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ORIGINAL



July 31, 1998

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

Dear Ms. Bayo:

RE: Docket No. 971006-EG

Enclosed for official filing are an original and fifteen copies of Gulf Power Company's Response to Motion for Procedural Order by Legal Environmental Assistance League.

Sincerely,

Linda G. Malone
Assistant Secretary and Assistant Treasurer

lw

Enclosure

cc: Beggs and Lane
Jeffrey A. Stone
Gulf Power Company
Susan D. Cranmer

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- APP _____
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- LEG 1
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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Adoption of Numeric Conservation Goals)
 Gulf Power Company) Docket No.: 971006-EG
) Filed: July 31, 1998
)

**GULF POWER COMPANY'S RESPONSE
 TO MOTION FOR PROCEDURAL ORDER BY
 LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION, INC.**

GULF POWER COMPANY ("Gulf Power", "Gulf", or "the Company"), by and through its undersigned counsel, and pursuant to Rules 25-22.037, 28-106.204 and 28-106.303 Florida Administrative Code hereby responds in opposition to the motion for procedural order filed by the Legal Environmental Assistance Foundation, Inc. ("LEAF"). As grounds for denying LEAF's motion, the Company states:

(1) The Commission entered a procedural order in this docket, Order No. PSC-98-0384-PCO-EG, on March 10, 1998. This procedural order has not been appealed and became final without challenge by LEAF or any party. The parties have conducted their preparations pursuant to the existing procedural order. LEAF states no legal basis supporting their request that the Commission enter another procedural order in this docket. LEAF's motion should be denied for failure to state a legal basis for the relief sought.

(2) The Commission should not specify through a procedural order which savings measures must be tested by the utilities for cost-effectiveness. The Commission should permit the individual utilities to develop their own proposed plans, as contemplated by Rule 25-17.0021(3), Florida Administrative Code, based on the utility's planning process and experience

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gained in the prior goal setting proceeding. LEAF should not be permitted, through a procedural order, to direct Gulf's planning process.

(3) The RIM cost-effectiveness test is the appropriate screening mechanism for determining which measures should be considered by the utilities. In the last goal-setting proceeding, the Commission based DSM Goals upon measures that passed the RIM and Participant cost-effectiveness tests. The Florida Supreme Court upheld that policy in Legal Environmental Assistance Foundation, Inc. v. Clark, 668 So. 2d 982, 987 (Fla. 1996). Nothing has changed since the time of the last proceeding to warrant a change Commission policy. Evaluating and developing a TRC portfolio for the purpose of setting goals would be expensive, time-consuming and purposeless. The goals are to be based on the utility's planning process. TRC is not used by Gulf for planning purposes. Including those measures that failed to pass RIM in the prior proceeding, without data showing changed circumstances, would result in unnecessary delay and expense to the utilities and their general body of ratepayers. If the recommendation set forth in LEAF's motion is adopted the very delay LEAF seeks to avoid will occur.

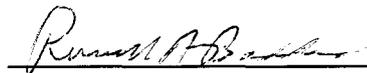
(4) This proceeding is not the first attempt by the utilities and the Commission to assess technical and market potential in Florida of conservation measures. In the last goal setting proceeding, Docket Nos. 930548-EG, 930549-EG, 930550-EG, and 930551-EG, the Commission was forging new ground and required the utilities to perform cost-effectiveness testing on many specified measures. This was to build a base from which the Commission could

make an informed decision. The prior goal setting proceeding was long and difficult for all of the parties and the Commission. Countless hours were exhausted by the utilities preparing and analyzing many potential conservation measures. The experience gained by both the utilities and the Commission in the last goals proceeding is considerable and should be carried over to this proceeding. The exhaustive technical potential phase undertaken in the prior proceeding is not necessary at this time. Information learned in the prior proceeding should be utilized in this proceeding. Specifically, the measures identified in Order No. PSC-93-1679-PCO-EG as "UP" measures which pass the "RIM" cost-effectiveness test should be the starting point in determining which measures to test, not the entire list of "UP" measures as requested by LEAF. Many of the "UP" measures identified in the referenced order did not pass RIM under significantly higher avoided costs. Gulf has seen a significant decline in the avoided costs utilized in determining the cost-effectiveness of DSM measures. Those measures which failed RIM in the prior proceeding will again fail RIM, by an even greater margin due to the decline in avoided costs, unless new savings can be shown through utility experience, research or other reliable data. It would be a great waste of time and resources for Gulf and the other utilities to rerun the cost-effectiveness tests knowing that certain measures are not and cannot be viable. Forcing the utilities to reevaluate these measures would lengthen the time of this proceeding and guarantee delay, rather than prevent delay, as asserted by LEAF. LEAF and other non-utility interveners already have the opportunity to submit viable candidate measures to Gulf and the

other utilities for consideration. Gulf welcomes input regarding candidate measures from LEAF and any other entity. Gulf will consider any measure that it deems to be viable.

WHEREFORE, Gulf Power Company respectfully requests, for the reasons stated herein, the Commission to deny the motion for procedural order requested by LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION, INC.

Respectfully submitted the 31st day of July, 1998.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Adoption of numeric Conservation
Goals by Gulf Power Company)
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)
_____)

Docket No. 971006-EG

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been furnished this 3rd day of August 1998 by U.S. Mail or hand delivery to the following:

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