unit equivalent availability from a low of
25 83.7 percent in 1985 to 88.7 percent

1 year-to-date October 1989. We continue to
2 monitor and measure statistics such as these to
3 ensure that we are maintaining a competitive
4 posture within our industry.

5
6 Q. Are you convinced that this rate increase is
7 necessary to provide the long-term quality of
8 electric service that your customers expect and
9 deserve?

10 A. Yes, I am. Our 1990 rate base represents
11 appropriate investments in the facilities
12 necessary to provide reliable electric service,
13 and our level of operation and maintenance
14 expenses is that which is also necessary to
15 properly operate and maintain these facilities
16 and our utility business. To continue
17 providing this service into the future, our
18 investors are entitled to a fair return on
19 their investment. Without this fair return, we
20 cannot expect to attract the capital necessary
21 to meet the needs of our customers at
22 reasonable rates. Unfortunately, this
23 combination of needs now requires an increase
24 in our retail rates.

25 As I have already pointed out, however,

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and as shown on my Schedule 2, our current rates are among the lowest in the country, and even with this increase in our residential rates, they will continue to remain in this position. Additionally, as indicated in Schedule 3 of my exhibit, the total bill to our typical residential customer will still be lower than it was in December of 1984, the time of our last general rate increase.

As this Commission knows, one of the principal reasons why our customers have experienced a reduction in their electric service rates over the last several years has been our ability to substantially reduce our fuel costs. We have accomplished this through innovative negotiations resulting in coal contracts which have been reviewed by this Commission as part of our regular fuel cost proceedings.

I am proud of the economies we have accomplished over the last several years and of our success in keeping our rates stable. Our ability to be competitive and effectively control our costs has provided our residential customers with more disposable income and

1 allowed our industrial customers to be more
2 competitive in today's international
3 marketplace. We can only continue to be a
4 viable and positive influence in the long term
5 if we are allowed adequate earnings on
6 necessary investments in electrical service
7 facilities that are efficiently operated and
8 maintained. Our tradition of reliable service
9 must continue, and we must be granted this
10 modest increase for it to do so.

11
12 Q There are some who have criticized the Company
13 for requesting rate relief so quickly after
14 having entered into the plea agreement with the
15 United States Government. Would you please
16 comment on this?

17 A. First, I want to say that we certainly do not
18 enjoy going through the ordeal of asking for an
19 increase in our rates at any time. The events
20 of the past few months have made the situation
21 all the more difficult, but they, in fact, have
22 no impact on the Company's need for rate
23 relief. The Company's financial situation is
24 such that we have no alternative. Our last
25 request for rate relief was necessarily

1 withdrawn because of the pending Grand Jury
2 investigation, however, the financial factors
3 which necessitated that request remain
4 constant, and in fact the Company's financial
5 position has continued to deteriorate. Now
6 that Gulf has successfully put the ordeal of
7 the investigation behind it by negotiating the
8 plea agreement, we have no choice but to return
9 to this Commission for rate relief.

10 Maintaining the delicate balance between
11 pricing our product attractively for our
12 customers while earning a competitive return
13 for our stockholders is difficult. Despite our
14 best efforts to avoid filing this case, the
15 addition of the large increment of the Daniel
16 and Scherer capacity makes this filing
17 mandatory. I want to emphasize that I believe
18 our ability to provide quality, reliable
19 service to our customers over the years, while
20 maintaining among the lowest rates in the state
21 and nation, is an excellent indicator of the
22 character and dedication of Gulf employees.
23 With the modest increase in rates requested in
24 this case, we will still continue to succeed in
25 delivering low cost, reliable electric service

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to our customers.

I also want to reemphasize the fact that we have thoroughly reviewed our filing to remove any impact that the illegal acts to which we have pleaded will have on our future rates. We continue to assess any past affect on our ratepayers from the Company having made political or other contributions, through inflated invoices. Our careful review of the situation should indicate whether our ratepayers bore any of these costs. In the event that we discover any portion of the money in question was paid by our customers, we will make appropriate refunds to them.

Before concluding my testimony, I want to commend the dedicated employees of the Company who never wavered in their commitment to our customers during one of the most difficult periods in the Company's 63 years of service to Northwest Florida. It is a shame that the deeds of a few cast a shadow of doubt upon the honesty and integrity of the other 1600 employees. I sincerely hope that this Commission will consider the very fine accomplishments of the Company over many years

1 and allow us to move forward.

2 Q. Does this conclude your testimony?

3 A Yes, it does.
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1 Q With that Mr. McCrary, have you prepared a
2 summary of your testimony?

3 A Yes, I have.

4 Q Would you please summarize?

5 A We come before this Commission for the first
6 time since 1984, seeking rate relief in the amount of
7 \$26.3 million. Certainly, given all that we have been
8 through over the last six years we would not do so
9 unless it was sorely needed. The fact is, and our
10 witnesses will demonstrate, that the requested rate
11 relief is justified if we are to maintain a reasonable
12 level of financial integrity.

13 Certain witnesses have been questioned and
14 the issue has been raised, regarding the management of
15 Gulf Power. And I would like to address that issue.

16 The real question with regard to management
17 is have we provided efficient, sufficient and adequate
18 electric service to our customers? And the answer is
19 yes. As my testimony shows our rates, even with the
20 requested increase, are among the lowest in the
21 southeast. The reliability and adequacy of our service
22 compares favorably with any utility. This is the
23 bottom line upon which management should be judged.

24 This is not to say that the Commission should
25 not examine the events of the past; it should. But in

1 the context of this rate case the question is have the
2 events of the past impacted the rates and reliability
3 of our service, and have sufficient measures been taken
4 to reasonably assure that these events will not
5 reoccur?

6 We have removed from our filing any amount of
7 money which is associated with the investigations. We
8 have taken those steps necessary to see that the acts
9 of the past do not reoccur. I'm proud of what we have
10 done and firmly believe that our actions will stand
11 the test of time.

12 On October the 31st, 1989, the Company
13 entered into a plea agreement with the U. S.
14 government, finally disposing of the issues involving
15 Gulf Power, which had been under investigation by the
16 Federal Grand Jury in Atlanta, since mid-1988. After a
17 thorough review, the Company acknowledged with deep
18 regret that federal statutes were violated. We pleaded
19 guilty to two federal offenses involving improper
20 political contributions and related actions affecting
21 the reported tax liability of the Company.

22 As a government statement of facts
23 acknowledges, and I quote, "Gulf Power Company has
24 suffered from the dishonesty of the Senior Vice
25 President and certain others who acted under his

1 direction, without the direction of the Board of
2 Directors of Gulf Power Company." Gulf Power certainly
3 does not condone the abuses that occurred, and is
4 determined to prevent such abuses in the future. None
5 of the employees named in the plea agreement are now
6 employees of Gulf Power Company.

7 I want to emphasize that during the
8 investigation of the Company's records, we cooperated
9 fully with the Grand Jury and in the Office of the U.
10 S. Attorney. My testimony describes in detail how
11 investigations initiated shortly after coming to Gulf
12 Power in 1983, and subsequent internal investigations
13 enabled Gulf and the Federal Government to uncover the
14 circumvention of Company policies and procedures by
15 certain former employees, which ultimately resulted in
16 the plea agreement.

17 The Company has taken many specific steps to
18 ensure, within reason, that future abuses do not occur.
19 These changes include a revised management structure,
20 specific guidelines defining the use of outside firms
21 providing professional services and revision of
22 purchasing and invoicing policies. The Company has
23 adopted a Comprehensive Employee Ethics Program with a
24 code of ethics that's one of the most rigorous in the
25 corporate marketplace. I am confident that we have

1 taken the necessary action to provide reasonable
2 assurance that events of this type will not happen in
3 the future.

4 Again, the issue is have the events of the past
5 impacted the rates and reliability of the Company? For
6 the purpose of this case, certainly not prospectively,
7 nor do we believe that they have in any significant way
8 impacted past rates. To the extent that the ratepayers
9 have suffered, we have pledged, and I renew that
10 pledge, to make all appropriate refunds with interest.

11 The Commission has an open docket in which to make
12 this determination. We have fully cooperated, and will
13 continue to cooperate, in your investigation. It is
14 not the ratepayers who have suffered as a result of
15 these past events.

16 In 1988 we filed with this Commission a
17 request for rate relief. We fully anticipated that all
18 of the investigations would be completed before the
19 hearings which were scheduled for mid-1989 and this did
20 not occur. At a substantial cost of morale to our
21 employees and tremendous financial cost to our
22 stockholders, we canceled the 1989 rate case.

23 The shareholder's loss has been the
24 ratepayer's gain. We estimate that the customers have
25 paid during this period almost \$30 million less than

1 they otherwise would have had the Company had
2 sufficient rates to generate a fair return.

3 Our shareholders, management and employees
4 have suffered a great deal. In addition to the impact
5 I've already described, they have also borne the impact
6 of \$500,000 fine paid to the Federal Government and all
7 costs associated with the investigation. We at Gulf
8 are attempting to put the events of the past behind us.
9 We're attempting to look to the future, determined to
10 continue to be among the lowest cost providers of
11 reliable electricity in the state.

12 The focus of Gulf's request for rate relief
13 should not be on the actions of the past, as the
14 expenses associated with the illegal activities and the
15 plea agreement are not included in this request for
16 rate relief. The principal reason for our need for
17 rate relief is the need to earn an adequate return on
18 the additional investment in Gulf's share in Plant
19 Daniel in Mississippi and Plant Scherer in Georgia, and
20 operating and maintenance expenses associated with
21 these plants. The total increase requested is 26.3
22 million. This amounts to 6.2% increase in total retail
23 revenues, which will not be the rate shock usually
24 associated with adding this much capacity. We believe
25 that we provide a value and quality of service that our

1 customers appreciate when they compare our prices with
2 the prices faced by consumers served by other utilities
3 throughout the nation. All areas of our Company have
4 worked diligently during the six years since our last
5 increase to keep our costs down and minimize the amount
6 of increase we knew would be required when this
7 capacity returned to our system in 1989.

8 Our current rates to our customers are among
9 the lowest in the country. And even with this increase
10 in our residential rates, they will continue to remain
11 in this position. Furthermore, if the Commission
12 grants the total amount of increase requested, the
13 total bill to our typical residential customer will
14 still be lower than it was in December 1984, the time
15 of our last general rate increase.

16 I'm proud of the economies we have
17 accomplished over the last several years and of our
18 success in keeping our rates stable. The 1600
19 dedicated employees of this company never wavered in
20 their commitment to our customers during one of the
21 most difficult periods in the Company's 63 years of
22 service to northwest Florida.

23 Our tradition of reliable service will
24 continue, and I sincerely hope that this Commission
25 will consider the very fine accomplishments of the

1 Company over the years and allow us to move forward
2 with a new vision to the future.

3 Thank you.

4 MR. HOLLAND: Tender Mr. McCrary for cross
5 examination.

6 CHAIRMAN WILSON: Mr. Burgess?

7 CROSS EXAMINATION

8 BY MR. BURGESS:

9 Q Mr. McCrary, do you know whether Gulf has
10 ever, in any previous rate case, received a reward in
11 addition to its return on equity as a result of a
12 Commission finding that Gulf had engaged in
13 exceptionally good management?

14 A I think we have received some awards for
15 improvements in heat rate and things of this nature.

16 Q I'm thinking more in terms of within a rate
17 case a particular amount added to your return on equity
18 as a result of the Commission's finding of good
19 management at Gulf Power.

20 A I'm not sure. I think we, in one of the tax
21 rate hearings, we did get a return on equity that was a
22 little higher than some of the other companies. The
23 exact reasons for it would be in the record and I'm not
24 sure what they were.

25 Q But what you're saying in this case is that,

1 even if the Public Service Commission determines that
2 Gulf was mismanaged, that there should be no penalty to
3 the return on equity? That's your position, is it not?

4 A Well, in the first place, I don't agree that
5 the Company has been mismanaged. And if they should
6 find that, I think that our shareholders have -- and
7 our employees -- have suffered enough already.

8 Q Okay. I understand that you don't think that
9 Gulf has been mismanaged. But let's suppose the
10 Commission finds that it has been mismanaged. Do I
11 understand correctly that your position is, regardless
12 of a finding to that effect, the Commission should not
13 penalize the Company as a reduction to its return on
14 equity?

15 A Absolutely.

16 Q And that notwithstanding that if the record
17 shows that Gulf Tower was given a reward on its return
18 on equity in a previous rate case as a result of good
19 management?

20 A Well, certainly, I don't think Gulf should be
21 penalized in this case --

22 Q Even if it was rewarded for --

23 A -- even if it --

24 Q -- for a similar finding on the reverse side
25 in a previous case?

1 A Exactly.

2 CHAIRMAN WILSON: May I inquire? Does that
3 mean as a matter of principle that, if a company
4 demonstrates superior management, it should be
5 rewarded; but if it demonstrates deficient management,
6 it should not be penalized?

7 WITNESS McCRARY: No, sir, I didn't say that.
8 I said I am not, you know, I am not sure that we have
9 any measures set up to determine the superior
10 management or poor management of the companies. And
11 I'm not sure what the increase in return on equity that
12 was given to the Company in the tax case was based on
13 -- whether that was superior management or our other
14 financial situation of the Company? I'm not sure what
15 all those were.

16 CHAIRMAN WILSON: Ignoring for the moment the
17 specific facts of any prior rate case or the current
18 rate case, but as a matter of general principle, should
19 a company be rewarded for superior management?

20 WITNESS McCRARY: If there are specific
21 measures which can determine that, I think they should,
22 yes.

23 CHAIRMAN WILSON: All right. By the same
24 token, should a company be penalized for poor
25 management?

1 WITNESS McCRARY: If there are specific
2 measures to determine that, I would have no objection
3 to that.

4 MR. HOLLAND: Commissioner Wilson, Mr.
5 Chairman, I think that we're getting into a question, a
6 legal question, as far as what the Commission's
7 obligations, responsibilities are in terms of examining
8 the management. I'm prepared to address that, but --

9 CHAIRMAN WILSON: I didn't intend my question
10 to be a legal one. I wanted to know what Mr. McCrary's
11 opinion was. It wasn't clear from the response to Mr.
12 Burgess what exactly what his position was.

13 MR. BURGESS: Commissioners, for ease in
14 following along, I'm asking questions with regard to
15 Issue 38 in the Prehearing Order on Page 26.

16 COMMISSIONER GUNTER: Mr. Burgess, just so
17 that we -- I kept waiting because I thought somebody --
18 and I don't want folks to not understand what you're
19 talking about. It was either in an '80 or '82 case
20 that we found, because of the conservation efforts that
21 the Company had taken which was far exceeded the
22 efforts of any other investor-owned utilities in the
23 state, it's my recollection that we awarded, at that
24 time, Gulf Power 10 basis points return on equity when
25 we got to that situation.

1 And I think that we would -- the record would
2 indicate and a review of that order would indicate that
3 it was clearly articulated in that fashion as a reward
4 to Gulf Power for efforts that they had made in
5 conservation. And my recollection may fail me, but I
6 believe it was in the 1980 case.

7 MR. BURGESS: I think that's consistent with
8 my recollection. It's my understanding that the
9 conservation efforts lauded by the Commission were
10 basically what the Commission considered to be
11 reflecting good management, superior management.

12 COMMISSIONER GUNTER: That is correct. And I
13 just wanted to make sure there wasn't that hole left of
14 folks not understanding what we were talking about.

15 MR. BURGESS: I understand. I had assumed
16 Mr. McCrary would have recalled that. I realize he was
17 not with Gulf Power Company at that point.

18 CHAIRMAN WILSON: We can see what the
19 language in the order, in fact, says.

20 MR. BURGESS: Yes, sir.

21 Q (By Mr. Burgess) Going to Issue 38, and I'm
22 not sure that I understand your position fully. And
23 let me state that, frankly, Mr. McCrary, from what I
24 understood your answer to my question to have been, it
25 seems that you have changed it somewhat in response to

1 Chairman Wilson's question.

2 Basically, I guess my question is. If the
3 Commission reaches the determination that is posed
4 hypothetically in Issue 38, that is, that Gulf has been
5 mismanaged, as I understood you to say to Commissioner
6 Wilson, that you think that it should, in fact, impose
7 some type of penalty?

8 A No, sir, I don't. In this case, I do not.
9 Because I do not agree that Gulf has been mismanaged,
10 and I do not think that there are measures set up that
11 can show that Gulf has been mismanaged.

12 Q Okay. Then do I understand correctly that
13 your position is that if the Commission finds measures
14 and finds and reaches a determination that Gulf has
15 been mismanaged, that there should be a penalty, but
16 you don't think that -- you disagree that it has been
17 mismanaged?

18 A In this case, I do not agree that it has been
19 mismanaged.

20 Q Nevertheless --

21 A Therefore, there should be no penalty.

22 Q Okay. But if the Commission finds that there
23 has been mismanagement, you do think there should be a
24 penalty?

25 A Well, that, of course, is the prerogative of

1 the Commission. I don't think there should be a
2 penalty in this case.

3 Q As I understand it, Gulf Power Company pled
4 guilty to two federal offenses, is that correct?

5 A Yes, that's correct.

6 Q And on Page 5 of your testimony, on Line 24,
7 you indicated that the purpose of pleading guilty was
8 to avoid prolonged, expensive and divisive legal
9 proceedings, is that correct?

10 A That's correct.

11 Q Now, let me see if I understand. You do --
12 you are agreeing that Gulf Power Company was guilty of
13 those offenses?

14 A I agree that Gulf Power took the
15 responsibility for the actions of those in the Company
16 who were guilty of these circumvention of procedures.
17 These acts were done without the blessing of Gulf Power
18 Company. It was done not in accordance with Company
19 policies or procedures, and therefore I don't feel that
20 the Company is, in itself, guilty. It's those within
21 the Company who did the acts, and we said that we would
22 take the responsibility and plead guilty.

23 Q Okay. So you're saying that you pled guilty,
24 but you're not guilty?

25 A No. I'm saying that those in the Company, an

1 officer of the Company was responsible largely for the
2 acts which occurred, and except for his death, I doubt
3 that the Company would have been indicted. But what
4 we did was to take what we thought was the best route
5 in avoiding the lengthy trial that we know that would
6 have occurred; the huge number of counts that possibly
7 would have been leveled against the Company, and the
8 possibility of extensive fines and time and cost of
9 Company morale. We just felt that it was better to
10 plead guilty to these two counts and get this thing
11 over with and behind us.

12 Q I'm not sure I understand still. Did Gulf
13 impede the Internal Revenue Service through the
14 creation of false or inflated documents as one of the
15 pleas indicates?

16 A An officer of the Company did, yes. That was
17 done outside Company policies and procedures, totally
18 contrary to the policy of the Company.

19 Q Okay. Did the IRS -- was the IRS given, or
20 were invoices made available to the IRS that were
21 inflated or false that impeded their efforts?

22 A I think what they have reference to there is
23 the old Appleyard account, the ledger that was set up
24 in '80 through '83 that -- where payments were made for
25 some things that were not spelled out on the invoices

1 that were received by the Company. And, therefore,
2 that impeded the government in collection of their
3 income taxes.

4 Q Well, if it impeded the federal government,
5 wouldn't you agree that it would impede equally, if not
6 more, the efforts of this Public Service Commission to
7 establish rates based on records of Gulf Power Company?

8 A The ledger that I referred to was handled in
9 the appliance sales part of the Company and was not,
10 for the most part, included in rate consideration.

11 Q Are you saying none of it was included in rate
12 considerations?

13 A Well, I can't say for sure that every detail
14 was outside the rate considerations, but it was handled
15 in the appliance sales part of the business.

16 COMMISSIONER WILSON: Are you talking now
17 about the items detailed in the plea agreements?

18 WITNESS McCRARY: I'm talking about the old
19 Apleyard ledger, which is spelled out in the plea
20 agreement, a number of them are.

21 COMMISSIONER WILSON: What I'm -- the question
22 I'm asking is you said you weren't sure whether they
23 affected rates or whether they were in the regulated
24 piece but were in appliance sales, that you weren't
25 sure about the details. And what I want to know, is

1 there anybody in the Company who is sure about the
2 details, who knows exactly where which dollars came
3 from, and when, with respect to those items which are
4 in that plea agreement?

5 WITNESS McCRARY: Yes, sir. I think that
6 George Fell would have those numbers, exactly where
7 they were charged, where each item was charged.

8 MR. HOLLAND: Mr. Chairman, Mr. Gilbert would
9 as well, and I think there may be some confusion in
10 terms of what time period we're talking about, because
11 certainly in 1990 the expenses in the Appleyard account
12 which were below the line would not impact the 1990
13 rate case.

14 MR. BURGESS: Commissioner, all I am asking
15 questions about is with regard to the information
16 that's included in Mr. McCreary's testimony; that is,
17 that Gulf pled guilty to conspiring to impede the
18 Internal Revenue Service through the creation of false
19 of inflated documents.

20 MR. HOLLAND: Let me speak to that.

21 MR. BURGESS: Excuse me. And my question is
22 whether that same circumstance impeded this body in its
23 efforts to perform its responsibilities to the State of
24 Florida. And I was not limiting it to Appleyard, or
25 any set of circumstances, but rather whether that same

1 effort would apply to the Florida Public Service
2 Commission.

3 MR. HOLLAND: And I think that that is the
4 purpose of the docket that is open is to determine
5 whether, in fact, past acts to which we pleaded guilty
6 did, in fact, impact or impede the Company's or the
7 Commission's ability to make that determination. And
8 we have made available to this Commission all those
9 records.

10 COMMISSIONER WILSON: Are you objecting to the
11 question?

12 MR. HOLLAND: I'm just responding to his
13 statement with respect to the line of questions that
14 he's asking.

15 MR. BURGESS: And this may be getting into
16 something that might be best to go ahead and determine
17 early. I'm not sure -- and we talked about this with
18 the Prehearing Officer. We're not totally certain on
19 where the investigation, I guess, takes over and where
20 we drop a line of questions here. All I'm getting at
21 here is how this would apply to Issue 38, the
22 mismanagement question. And, of course, specifically
23 for this particular instance, whether the Commission
24 has been impeded in the past, which I consider to bear
25 on the question of management. If we, say, spin that

1 off into the investigation docket, that's fine. I
2 mean, that would be --

3 COMMISSIONER WILSON: I haven't heard an
4 objection yet. So as far as I'm concerned, you can
5 proceed with your line of questions.

6 MR. HOLLAND: I think it is important, though,
7 because it's going to keep coming up, I think, over and
8 over again. And the Commission does have two parallel
9 dockets going, got the rate case going, and we've got
10 the investigative docket going. And for purposes of
11 questions of Mr. McCrary in this docket, and for
12 purposes of Issue 38, I think the question is, one, has
13 Gulf been
14 mismanaged; and, two, has any of this activity that has
15 occurred in the past impacted the rates and reliability
16 of the Company for purposes of this rate case,
17 prospectively? And questions of that nature are
18 appropriate, and I would not object to them. I think
19 that the questions relative to the impact of past
20 activities on the ratepayers is a question, or are
21 questions that are better left to that docket. And the
22 standard -- at least from my perspective, and I'm
23 addressing specifically Section 366.041 of the Florida
24 Statutes that this Commission should be looking toward
25 in trying to make a determination is the adequacy and

1 the sufficiency and efficiency of the service provided
2 by Gulf Power Company. To the extent that the
3 questions go to that issue, I think they're
4 appropriate.

5 To the extent that they're looking at the past
6 activities, except insofar as they go to whether we
7 have, in fact, taken the appropriate steps from the
8 time of the discovery of these incidents to now, to
9 make sure that they do not reoccur, I think that's
10 relevant to this docket. But insofar as the specifics
11 and the dollar impact of what has happened in the past
12 on the ratepayer, I think it should be left to the
13 prior docket.

14 COMMISSIONER WILSON: There is certainly going
15 to be some overlap between what we would inquire into
16 in this case and what we would inquire into in that
17 case, and when we hear a question that seems to go so
18 far as to be so clearly within the domain of that
19 second docket. then you may object. At this point I
20 don't think I've heard that yet.

21 MR. BURGESS: Commissioners, for your
22 information, the questions that I'm asking will go to
23 Issue 38 and go to the question of mismanagement. I
24 understand Mr. Holland's point about the corrective
25 measures. On the other hand, in order to understand

1 those, one has to understand the history that's being
2 corrected. And I do disagree that anything that may
3 have been -- that the Commission may find as
4 mismanagement in the past, that Gulf might assert has
5 been corrected, is irrelevant, as I understand Mr
6 Holland's statement to be. I disagree with that. I
7 think it's well within the Commission's jurisdiction to
8 determine whether the Company has been mismanaged, and
9 if it has, in fact, to impose a penalty, or a reduction
10 in its return on equity authorized.

11 COMMISSIONER WILSON: Proceed.

12 MR. BURGESS: Thank you.

13 Q (By Mr. Burgess) Now, as I understand it, Mr.
14 McCrary, when you pled guilty to the act of
15 falsification of certain documents, you had to -- the
16 Company -- when I say "you" I mean Gulf Power Company
17 -- had to pay the back taxes associated with that
18 falsification, is that correct?

19 A We had to pay a fine, and I'm not sure that
20 the back taxes question has been disposed of yet.

21 Q I see. So you paid a fine that was in
22 addition to any tax liability that would be implemented
23 as a result of correcting the documents that were
24 falsified, is that correct?

25 A That's correct. I don't really believe that

1 there were any tax implications on the part of Gulf
2 Power. I think we paid the taxes even though they
3 might have been labeled wrong. I think the total
4 amount of taxes paid were right.

5 Q I see. So even though the amount of taxes,
6 the bottom line amount of taxes, was not affected by
7 the falsification, you paid a fine as a result of
8 falsifying the documents that the Internal Revenue
9 Service was to look at for verification purposes?

10 A No. We didn't falsify the documents that --
11 we didn't falsify tax a return. What the -- the
12 impeding of the collection of taxes would have been
13 from some of the vendors who made political
14 contributions, labeled those invoices as something
15 else.

16 Q I see.

17 COMMISSIONER WILSON: Wait a minute. If you
18 paid -- if you paid inflated invoices that were claimed
19 as expenses on your tax return when, in fact, they were
20 not an expense, or shouldn't have been an expense,
21 wouldn't that have some tax implication?

22 WITNESS McCRARY: Well, it may, Commissioner.

23 COMMISSIONER WILSON: Is there going to be a
24 witness who could answer on that?

25 WITNESS McCRARY: Perhaps Mr. Scarbrough

1 could.

2 Q (By Mr. Burgess) So you paid a penalty for
3 this falsification or for impeding the Internal Revenue
4 Service's efforts, yet you don't think any penalty is
5 necessary for impeding the Public Service Commission's
6 efforts?

7 A No, sir, I don't.

8 Q What kind of signal do you think this sends if
9 the PSC says, "Well, you know, you can have all those
10 false records -- "
11 excuse me -- "you can have all those false records and
12 you can overstate expenses, but if we catch you we're
13 going to correct those falsifications"? I mean, why
14 would there be any incentive not to simply falsify it
15 all that's going to happen is you're going to lose the
16 money you weren't going to get anyway?

17 A Well, you have to understand that this was not
18 -- this was not the policy of the Company. It was done
19 outside the procedures set out by the Company, totally
20 against the Company philosophy. And I would put that
21 in the same category as someone internally who
22 embezzles money from a bank, same thing. As a Company,
23 we do not condone those types of procedures or actions,
24 and the fact that they occurred and we uncovered them,
25 I think, verifies that. We initiated an investigation

1 back in 1983 when these rumors first started to appear.
2 And as a result of that investigation, and the
3 subsequent investigations done by the Company, these
4 things were uncovered. Had they been condoned by the
5 Company, we wouldn't -- we would never have started the
6 investigation.

7 Q So you began an investigation and you had
8 indications that there were problems along this line in
9 1983, and that's when Gulf began its internal
10 investigation, is that correct?

11 A That's correct.

12 Q Did you bring up these problems in the last
13 rate case?

14 A I'm not sure that they were brought up in the
15 rate case. We knew very little about the extent of the
16 problems at that time. I know that from time to time I
17 have talked to various people at the Commission about
18 the problems that we had and what we were doing about
19 them.

20 Q Well, you said that you began an internal
21 investigation in 1983 and my understanding is that you
22 filed a rate case -- "you" again, I apologize, when I
23 say "you" I mean Gulf Power Company, filed a rate case
24 in April of 1984. So surely at that point you had
25 indications and had already begun an investigation of

1 some at least perceived wrongdoings. Do you know
2 whether you brought those indicators to the attention
3 of the Commission when it was trying to establish a
4 raise in the last rate case?

5 A I'm not sure, but what we knew about the
6 irregularities at that time was not very large. It
7 involved primarily some things in the warehouse.

8 Q But what you --

9 A And I'm not sure whether that was brought up
10 in the last rate case or not. But even so, those
11 things would have very little effect on the rates.

12 Q So what you -- you didn't know very much
13 about it at that point so you didn't know what affect
14 it would have on the rates. If you didn't know very
15 much about it, then you didn't know what affect it
16 would have on the rates?

17 A Well, what we knew did not involve very much
18 money, I'll put it that way.

19 Q Okay. And what you knew, though, you don't
20 know whether you brought to the Commission's attention
21 when they were establishing rates for Gulf Power
22 Company's customers --

23 A I don't think it came up. I don't think it
24 came up in the hearings in the '84 rate case. But I
25 know from time to time I have talked to Commissioners

1 and Staff people about the investigation that was going
2 on at Gulf.

3 Q When you say it didn't come up, if you were
4 the only one that knew about it, you'd be the only one
5 that could bring it up, would that be correct?

6 A Well, I'm not sure that I was the only one
7 that knew about it at that time.

8 Q Gulf Power Company personnel?

9 A Pardon?

10 Q Gulf Power Company personnel?

11 A That's correct. I don't think Gulf Power
12 Company personnel were the only ones who knew about it
13 at the time. It had been in the papers extensively and
14 I know we had talked to Staff people about the
15 investigation at that time.

16 Q You're saying during the last rate case you
17 had talked to the Staff people about the investigation
18 you were undertaking?

19 A Yes, sir. They were aware of it.

20 COMMISSIONER GUNTER: Let me see if I can
21 help, or if I can draw on recollection.

22 In the time of the last rate case, did we
23 know any -- did this Commission know anything beyond
24 the irregularities that were -- that have subsequently
25 come to light in the warehouse? Did we know about --

1 at that time period, had it been communicated that the
2 side ledgers and what have you with Appleyard took
3 place, or are you all talking by one another in what we
4 were talking about in that time period was the
5 Brazwell, Croft that kind of activity?

6 WITNESS MCCRARY: That's correct. That's
7 what we --

8 COMMISSIONER GUNTER: Okay. I'm trying --
9 questions are coming up and I'm sort of hearing both,
10 Mr. Burgess, I apologize.

11 MR. BURGESS: We may be talking by one
12 another.

13 I'm getting to -- my recollection is in the
14 last rate case that there was none of this, regardless
15 -- I mean any of the inventory irregularities. I don't
16 recall any of it in the last rate case, and that's what
17 I'm trying to find out is whether any of it was brought
18 to the Commission's attention.

19 COMMISSIONER GUNTER: Okay.

20 Q And as I understand it, Mr. McCrary, you're
21 saying during the rate case, you don't think it was.

22 A I don't believe it was an issue in the rate
23 case, because at that time, primarily what we knew had
24 to do with the situation that existed in the warehouse
25 with Kyle Croft and Lamar Brazwell.

1 Q Okay. And as I understand now that there was
2 before that rate case ended, an inventory audit that
3 indicated some \$2 million of inventory that couldn't be
4 accounted for.

5 A No, sir, that's incorrect.

6 Q Okay. Was there an inventory audit performed
7 during the 1984 period?

8 A There was an inventory audit performed, I
9 think first in 1982 and a subsequent audit in 1983,
10 which would have been before the rate case. It did not
11 indicate a \$2 million outage.

12 Q How much did it show as an inventory
13 deficiency?

14 A I don't recall the numbers exactly but I
15 think there was a net outage of some \$8,000, something
16 like that.

17 Q As I understand it, okay. And do you recall
18 who performed or who supervised that audit?

19 A It was done by our internal auditing people
20 in conjunction with the people who worked in the
21 warehouse.

22 Q And you're saying there was never any audit
23 or never any report that indicated a discrepancy of \$2
24 million in inventory?

25 A There was a statement made by one of the

1 employees who was involved in some of the
2 irregularities in the warehouse that she estimated the
3 outage to be as much as \$2 million. There is
4 absolutely no facts to back that up at all.

5 Q It's my understanding that that -- my
6 recollection that that was one of the things that was
7 being investigated, is that correct?

8 A The outage?

9 Q Yes.

10 A No.

11 Q No, no. The statement that \$2 million was
12 missing.

13 A No, sir. The \$2 million figure was a number
14 that was given off the top of the head of one of the
15 employees who worked there with no backup at all, no
16 documentation, no facts to back up this allegation.

17 Q Who was that employee?

18 A Carolyn Sirmon.

19 Q And when did that take place? When did she
20 make that allegation?

21 A I believe she made the allegation in Lamar
22 Brazwell's trial or in a deposition that she has given
23 on some of the issues. I'm not sure when it was.

24 Q And did you investigate that particular
25 statement?

1 A Yes, sir. We have looked at that audit in
2 detail, and we have Mr. Fell who was involved in the
3 audit. He's our internal auditor, and he can speak to
4 that question.

5 Q Do you recall when her statement was made?

6 A I don't know when it was made.

7 Q What was it that led to the investigation or
8 the audit that determined there was -- that determined
9 there was \$8,000 of missing inventory? What came to
10 Gulf Power Company's attention that led it to audit the
11 inventory and conclude that \$8,000 was missing?

12 A As I recall, this was a routine audit that
13 was done first in 1982, and I may have these dates a
14 little wrong but this is my recollection. That I think
15 the first audit was done in 1982 as a routine warehouse
16 audit. This audit showed large outages, both underages
17 on material and overages. And it did show a net outage
18 of a substantial amount.

19 On relooking at the audit, it was determined
20 that the -- that all material was not counted, that --
21 well, as a matter of fact, the warehouse was in very
22 bad shape. Materials were not tagged, all materials
23 were not counted, some materials were out in the yard
24 that were not labeled, and as a result of going back
25 and straightening up the warehouse to some extent and

1 recounting, then the net outage was about \$8,000 as I
2 recall it.

3 Q Do you have the documentation resulting from
4 the first audit that showed the large outage?

5 A That is available. I'm sure Mr. Fell has it.
6 I think it's available.

7 MR. BURGESS: Do you know if that's
8 -- that's not an exhibit in this case at this point?

9 MR. HOLLAND: I think it was made an exhibit
10 in the investigative docket. I'm not positive of that.
11 Not an exhibit but was produced

12 WITNESS MCCRARY: That, of course, was a
13 preliminary audit and was not accepted when these large
14 discrepancies were uncovered and when the -- when we
15 saw what shape the warehouse was in, as I understand
16 it, this audit was never accepted, those preliminary
17 numbers were not. But I assume that they are
18 available.

19 MR. BURGESS: Commissioner, I was hoping that
20 I could get this as an exhibit for this docket, and
21 identify this as a late-filed exhibit.

22 CHAIRMAN WILSON: Let me see if we found
23 whether there's a copy available. As a matter of fact,
24 why don't we take about a ten minute break now and see
25 if you can determine whether there is a copy available

1 of it.

2 MR. BURGESS: Thank you.

3 Q Mr. McCrary, I need to go back a little bit
4 and understand. I'm trying to piece together the
5 specifics of what the Company knew at the time of the
6 last rate case, And what brought it to the Commission's
7 attention with regard to certain of its internal
8 reports. As I understand it, there was an early --
9 you're saying there was a warehouse audit that showed a
10 significant outage, and you're saying that was in '82?

11 A '82, yes, sir.

12 Q And Carolyn Sirmon, as far as you knew, had
13 nothing to do with that warehouse audit?

14 A I'm not sure whether Carolyn Sirmon was in the
15 warehouse at that time or not. If so, she had just
16 gone into the warehouse.

17 Q And subsequent to that you -- Gulf Power
18 Company did another audit that determined that there
19 was not only \$8,000 missing, is that correct?

20 A That's correct.

21 Q And that was prior to the rate case?

22 A That's correct.

23 Q And as far as you know, no one brought to the
24 attention of the Commission during the last rate case
25 the report of the initial audit that showed a

1 significant missing inventory?

2 A Well, I don't think the initial audit was ever
3 completed. It was not accepted. When that work was
4 done, we knew that something was wrong, something had
5 not been counted properly. The outage was just too
6 great. So the -- that's when we went back in and
7 recounted it. Actually, the outage of \$400,000 or
8 whatever it was in 1982, was not a real outage. It was
9 an error in counting the items in the warehouse.

10 Q Right. And so what you're saying is because
11 you -- correct me if I'm wrong, what you're saying is
12 because you then followed up with an audit that reached
13 a contrary conclusion, then you did not bring to the
14 Commission's attention the initial finding that there
15 was a great deal of inventory that couldn't be
16 accounted for, is that correct?

17 MR. HOLLAND: Let me object to that question
18 because I think assumes that there was a great deal of
19 inventory that couldn't be accounted for, and I don't
20 think the facts substantiate that.

21 MR. BURGESS: When I say a great deal of
22 inventory, I'm trying to paraphrase Mr. McCrary's term
23 "large outage." It's just large outage means a number
24 of things in the electric industry, and I was trying --

25 MR. HOLLAND: My objection to the question,

1 though, is based upon the fact that you are stating
2 that his testimony was that there was a large amount of
3 inventory that could not be accounted for, and if I
4 understand his testimony, it's that it was, in fact, in
5 the subsequent audit accounted for, and that's what
6 resulted in the \$8,000 outage.

7 Q (By Mr. Burgess) I in no means intend to make
8 it sound like Mr. McCrary has agreed that there was
9 inventory that wasn't accounted for, but rather that
10 there was a report, and internal report, that indicated
11 that there was a large amount of inventory unaccounted
12 for, and that in response to that, there was an audit
13 performed that showed that there was \$8,000 missing.

14 A That's correct.

15 Q \$8,000.

16 A And as I understand it, my last question was,
17 you did not bring to the Commission's attention the
18 initial report showing a large outage because you had
19 subsequently performed the other audit that showed
20 \$8,000 missing.

21 A Well, first place, I'm not sure that the
22 Commission was not aware of this. It was not an issue,
23 as recall, in our '84 rate case, but there are -- there
24 was an audit, a Commission audit, as I understand it,
25 done sometime in the '83 time frame, before the rate

1 case, and I'm not sure whether this information was
2 given to the auditors or not.

3 Q Did you give this information to the auditors?

4 A No, I didn't. I was not there.

5 Q Did anybody associated with the Public Service
6 Commission or the PSC staff?

7 A Prior to -- you understand, I was not there
8 prior to 1983.

9 Q No, I'm speaking of during the last rate case
10 or prior to the last rate case.

11 A As far as I know, it was not an issue, and I
12 could not tell you whether anybody brought that to the
13 attention of the PSC staff or not.

14 Q So you did -- to the PSC staff or PSC, you're
15 saying you did not bring any of that to their attention

16 A No.

17 MR. HOLLAND: Steve, let me make sure we're
18 clear on the record, because a few minutes ago when you
19 were discussing the Kyle Croft matter is when Mr.
20 McCrary was testifying about the staff and the
21 knowledge of the Staff or anyone else relative, and
22 that is not the same thing as the warehouse audit.
23 Those are two separate investigations. Those are two
24 separate investigations. There was an audit done in
25 '82, and subsequent audit done in '83. The Kyle Croft

1 investigation is a separate matter.

2 MR. BURGESS: Okay.

3 Q (By Mr. Burgess) When was the Kyle Croft
4 investigation begun?

5 A It was started, as I recall, right before
6 Christmas or about Christmastime in 1980.

7 Q Okay. Was -- and that investigation was an
8 internal Gulf investigation?

9 A Yes.

10 Q In response to what?

11 A We had -- I received a couple of anonymous
12 letters that alleged wrong doing in the warehouse. I
13 also had a visit from Lamar Brazwell that said that
14 there was some things going on in the warehouse that we
15 should do something about. I told him I had heard of
16 those allegations but could not get anyone to give me
17 any specific facts, and he agreed to talk to the
18 investigator if I would get an investigator, and I did.
19 And that -- as a result of the initial interview with
20 Lamar Brazwell, that led to interviews with other
21 warehouse personnel which finally culminated in the
22 termination of Kyle Croft.

23 Q Okay. Now, say that -- when I asked about
24 this investigation, you said you received some
25 anonymous letters about irregularities in the

1 warehouse.

2 A That's right.

3 Q Is this the same warehouse that housed
4 inventory that was the subject of the audit that we had
5 been talking about previously.

6 A Yes, sir.

7 Q And none of the inventory -- and what you're
8 saying is -- or at least what Mr. Holland says, and so
9 correct him if he's wrong, what he said, as I
10 understood it, is these are two separate investigations
11 and the subject matter does not overlap?

12 A That's correct. The investigation was not
13 started as a result of the audit, any of the audits.
14 It was started as a result of the anonymous letters and
15 the information that I received from Lamar Brazwell.

16 Q Now, did any of the activities -- were any of
17 the activities that were later determined to be taking
18 place determined to be criminal activities?

19 A Well, certainly theft is criminal activity.

20 Q So the answer is yes?

21 A Yes.

22 Q When did you begin the investigation of -- as
23 I understand it, you said Christmas of '83 is when you
24 began the investigation?

25 A That's correct.

1 Q Did you make the Commission aware of the
2 investigation -- of this investigation, for the 1984
3 rate case? Were they aware of it during the 1984 rate
4 case?

5 A Well, I feel sure that they were. The firing
6 of Kyle Croft had been in the newspaper, on television.
7 I know that from time to time I have talked to
8 Commission Staff and others about the investigation,
9 but as far as that being an issue in the 1984 case, I'm
10 not sure that we brought that up or that it was an
11 issue in that case.

12 COMMISSIONER GUNTER: Mr. Burgess, for sort of
13 keeping in light with our openness, if I am not
14 mistaken, it was on a Friday that you all let Mr. Croft
15 go, was I correct, or either over the weekend?

16 WITNESS McCRARY: It was on Sunday.

17 COMMISSIONER GUNTER: It was on a Sunday, but
18 you had found out before the close of the working week
19 the previous week that you had uncovered the individual
20 and were going to take that action to let him go?

21 WITNESS McCRARY: Yes, sir.

22 COMMISSIONER GUNTER: Mr. McCrary did call me
23 to let me know on that Friday evening, if I recall,
24 late afternoon, just for information purposes, and I
25 think was Chairman at that time, or either I was the

1 only one here, I don't recall, to let the Commission
2 know that there was a -- and I'm paraphrasing that
3 conversation to the best of my recollection -- that
4 they had a long-time 30-year-plus employee that they
5 were going to release of irregularities and theft.

6 MR. BURGESS: Okay.

7 COMMISSIONER GUNTER: And then subsequent to
8 that time period, we just followed in the press. But
9 that was just notification in case we heard about it;
10 one of those kind of things that you get a call and
11 say, "Hey, we're going to fire somebody, in case you
12 hear about it, and it is a long-term employee," just an
13 information item.

14 MR. SHREVE: Appreciate that. Do you know
15 when that was?

16 COMMISSIONER GUNTER: It was on the, as I
17 recall, Friday before the individual was released, and
18 it was just to let us know that there was an
19 individual, long-term employee, going to be released.

20 Q (By Mr. Burgess) And do you know when Mr.
21 Croft was released?

22 A He was released, I believe it was the end of
23 January or the first of February, 1984.

24 Q Okay. And what you're saying is that was
25 brought out in the media at that point?

1 A Yes, sir. (Pause)

2 Q Mr. McCrary, with regard to your responses to
3 some of the irregularities that have been uncovered,
4 have you -- did you cease transactions, did Gulf cease
5 transactions with all vendors that were involved in
6 irregularities?

7 A We have terminated all transactions with
8 vendors who were involved in irregularities, with the
9 exception of West Florida Landscape.

10 Q West Florida Landscape?

11 A Yes, sir.

12 Q At what point did you cease transactions with
13 any vendors that were involved with either improper
14 invoicing, or any other type of irregularity along
15 those lines?

16 A Well, some of the irregularities we were not
17 aware of until after the Leeper trial, which, as I
18 recall, was in 1987, and it was about this time period
19 that we looked at all vendors and ceased doing business
20 with them. We had stopped doing business with Line
21 Power, probably some others, prior to that time. But
22 most of them, most of the business transactions were
23 stopped, as I recall, in 1984 -- I mean 1987.

24 Q Were they ceased -- were the transactions
25 ceased immediately upon determining that you had

1 received improper or inaccurate invoices from these
2 vendors?

3 A Well, no, because a lot of the information
4 that we had were allegations. It was information that
5 we could not prove or disapprove one way or the other.
6 And as a matter of fact, a lot of the information we
7 didn't have until we entered into the plea agreement.

8 Q How is it that you didn't have that
9 information?

10 A We don't have subpoena power that the
11 Government has. We can't get checks and other
12 documentation that --

13 Q You're saying that this is information that
14 was in the hands of the Grand Jury that you didn't have
15 at that point?

16 A A lot of it, yes, sir.

17 Q Upon finding that -- that various vendors had
18 submitted improper invoices, did you immediately
19 terminate transactions with those vendors?

20 A I guess -- well, I'd hate to say that we did
21 that categorically, but I think, as I recall, when we
22 received hard information that had actually occurred,
23 then we did terminate or cease doing business with
24 them.

25 Now, there are some exceptions, and I'll go

1 back to the Appleyard account, the early Appleyard
2 account. Those false invoices, if you want to call
3 them that, they were billed to the Company as a special
4 account. And the problem was that they did not give the
5 detail in the invoice, but they were -- Appleyard was a
6 very particular in keeping a log, a ledger, that
7 indicated all the expenditures that he had made and
8 what they were for, and the amount of money that he had
9 received from the Company.

10 And the amount of money that he had received
11 from the Company. We did not cease doing business with
12 Appleyard when we first discovered that this had been
13 going on. Appleyard was doing what he was told to do
14 by employees of the Company.

15 CHAIRMAN WILSON: Now you've got -- do I
16 understand you got this information from the Grand Jury
17 Investigation, or you had that information?

18 WITNESS McCRARY: Well, we knew -- in 1984 I
19 discovered that the Appleyard account had been set up.
20 I was told that this account was set up for the purpose
21 of handling the Pensacola Open Golf Tournament and
22 things of this nature, and that there was nothing wrong
23 with the expenditures that had been made. They were
24 just not detailed when they were billed to the Company.

25 In 1986, when Appleyard first went to the

1 Grand Jury, I discovered that there had been a ledger
2 kept of these expenditures. Still, I was told that
3 there was nothing wrong with the expenditures but he
4 did keep a record of it. It was not until the fall of
5 1988 that I first saw the original Appleyard ledger.
6 This is a copy of the ledger that he had given to the
7 Grand Jury when he first went. And on that ledger
8 there were details of cash expenditures, political
9 contributions, other things that were not legitimate
10 company expenses.

11 CHAIRMAN WILSON: Is that true with most of
12 the information that substantiates the allegations in
13 terms of plea agreement that you got that information
14 from the Grand Jury or from the Federal Prosecutor?

15 WITNESS MCCRARY: Well, we didn't get the --
16 the original Appleyard ledger was given to us by Mr.
17 Appleyard when he first went to the Grand Jury, was
18 given to the attorneys when he first went to the Grand
19 Jury in 1986. Many of the things that are in the plea
20 agreement, such as the Dick Leonard account, we didn't
21 know about that until just a short time before we
22 entered the plea agreement. We didn't know about the
23 Cooper Yates problem until we were discussing the plea
24 agreement with the U. S. Attorney.

25 CHAIRMAN WILSON: So what happened with the

1 plea agreement was the U. S. Attorney said, "Here's
2 what your Company has done and this is its involvement
3 with these vendors that you deal with," and then you
4 confessed?

5 WITNESS McCRARY: Yes, sir, that is partially
6 true.

7 CHAIRMAN WILSON: Well, I guess what I'm
8 asking is was there a Company independent verification
9 of the items that you pled to, or was your plea based
10 on information that was presented to you by the U. S.
11 Attorney, information that had been given to the Grand
12 Jury, so they said, "Here's the information. This is
13 what we want you to plead guilty to?"

14 WITNESS McCRARY: Some of the items in the
15 plea we could substantiate and verify ourselves. Some
16 of the items in the plea we had some indication or some
17 partial evidence that this was true. Some of it we had
18 to rely totally on the U. S. Government to say -- and
19 they tell us, in every case they can back up the
20 statements this they make. But they did not show us
21 all the evidence that they had on every count.

22 CHAIRMAN WILSON: Do we know which is which?
23 Or maybe it doesn't even matter, or is that something
24 that ought to be a matter of investigation?

25 MR. VANDIVER: We asked it in an

1 interrogatory response, which is in the record, the
2 dollar amounts of each of the 120 odd counts and that
3 is in the record, Commissioner, if you want to take a
4 look at that.

5 CHAIRMAN WILSON: What exhibit is that? I
6 don't need it right this minute but if somebody could
7 just --

8 MR. VANDIVER: Okay. I can locate that for
9 you.

10 CHAIRMAN WILSON: Okay. Fine. Thank you.
11 Go ahead Mr. Burgess.

12 MR. BURGESS: Thank you.

13 Q (By Mr. Burgess) And then how long after
14 your determination that these improper invoices were
15 being filed by Appleyard did you terminate the
16 transactions with Appleyard?

17 A We terminated the transaction with Appleyard
18 in -- I believe it was in 1988; it could have been
19 1989. I'm not sure what that date was, but it was
20 after I had seen the original Appleyard ledgers and
21 after we had done an additional audit of Appleyard, and
22 Ray Howell and other advertisers.

23 Q Was it the policy of management, at that
24 point, to immediately terminate all transactions with
25 any vendors that were issuing improper invoices upon

1 the discovery of that impropriety?

2 A No, sir, we try to evaluate each case and do
3 what is proper.

4 Q So when you say to determine what is proper,
5 are you saying then that it might be proper to continue
6 doing business with a vendor that had issued false
7 invoices to Gulf Power under some circumstances?

8 A No, and you can't categorize it, I don't
9 think. Every invoice that is not spelled out in detail
10 cannot be categorized as a false invoice. But it may
11 not be a proper invoice or an invoice that would give
12 enough detail to determine what the expenditure was
13 actually for, so -- and we had some of that. For
14 example, we had some charitable contributions, a small
15 amount, that was made to the Boy Scouts by the
16 Appleyard agency, and it was billed back, included in
17 some other expenditures that Appleyard had made and not
18 spelled out in detail.

19 Q Did you terminate transactions with any
20 vendors as a result of their filing invoices that
21 didn't have enough detail; that you determined simply
22 did not have enough detail and that was their
23 deficiency?

24 A Probably Appleyard would fall in that
25 category.

1 When we discovered and saw the Appleyard, old
2 Appleyard ledger for the first time, and we also did an
3 additional audit that showed some other expenditures
4 that was made by Appleyard that were not spelled out in
5 enough detail, we terminated our relationship with
6 Appleyard as soon as we found that out.

7 Q So are you saying that you don't think that
8 you've ever seen information that would lead you to
9 believe, or that would -- from which you would conclude
10 that Appleyard had sent false invoices to Gulf Power
11 Company?

12 A Well, the invoice would show something like a
13 special production fee, and in that fee that would
14 include a lot of the other expenditures that he's made.
15 Those expenditures would not be spelled out, so if you
16 want to say that is a false invoice, then that's, you
17 know, that's correct. But what I'm saying is the
18 amount of money that we paid Appleyard and the amount
19 of money that he spent balances. (Pause)

20 Q Will you please explain to me what -- when
21 you said in 1986 you received the original ledger from
22 Appleyard, would you tell me what that was?

23 A No. In 1988, September of 1988 was when I
24 first saw the Appleyard ledger.

25 Q Okay. And then I think you said in '86 that

1 Appleyard was called before the Grand Jury then, and he
2 took his ledger to the Grand Jury, is that right?

3 A That's right.

4 Q With regard to any of the employees whose
5 employment Gulf terminated as a result of
6 improprieties, has Gulf filed any criminal complaint
7 against any of these employees, former employees?

8 A No. No.

9 Q And whose choice is that? I mean
10 individually? Is that your decision?

11 A Yes, that's mine.

12 Q And a number of these people were engaged in
13 criminal activity, or were some of those people engaged
14 in criminal activity?

15 A Well, wait, let me back up. We do have a
16 countersuit against Kyle Croft.

17 Q A civil countersuit.

18 A Yes.

19 Q Okay. Have you filed any criminal complaint
20 against any of these employees?

21 A No. No, we haven't.

22 Q What was the amount of the countersuit
23 against Kyle Croft?

24 A I think it might have been an indeterminate
25 amount.

1 Q You filed a countersuit for damages and it
2 didn't determine the amount?

3 A I'm not sure.

4 MR. HOLLAND: Mr. Burgess, I think you're
5 aware in Florida that you, in fact, do not state in the
6 normal course, in a civil suit, the amount of your
7 claim or your counterclaim. You state a jurisdictional
8 amount, a minimal amount, but do not state a specific
9 amount.

10 MR. BURGESS: If he knows -- all I'm asking
11 is whether Mr. McCrary knows the amount that was -- for
12 which Gulf Power Company sued or counterclaimed against
13 Kyle Croft.

14 WITNESS MCCRARY: I'm not sure what's in
15 there, no, sir.

16 Q Attached to the or included in the
17 counterclaim, was there an affidavit enumerating or
18 specifying any particular amounts of damages suffered
19 by Gulf Power as a result of Mr. Croft's actions?

20 A I'm not sure. I don't have that before me.
21 There probably would have been some minimum amount
22 specified in there but I don't know what it was.

23 Q Some minimum amount specified?

24 A Probably.

25 Q What does that mean, the minimum of what you

1 anticipated the damages were?

2 A Probably so. As I say, I don't have that
3 suit before me. I just know we filed a countersuit
4 against Kyle Croft.

5 Q Why did you never file a criminal complaint
6 against any of these individuals?

7 A Well, that's -- I look at that as being up to
8 the state and the federal people who are investigating
9 the things that went on there. And whether they will
10 or not, I don't know.

11 Q If somebody robbed something from your house,
12 would you file a complaint, a criminal complaint?

13 A A criminal complaint?

14 Q Yes.

15 A I'd probably report it to the police and let
16 them do that.

17 Q Did you report these to the State Attorney?

18 A I'm not sure whether we did or not.

19 COMMISSIONER BEARD: You indicated that the
20 only company that had -- let me get the right term --
21 had done some improper invoicing that you still do
22 business with was West Florida Landscaping?

23 WITNESS MCCRARY: Yes, sir.

24 COMMISSIONER BEARD: Why are you doing
25 business with them as opposed to some of the others?

1 WITNESS McCRARY: Well, West Florida
2 Landscape, when this irregularity occurred -- which was
3 back in 1982 or '83 -- West Florida Landscaping was a,
4 almost a one-man operation. He worked cutting grass
5 for Kyle Croft, Lamar Brazwell, for the Company. They
6 oversaw that operation.

7 They asked him to help them with some budget
8 problems that they had. This is what I am told by Dave
9 Cook at West Florida Landscape. He said he was told
10 that there was money in the budget in one account;
11 there was no money in the budget for the other account.
12 And they asked him to help them get this work done.

13 He cooperated with them in false billing the
14 Company for work he had supposedly done. And then Line
15 Power, which was Kyle Croft's company, would send a
16 bill to West Florida Landscape and he would write a
17 check to Line Power.

18 Dave Cook, West Florida Landscaping, did not
19 make any money out of this transaction at all. They
20 cooperated with us fully from the first investigation
21 that we did. They cooperated with the IRS and others
22 and have been completely open, furnished records and,
23 as far as we can tell, have been truthful with us from
24 the outset of the investigation.

25 He does excellent work for the Company at

1 very low prices, and I see nothing to be gained by
2 terminating Dave Cook because he was doing something
3 that the management of the Company asked him to do.

4 COMMISSIONER BEARD: That was the only
5 company that fell into that category?

6 WITNESS McCRARY: Yes, sir.

7 COMMISSIONER BEARD: Go ahead, I'm sorry.

8 Q (By Mr. Burgess) With regard to that, you
9 indicated that it was -- you felt that there was no
10 legitimate reason for terminating transactions with him
11 because he was doing what the Company had asked or what
12 management of the Company had asked him to do?

13 A What Kyle Croft and Lamar Brazwell had asked
14 him to do. And that's who he was working for in the
15 Company.

16 Q Was Lamar Brazwell involved in any other
17 improprieties?

18 A Yes, he was.

19 Q Could you tell me what those involved?

20 A That involved a scheme with one of the
21 suppliers, and it was Revco, as I recall, was the
22 supplier, in which Richard Leeper would send -- who
23 worked for Revco, would send in a false invoice. Lamar
24 Brazwell would approve it. The Company would pay the
25 money and part or all of it would be kicked back to

1 Lamar Brazwell and others in the warehouse.

2 This amounted to about, I think it was,
3 \$40,000, 37, something in that neighborhood, and
4 occurred in the, as I recall, the 1982 time frame.

5 Q What other -- were there any other
6 individuals involved in any improprieties subsequent to
7 the termination of Mr. Cross' employment?

8 A In the warehouse or anywhere in the Company?

9 Q Within Gulf Power Company.

10 A The only other employee that I know was Jake
11 Horton, who was involved in the political contributions
12 that were made by Dick Leonard. Also involved in that
13 was Doug Knowles. (Pause)

14 Let's see. There was also some theft by Bill
15 Davis that occurred in 1984. This was -- or it
16 occurred prior to 1984, but it was discovered in 1984
17 -- in which he had about \$10,000 worth of material
18 charged to the Company for his own personal use.

19 None of these individuals are with the
20 Company any longer.

21 Q Was Mr. Davis prosecuted?

22 A No. He made full restitution to the Company.
23 He was terminated and he made full restitution to the
24 Company.

25 Q Who made the determination not to file a

1 criminal complaint against Mr. Davis?

2 A I did.

3 Q Why did you choose not to seek to have him
4 prosecuted?

5 A Well, I didn't -- Mr. Davis was a good
6 employee, and I didn't see that this would do the
7 Company any good. The information was available to the
8 law enforcement agencies and I'm assuming that they
9 reached the same conclusion.

10 Q In what way was it available to the law
11 enforcement agencies?

12 A Well, it was --

13 Q Did you take it to the State Attorney?

14 A No. We didn't take it to the State Attorney.

15 Q How do you know it was available to them,
16 then?

17 A Well, I know that on most all these
18 investigations, we worked closely with the law
19 enforcement agencies, Police Department, Sheriff's
20 Department and others.

21 Q What specific law enforcement agency were you
22 involved with in this investigation, this specific
23 investigation of Mr. Davis?

24 A I can't tell you for sure who the individuals
25 were. But our security department was involved in the

1 investigation; and usually on those things, there are a
2 number of places where they need to check with the law
3 enforcement people. They work closely with them. And
4 that, too, was in the newspaper. It's public
5 knowledge.

6 Q Prior to mentioning Mr. Davis, you mentioned
7 an employee after you talked -- (Pause)

8 Excuse me a minute.

9 You discussed Mr. Horton somewhat and then,
10 subsequent to that, you indicated another employee who
11 was involved in, as I understood it, some of the
12 activities of Mr. Horton? Is that correct?

13 A Yes, sir.

14 Q Would you please identify that individual
15 again?

16 A That was Doug Knowles.

17 MR. HOLLAND: Steve, we could facilitate
18 this. There is a whole list of these people and the
19 action that was taken attached to his rebuttal
20 testimony. If we just want to pull that exhibit out
21 and go down the list, we can do that. Exhibit 5.

22 MR. BURGESS: Are you objecting to --

23 MR. HOLLAND: No, I'm just -- we seem to be
24 trying to determine who was involved and what action
25 was taken, and --

1 MR. BURGESS: Yes. What I'm getting at,
2 Commissioners, is the question of we have testimony and
3 rebuttal testimony involving which basically deals with
4 Gulf's response to the determination of various
5 improprieties. And I'm simply trying to find out what
6 went into the decisions. That's all I'm doing is
7 identifying the specific decisions, and then trying to
8 understand upon what basis Gulf decided to take the
9 action that it did take.

10 MR. HOLLAND: And I don't object to that, I'm
11 just stating that it might save the Commission some
12 time if we go down that list, if that's what we're
13 trying to do.

14 CHAIRMAN WILSON: Yes, Mr. Burgess, if you're
15 going to go through each name, you might as well just
16 go ahead and jump to that rebuttal testimony --

17 MR. BURGESS: I understand.

18 CHAIRMAN WILSON: -- have that in front of
19 you.

20 MR. BURGESS: I can -- (Pause)

21 Q (By Mr. Burgess) Okay. Yes, that might
22 facilitate things. Let me ask this question, if I
23 could, Commissioner.

24 I would like to know from Mr. McCrary whether
25 the list of names attached in the exhibit that Mr.

1 Holland referred to is all-inclusive of all individuals
2 with Gulf Power Company who have been involved in
3 improprieties to the knowledge of Gulf Power's
4 management at this point?

5 A No

6 Q (By Mr. Burgess) Okay. Let me then ask:
7 Besides those individuals listed, who else would be
8 involved?

9 A Well, now, if you're asking for all employees
10 who have been involved in any improprieties, that would
11 probably be a very long list. The list that you have
12 before you is the list of those that were involved in
13 the federal grand jury investigation.

14 Q So when you answered my question, "Well, that
15 would be a very long list of employees of Gulf Power
16 Company," what you're saying is, "If we take it down to
17 the very small order of impropriety." Is that what
18 you're --

19 A That's correct.

20 Q Okay. What about employees, individuals, who
21 you have discovered, Gulf's management has discovered,
22 have been involved in any kind of misuse of funds or
23 theft or misplacement of funds or inventory items or
24 that type of thing?

25 A Well, here again, that list is not

1 all-inclusive. I know from time to time we terminate
2 an employee for theft or some other impropriety. That
3 may not come out to a large amount of money, but those
4 things do occur.

5 Q Can you tell me -- can you tell me who you
6 have terminated or who you have discovered involved in
7 theft that's not included on this list?

8 COMMISSIONER EASLEY: Could I ask a question?
9 That may help in following this.

10 MR. BURGESS: Sure.

11 COMMISSIONER EASLEY: Are you asking in
12 relationship to the time period that this investigation
13 covers, or are you asking ever? I'm hearing the answer
14 is maybe "ever."

15 MR. BURGESS: Okay, I understand the
16 confusion.

17 CHAIRMAN WILSON: I'm sort of assuming that
18 it's related to the substance of the --

19 MR. BURGESS: Yes, I'm trying --

20 CHAIRMAN WILSON: -- of the items in the
21 testimony.

22 MR. BURGESS: Yes, I'm not speaking of ever.
23 I'm speaking of generally the same time frame,
24 specifically the area in question.

25 COMMISSIONER EASLEY: I mean, we're not

1 talking about the employee who might swipe a box of
2 pencils out of inventory. We're talking about
3 something related to all of this.

4 Q I don't know who -- apparently Mr. McCrary has
5 individual cases in mind, and I don't know who --

6 COMMISSIONER EASLEY: That's why I was having
7 a problem. I thought he was answering a generic
8 question, and I didn't know whether your question was
9 generic.

10 MR. BURGESS: Okay. I understand. Do you
11 know of individuals who have been involved or who --
12 that Gulf Management has discovered have been involved
13 in misuse of funds or property of Gulf Power Company,
14 besides those that are included on this list, during
15 the time frame from -- subsequent to 1984?

16 A I don't -- I don't have a list before me, but
17 I do know that we have terminated other individuals for
18 improprieties in that time frame.

19 Q Can you identify the individuals that would be
20 involved?

21 A I can't, no, sir. That would be available.

22 Q Can you think of any -- of any individuals
23 that have been involved in this type of impropriety,
24 misuse of funds or misuse of Gulf Power property, that
25 either have or have not been terminated?

1 A Well, I know -- I know of one employee at the
2 Crist Plant that we fired for stealing a gallon of
3 gasoline. I don't remember his name, but --

4 Q And that's all you can think of besides who
5 are on this list? That's all you know of besides who
6 are on this list?

7 A Well, let's see, we have one employee that
8 tried to extract money from a window washer and we
9 fired him about -- that was a year or so ago.

10 Q Mr. McCrary, do you have any ownership
11 interest or any other interest in the Citizens and
12 Builders Federal Bank?

13 A I'm a stockholder, yes, sir. I'm also on the
14 Board of Directors.

15 Q Are all transactions associated with that --
16 between Gulf and that bank reported in the filing by
17 the Company?

18 A I am -- I feel sure that they are properly
19 reported.

20 CHAIRMAN WILSON: In what filing, Mr. Burgess?

21 MR. BURGESS: There's a requirement that any
22 affiliated transactions be reported.

23 CHAIRMAN WILSON: That's part of the MFR?

24 MR. BURGESS: Yes, sir.

25 Q (By Mr. Burgess) Do you recall whether they

1 were recorded in the filing of the last rate case, the
2 last rate case that was withdrawn?

3 A No, sir, I don't.

4 Q Are there a number of -- or are there any
5 affiliates of Citizens and Builders Bank that are
6 involved in development or building, construction, that
7 type of business?

8 A At this time or ever? I'm not sure exactly --

9 Q At this time.

10 A At this time -- well, let's see, at this time
11 a Newt Heath, who is a Board member, Chairman of the
12 Board, runs an electrical company.

13 Q What is C & B Development?

14 A Pardon?

15 Q Are you familiar with an operation C & B
16 Development?

17 A C & B Development?

18 Q Yes, sir.

19 A No, sir.

20 CHAIRMAN WILSON: Mr. Burgess, are you close
21 to an appropriate stopping point? I don't want to
22 interrupt a line of questioning.

23 MR. BURGESS: This would be an appropriate
24 stopping point if you want to break now.

25 CHAIRMAN WILSON: Why don't we do that. Let's

1 go ahead and break for lunch, come back at 1:00.

2 (Thereupon, lunch recess was taken at 11:55 a.m.)

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