

BEGGS & LANE

ATTORNEYS AND COUNSELLORS AT LAW

SEVENTH FLOOR BLOUNT BUILDING

3 WEST GARDEN STREET

PENSACOLA, FLORIDA 32501

ORIGINAL  
FILE COPY

POST OFFICE BOX  
PENSACOLA, FLORIDA 32576-2900

TELEPHONE (904) 432-2451

TELECOPIER (904) 438-6139

ROBERT P. GAINES  
WILLIAM GUY DAVIS, JR.  
W. SPENCER MITCHEM  
JAMES M. WEBER  
ROBERT L. CRONCEYER  
JOHN F. WINDHAM  
J. NIXON DANIEL, III  
C. EDISON HOLLAND, JR.  
RALPH A. PETERSON  
GARY B. LEUCHTMAN  
THOMAS R. JENKINS  
JOHN P. DANIEL  
JEFFREY A. STONE  
JAMES S. CAMPBELL  
M. ALICE WELLS  
LARRY A. MATTHEWS  
KATHRYN E. RUNCO  
TERESA E. LILES

E. DIXIE BEGGS

Retired

BERT H. LANE

1917-1981

January 25, 1990

Mr. Steve Tribble, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, FL 32399-0870

Dear Mr. Tribble:

RE: Docket Number 890252-PU

Enclosed are an original and fifteen copies of Gulf Power Company's Comments to be filed in the above referenced docket.

Please acknowledge receipt and filing of the enclosed material by stamping the duplicate copy of this letter and returning same to the attention of the undersigned.

Thank you for your assistance in this matter.

Very truly yours,

Teresa E. Liles  
For the Firm

ACK ✓  
AFA 1  
APP 1  
CAF \_\_\_\_\_  
TEL/tlg CMU 6  
Enclosures OTR \_\_\_\_\_  
EAG (circled) \_\_\_\_\_  
LEG \_\_\_\_\_  
LIN 6  
OPC \_\_\_\_\_  
RCH 1  
SEC 1  
W/S \_\_\_\_\_  
CTR Orig to Don \_\_\_\_\_

RECEIVED & FILED

FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

00831 JAN 26 1990

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Amendment of rule 25-22.006, ) Docket No. 890252-PU  
F.A.C., pertaining to confidential ) Filed: 1/25/90  
information )  
\_\_\_\_\_ )

GULF POWER COMPANY'S COMMENTS ON THE HEARING OFFICER'S  
PROPOSED FINAL VERSION OF RULE 25-2.006,  
FLORIDA ADMINISTRATIVE CODE

Gulf Power Company ("Gulf", or "the Company"), by and through its undersigned counsel, files the following comments pertaining to the Hearing Officer's proposed final version of Rule 25-22.006, F.A.C., in this docket. On the whole, Gulf supports the proposed final version of the Rule and feels that most of the revisions incorporated by the Hearing Officer render the Rule more workable and consistent. However, Gulf requests that the following, relatively minor, changes be considered for inclusion in the final Rule:

1. With respect to paragraph (3)(a) of the proposed final version of the Rule, Gulf remains concerned that an explicit waiver provision for failure to file a request for confidential treatment within 21 days after staff obtains possession of the material could result in irreparable harm to the utility and its customers. As was argued at the hearing on the Rule and in the parties' post-hearing comments, waiver is an especially harsh penalty and should not ensue due to what may be an inadvertent failure to file a request for confidentiality within a specific period. Moreover, the Rule now imposes a much more onerous burden on the utility or other person requesting confidentiality, requiring the submission of a highlighted copy

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of the material, two or more edited copies, and a line-by-line or field-by-field justification for the request. In some circumstances, it will be difficult, if not impossible, for the utility or other person to comply with the Rule within 21 days.

Gulf is especially concerned that the waiver provision inserted by the Hearing Officer is mandatory, and does not provide for exceptions to the 21-day requirement where good cause is shown. At a minimum, Gulf takes the position that the last sentence of (3)(a) should read as follows:

Failure to file such a request within 21 days, absent good cause shown for such failure, may result in a waiver of confidentiality.

Gulf feels that this modification will provide the Commission with the discretion to determine whether a mere failure to file a request within 21 days should result in disclosure of what may be highly sensitive, confidential information, while still leaving the onus on the utility or other person requesting confidentiality to show why waiver should not ensue due to such failure to file.

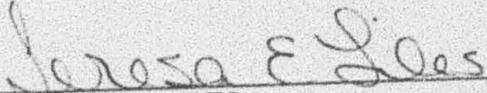
2. Gulf supports the Hearing Officer's determination that no specific time limit be established under paragraph (3)(c) of the Rule for ruling on confidentiality requests. However, the Company prefers language similar to that proposed by staff in its post-hearing comments:

Where practicable, rulings under this paragraph should be made promptly.

The requirement that rulings be made "expeditiously", as proposed by the Hearing Officer, should certainly not be interpreted to

require expedited rulings in all situations and the Commission should be allowed sufficient time to make a reasoned determination under the circumstances.

3. Gulf supports the Hearing Officer's revision to paragraph (6)(a), and feels that the additional language clarifies the situations under which material treated as confidential may be subject to a request for inspection. However, as Gulf noted in its post-hearing comments filed in this docket, it would be inequitable to require the utility or other person to carry the same burden of proving entitlement to confidentiality after the Commission has entered specific findings and a ruling as would be required pending such findings and ruling. The proposed final version of the Rule remains silent on this issue, and Gulf trusts that the Commission will apportion the burden of proof appropriately, in its discretion, according to the circumstances under which a (6)(a) request is made.

  
TERESA E. LILES  
Florida Bar No. 510998  
Beggs & Lane  
700 Blount Building  
P.O. Box 12950  
Pensacola, FL 32576-2950  
(904) 432-2451  
Attorney for Gulf Power Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Amendment of Rule 25-22.006, )  
F.A.C., pertaining to confidential )  
information )

Docket No. 890252-PU  
Filed:

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been  
furnished this 25 day of January, 1990 by U.S. Mail or hand  
delivery to the following:

Harris P. Anthony  
E. Barlow Keener  
c/o Marshall Criser  
150 South Monroe Street  
Suite 400  
Tallahassee, FL 32301

Bill Bakstran  
Division of Legal Services  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, FL 32399-0863

Jack Shreve  
Charles Rehwinkel  
Office of the Public Counsel  
The Capitol  
Tallahassee, FL 32399-1300

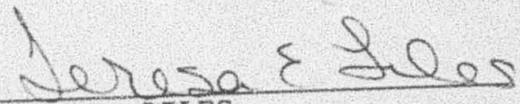
Committee on Utility Regulation  
ATTN: Susan Masterson  
Senate Building, Suite 111  
Tallahassee, FL 32301

Lee Willis  
John P. Fons  
Ausley, McMullen, McGehee,  
Carothers, & Proctor  
P.O. Box 391  
Tallahassee, FL 32302

Bruce W. Renard, Esq.  
Floyd R. Self, Esq.  
Messer, Vickers, Caparello,  
French & Madsen  
P.O. Box 1876  
Tallahassee, FL 32302

Matthew Childs  
Steel, Hector & Davis  
215 S. Monroe St., Suite 601  
Tallahassee, FL 32301-1804

K. Crandall McDougal  
P.O. Box 029100  
Miami, FL 33102-9100

  
TERESA E. LILES  
Florida Bar No. 510998  
Beggs & Lane  
700 Blount Building  
P.O. Box 12950  
Pensacola, FL 32576-2950  
(904) 432-2451