

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Gulf Power
Company to determine need for
proposed electrical power plant
in Bay County.

DOCKET NO. 990325-EI
ORDER NO. PSC-99-1107-PHO-EI
ISSUED: June 2, 1999

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on May 17, 1999, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

RICHARD D. MELSON, ESQUIRE, Hopping Green Sams & Smith, P.A.,
Post Office Box 6526, Tallahassee, Florida 32314; and JEFFREY
A. STONE, ESQUIRE, and RUSSELL A. BADDERS, ESQUIRE, Beggs &
Lane, Post Office Box 12950, Pensacola, Florida 32576
On behalf of Gulf Power Company (GULF).

DEB SWIM, ESQUIRE, and GAIL KAMARAS, ESQUIRE, 1114 Thomasville
Road, Suite E, Tallahassee, Florida 32303
On behalf of Legal Environmental Assistance Foundation (LEAF).

GRACE A. JAYE, ESQUIRE, Florida Public Service Commission,
2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff (STAFF).

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

Pursuant to Section 403.519, Florida Statutes, and Rule 25-22.081, Florida Administrative Code, on March 15, 1999, Gulf Power Company (Gulf) petitioned for a determination of need for an electrical power plant to be located at Gulf's Lansing Smith facility in Bay County, Florida. These proceedings are held to determine whether the proposed Smith Unit 3 meets the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, whether the proposed plant is the

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most cost-effective alternative available, and whether there are any conservation measures which can mitigate the proposed power plant, according to the requirements of Section 403.519, Florida Statutes.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to

present evidence which is proprietary confidential business information.

- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any,

statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Robert G. Moore	GULF	1, 2, 6, 8
Margaret D. Neyman and Michael J. Marler (Panel)	GULF	1, 2, 7, 8
William F. Pope	GULF	1, 2, 4, 5, 6, 7, 8
Maria Jeffers Burke	GULF	2, 3, 6, 8

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
M.W. Howell	GULF	1, 2, 3, 4, 5, 6, 7, 8

Supplemental Direct

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Robert G. Moore	GULF	1, 2, 6, 8
William F. Pope	GULF	1, 2, 4, 5, 6, 7, 8
Maria Jeffers Burke	GULF	2, 3, 6, 8

VII. BASIC POSITIONS

GULF: Gulf Power Company has determined that in order to provide reliable, cost-effective service to its customers, it must add at least 427 MW of generating resources to its system by the summer of 2002. The most cost-effective way for Gulf to meet this need is to construct a 574 MW natural gas-fired combined cycle unit at its existing Smith Generating Plant. Smith Unit 3 is substantially more cost-effective than any offer made in response to Gulf's Request for Proposals or any other self-build alternative.

LEAF: No position stated.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

ISSUE 1: Has Gulf Power Company demonstrated a need for the proposed Smith Unit 3, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

POSITIONS

GULF: Yes. In order to provide its customers with adequate and reliable capacity resources, Gulf must add at least 427 MW of generating resources to its system by the summer of 2002. Locating the generation in the Panama City area will provide needed voltage support that will contribute to the integrity of the electric system.

LEAF: No position.

STAFF: No position at this time pending the evidence adduced at hearing.

ISSUE 2: Has Gulf Power Company demonstrated a need for the proposed Smith Unit 3, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

POSITIONS

GULF: Yes. In order to provide adequate electricity to reliably meet its customers' needs, Gulf must add at least 427 MW of generating resources to its system by the summer of 2002. Smith Unit 3 will supply adequate electricity to meet this need at a reasonable cost which is significantly lower than any other alternative available.

LEAF: No position.

STAFF: No position at this time pending the evidence adduced at hearing.

ISSUE 3: Did Gulf Power Company's Request for Proposals, and the subsequent analysis of responses, result in Gulf selecting the most cost-effective alternative available?

POSITIONS

GULF: Yes. In order to test the market for capacity and to ensure that it was obtaining the best value for its customers, Gulf issued a Request for Proposals for capacity alternatives. Gulf's evaluation process ensured that the respondents' proposals and the self-build Smith Unit 3 alternative were compared on an equal footing. That process, which complied with both the letter and spirit of the Commission's bidding rules, demonstrated that Smith Unit 3 is the most cost-effective alternative available.

LEAF: No position.

STAFF: No position at this time pending the evidence adduced at hearing.

ISSUE 4: Did Gulf Power Company adequately evaluate and include the cost of gas transmission system interconnection for each of the self-build options and respondents to Gulf's Request for Proposals?

POSITIONS

GULF: Yes.

LEAF: No position.

STAFF: No position at this time pending the evidence adduced at hearing.

ISSUE 5: Did Gulf Power Company adequately evaluate and include the cost of electric transmission system interconnection for each of the self-build options and respondents to Gulf's Request for Proposals?

POSITIONS

GULF: Yes.

LEAF: No position.

STAFF: No position at this time pending the evidence adduced at hearing.

ISSUE 6: Has Gulf Power Company demonstrated that the proposed Smith Unit 3 is the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

POSITIONS

GULF: Yes. Gulf's analysis demonstrates that Smith Unit 3 has an evaluated net present value cost of \$274/KW in 2002 dollars, compared to a cost of \$496/KW for the next most cost-effective alternative.

LEAF: No.

STAFF: No position at this time pending the evidence adduced at hearing.

ISSUE 7: Are there any conservation measures taken by or reasonably available to Gulf Power Company which might mitigate the need for the proposed Smith Unit 3?

POSITIONS

GULF: No. Gulf has implemented conservation programs which are designed to provide the maximum amount of cost-effective conservation reasonably available to the company. Even with these measures, Gulf still has a need for at least 427 MW of additional resources by the summer of 2002.

LEAF: Yes.

STAFF: No position at this time pending the evidence adduced at hearing.

ISSUE 8: Should the Commission grant Gulf Power Company's petition to determine the need for the proposed Smith Unit 3?

POSITIONS

GULF: Yes.

LEAF: No.

STAFF: No position at this time pending the evidence adduced at hearing.

ISSUE 9: Have all requests for confidential classification been addressed in this docket?

POSITIONS:

GULF: No position at this time.

LEAF: No position at this time.

STAFF: No position at this time.

ISSUE 10: Should this docket be closed?

POSITIONS

GULF: Yes.

LEAF: Yes.

STAFF: No position at this time pending the evidence adduced at hearing.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			<u>Direct</u>
Moore	GULF		Need Study §9.1, 9.2, 9.3

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(RGM - 1)</u>	Schedule 1: Smith Unit 3 Operating Characteristics
			Schedule 2: Installed Cost Estimate for Smith Unit 3
		<u>(RGM - 2)</u>	Schedule 3: Installed Cost Estimate for Smith Unit 3
Neyman/Marler	GULF		Need Study §4, Appendix B
		<u>(MDN/ MJM-1)</u>	Schedule 1: History and Forecast Summary
			Schedule 2: Demand Side Management Programs
			Schedule 3: Conservation Programs Cumulative Annual Reductions at Generator
Pope	GULF		Need Study §3, 5, 6, 7, Appendix C, D

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(WPF - 1)</u>	Schedule 1: Summary of Economic Analysis
			Schedule 2: Gulf's Future Reserves Beginning in 2002 with the Addition of Smith Unit 3
		<u>(WPF - 2)</u>	Schedule 3: Gulf's Future Reserves Beginning in 2002 With the Addition of Smith Unit 3
Burke	GULF		Need Study \$8, Appendix E
		<u>(MJB - 1)</u>	Schedule 1: RFP Initial Screening Results
		<u>(MJB - 2)</u>	Schedule 2: RFP Relative Ranking - Detailed Evaluation
		<u>(MJB - 3)</u>	Schedule 3: Schedule 3: RFP Relative Ranking Detailed Evaluation
Howell	GULF		Need Study \$1, 2, 9.4, Appendix A

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. RULINGS


There are pending rulings on Gulf's requests for confidential classification of material provided by Gulf in response to staff interrogatories one and seventeen as well Witness Pope's late-filed deposition exhibits one and four, and Witness Burke's late filed deposition exhibits one and two.

Pursuant to discussion at the Prehearing Conference, the possibility of a bench vote exists. Therefore, all parties shall be prepared for ten minute oral argument at the close of the hearing.

It is therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 2nd day of June, 1999.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

GAJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

M E M O R A N D U M

JUNE 2, 1999

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RECORDS AND
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FROM: DIVISION OF LEGAL SERVICES (~~WJE~~, ELIAS) *RVE by [signature]*

RE: DOCKET NO. 990325-EI - PETITION BY GULF POWER COMPANY TO
DETERMINE NEED FOR PROPOSED ELECTRICAL POWER PLANT IN BAY
COUNTY

99-1107-PHO

Attached is a PREHEARING ORDER to be issued in the above-referenced docket. (Number of pages in order - 13)

GAJ/js

Attachment

cc: Division of Electric and Gas (Haff, Colson, Makin, Bohrmann)
Division of Auditing and Financial Analysis (Dickens, Samaan,
Maurey)

I:990325po.gaj

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224-8551 Hopping -
850 444-6026. Gul/b -

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Item Presented
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 Notice of _____ For (Date) _____ In Docket No. _____
 Other _____

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