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ORIGINAL  
FILE COPY

October 25, 1990

Mr. Steve Tribble, Director  
Records and Reporting  
Florida Public Service Commission  
101 E. Gaines Street  
Tallahassee, FL 32399-0863

RE: Docket No. 891345-EI

Dear Mr. Tribble:

Enclosed please find the original and twelve copies each of Public Counsel's Cross-Motion for Reconsideration in the above-referenced docket.

Please indicate receipt of the documents by date-stamping the attached copy of this letter and returning it to this office. Thank you for your consideration of this matter.

Sincerely,

  
John Roger Howe  
Assistant Public Counsel

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AFA 1  
APP \_\_\_\_\_  
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CMU Enclosures  
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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Gulf Power Company )  
for an Increase in its Rates and ) Docket No. 891345-EI  
Charges. ) Filed: October 25, 1990  
\_\_\_\_\_)

**PUBLIC COUNSEL'S CROSS-MOTION  
FOR RECONSIDERATION**

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to Rule 25-22.060(1)(b), Florida Administrative Code, move the Public Service Commission to reconsider: (1) its decision in Order No. 23573 to use a 12.55% return on equity to evaluate the amount of interim revenues subject to refund instead of the 12.05% return actually used to set rates on a going forward basis; and (2) its decision to reduce Gulf Power Company's allowed return on equity by only 50 basis points for management imprudence. Reconsideration should be granted upon the grounds and for the reasons that follow:

I.

**A LOWER EQUITY RETURN SHOULD HAVE  
BEEN USED TO QUANTIFY INTERIM REFUNDS.**

1. In Order No. 23573, at 20, the Commission concluded that "a 12.55% cost of common equity is well supported by the evidence presented and represents the best estimate of the Company's cost of equity." However, after evaluating the imprudence of Gulf Power's management over a protracted period of time, the Commission decided that a different, lower equity return should be used the first two years for purposes of setting rates:

As previously discussed, we believe the appropriate ROE for Gulf Power Company to be 12.55%. Were the previous pages recounting Gulf Power mismanagement not in the record of this proceeding, we could stop there. This record reflects a disregard for the ratepayers and public service, however. Accordingly, we will reduce Gulf Power Company's ROE by fifty (50) basis points for a two year period. This results in a final ROE of 12.05%.

Order No. 23573, at 29.

2. At page 45 of Order No. 23573 the Commission used an overall return of 8.10%, calculated with a return on equity of 12.55%, to determine that \$2,052,000 of interim revenues must be refunded. Pursuant to Section 366.071(4), Florida Statutes (1989), however, the Commission should have used a lower overall return computed using the actual return on equity of 12.05% actually employed to set Gulf Power's rates for the next two years. This is true because 12.05% was the "newly authorized rate of return which is found fair and reasonable on a prospective basis."

3. The Commission's use of the 12.55% return allows Gulf Power to earn at a higher rate while the rate case was pending, based on the interim test year, than was found to be justified for permanent rate relief. This is contrary to the letter and intent of Section 366.071(4). Additionally, if the Commission agrees with Public Counsel's position below that the equity adjustment was not as large as it should have been, the amount of interim refunds should be increased above the level ordered in Order No. 23573.

## II.

### THE RECORD JUSTIFIED A LARGER REDUCTION IN THE ALLOWED RETURN ON COMMON EQUITY.

The Commission concluded in Order No. 23573 that a fair return on equity for Gulf Power was anything within the range of 11.75% and 13.50%. The Commission has traditionally used the midpoint within the range to establish rates to be charged to an electric utility's customers, but it is not under any legal requirement to do so. Accordingly, using 12.05% as the rate-setting return has not really recognized the magnitude of Gulf Power's management imprudence. Since anything within the range is appropriate for a well-managed company, the Commission is mistaken in its belief that it has, in fact, given effective recognition to Gulf Power's management imprudence. Moreover, by moving the return closer to the bottom of the well-managed-utility range, the Commission has perhaps provided justification for Gulf Power to return with a rate request sooner than it would otherwise.

Given the magnitude and duration of Gulf Power's improper management activities, the rate-setting point and the range itself must be shifted downward to set a fair, just and reasonable return on equity for this utility. If the Commission wants to make a 50-basis-point adjustment, it should reduce the range by that amount, and use 11.25% to 13%. Within that range, Gulf Power Company's return on equity for rate-setting purposes should be no more than 11.75%

WHEREFORE, the Citizens of the State of Florida, through the Office of Public Counsel, move the Florida Public Service Commission to grant their cross-motion for reconsideration of Order No. 23573.

Respectfully submitted,

Jack Shreve  
Public Counsel



John Roger Howe  
Assistant Public Counsel  
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Attorneys for the Citizens  
of the State of Florida

CERTIFICATE OF SERVICE  
DOCKET NO. 891345-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing PUBLIC COUNSEL'S CROSS-MOTION FOR RECONSIDERATION has been furnished by U.S. Mail or by \*hand-delivery to the following parties on this 25th day of October, 1990.

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