

ORIGINAL

MEMORANDUM

June 2, 2006

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COMMISSION  
CLERK

TO: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

FROM: OFFICE OF THE GENERAL COUNSEL (BRUBAKER) *JSB*

RE: DOCKET NO. 060154-EI - Petition for issuance of storm recovery financing order pursuant to Section 366.8260, F.S. (2005), by Gulf Power Company.

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Attached is a letter dated June 1, 2006 to Jennifer Brubaker, Senior Attorney from Jeffrey A. Stone of Beggs & Lane. Please file in the above-referenced docket.

DATE DOCUMENT SENT TO CCA 6/2/06.

JSB/pz  
Attachment

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
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June 1, 2006  
**Submitted by E-Mail**

Jennifer Brubaker, Senior Attorney  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**RE: Docket No. 060154-EI - Petition for issuance of storm recovery financing order pursuant to Section 366.8260, F.S. (2005), by Gulf Power Company.**

Dear Ms. Brubaker:

As a result of the meeting with Staff on May 26, 2006, the counterparties to the Stipulation and Settlement Agreement ("Stipulation") filed on May 11, 2006 (specifically, the Office of Public Counsel, the AARP, the Florida Industrial Power Users Group, the Florida Retail Federation and our client, Gulf Power Company) perceived some concerns about certain aspects of the Stipulation among representatives of the Staff. After consultation among the counterparties, we have been authorized to submit this letter as a clarification of intent regarding several matters discussed at the May 26 meeting in an effort to assist Staff in its review and analysis of the Stipulation. To be clear, I have been specifically authorized to inform and represent to the Staff (and to the Commission) that the points of clarification regarding the counterparties' intent set forth in this letter have been agreed to by Gulf Power and by counsel for each of the other counterparties to the Stipulation (specifically, the Office of Public Counsel, the AARP, the Florida Industrial Power Users Group and the Florida Retail Federation).

As a preface to the following points of clarification regarding the counterparties' intent, it is important to remember that the Stipulation is in lieu of and a substitute for certain specific conditions that would have been achieved if Gulf's request for a financing order were approved by the Commission and storm recovery bonds were issued as proposed. Specifically, not only would Gulf have a positive balance in its property insurance reserve for

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the first time since Hurricane Ivan struck Gulf's service area in September 2004, but the resulting reserve balance would be approximately \$80 million. This resulting balance was intended to significantly reduce the likelihood that the reserve would again be deficient during the eight years that the storm recovery bonds would be outstanding. In this regard, the provisions in the Stipulation for a streamlined process that would allow the expedited implementation of an interim surcharge that is collected subject to refund are intended as a reasonable and viable alternative to Gulf's securitization request. Although the interim surcharge would be implemented on an expedited basis through a streamlined process, it would be followed by a full and complete opportunity for the Commission and all interested parties to conduct a thorough review of Gulf's subsequent request for a "final" or non-interim surcharge and the associated costs for storm-recovery activities.

At the outset, we wish to confirm the representations and statements of intent set forth in our letter dated May 24, 2006 containing Gulf's Responses to Staff Data Requests, subject to any further clarification or modification specifically expressed in this letter. With regard to the interim surcharge provisions of the Stipulation, it is the intent of all parties that Gulf be permitted (but not obligated) to seek authority from the Commission to implement an interim surcharge on an expedited basis whenever the threshold conditions<sup>1</sup> set forth in the Stipulation are satisfied and subject to certain limitations as clarified below. Under the terms of the Stipulation, such an interim surcharge will be collected "subject to refund" during the period from its implementation until the Commission makes a final determination on Gulf's subsequent petition for a "final" or non-interim surcharge based on the same storm restoration activities that gave rise to the request for interim relief. The amount of the interim surcharge will be based on the recovery of a specified amount (over a period of not less than 24 months and not greater than 36 months) that does not exceed 80% of Gulf's estimated incremental costs for storm-recovery activities that are consistent with the criteria and guidelines contained in Exhibit A to the Ivan Storm Costs Stipulation and Settlement Agreement approved by the Commission in Order No. PSC-05-0250-PAA-EI. For purposes of calculating the interim surcharge, Gulf is entitled to utilize estimates of its incremental incurred costs prepared by Gulf in good faith in accordance with the foregoing criteria and guidelines. In its subsequent petition for a "final" or non-interim surcharge, Gulf is not restricted by the Stipulation with regard to the methodology it may propose for identification of recoverable costs and may seek costs that do not meet the criteria and guidelines agreed to for interim purposes, nor is Gulf limited in any way by the estimates prepared for use in calculating the interim surcharge amount. Likewise, in regards to the proceedings on Gulf's subsequent petition, the other counterparties to the Stipulation retain all rights to contest the collection of any amounts sought by Gulf.

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<sup>1</sup> The threshold condition set forth in the Stipulation as a prior condition to implementation of an interim surcharge is that Gulf must have incurred cumulative costs for storm-recovery activities in excess of \$10 million during the calendar year. In addition, as set forth in the May 24 letter, Gulf's intent (to which it agrees to be bound) is to defer implementation of an interim surcharge as long as a positive balance in the property insurance reserve exists. In other words, both conditions would have to exist before Gulf could seek to implement an interim surcharge as agreed to in the Stipulation.

In order to give effect to the foregoing, Gulf hereby modifies its responses to Staff Data Request items 3, 4 and 5 in our letter of May 24, 2006 to provide the following additional alternative for the Commission's consideration during its deliberations regarding whether to accept and approve the Stipulation and Settlement Agreement as requested in the joint petition submitted on May 11, 2006. As an alternative to the "pre-approval" tariff concept outlined in the May 24 letter, if it is the Commission's preference, Gulf commits that it will file a streamlined formal request for each proposed implementation of an interim surcharge under the Stipulation at the time it seeks authority to implement an interim surcharge. This streamlined formal request will contain the surcharge rate schedule(s) that will be added to the Company's Tariff for Retail Service upon the Commission's approval of Gulf's request to implement an interim surcharge under the Stipulation, a description of the factual basis for implementing the interim surcharge (i.e. information demonstrating that the threshold conditions exist and the calculation of the surcharge amount is consistent with the terms of the Stipulation), and a proposed schedule for filing a subsequent petition for either the "final" or non-interim surcharge or the entry of a financing order pursuant to Section 366.8260 of the Florida Statutes (2005). Under this alternative, in order to give effect to the intent of the parties for an expedited initiation of an interim surcharge that is subject to refund, it is hoped that the Commission and its Staff would expedite their review and consideration of the request for interim relief in recognition that full review will be available on Gulf's subsequent request for "final" or non-interim relief. If the Commission concludes that Gulf's request for interim relief is consistent with the Stipulation, it would then enter an order authorizing implementation of the interim surcharge, subject to refund, following the notice to Gulf's customers described in paragraph 4 of the Stipulation. Under either the pre-approval tariff scenario or the streamlined formal request and review scenario, the Commission would be approving interim relief and reserving for subsequent proceedings the full and complete opportunity to review Gulf's request for "final" or non-interim relief.

Finally, the counterparties to the Stipulation recognize a need to address an ambiguity that exists regarding the duration of the agreement regarding expedited implementation of an interim surcharge. Towards that end, the counterparties agree that their agreement to the provisions of paragraph 4 regarding the possible implementation of an interim surcharge shall remain in effect until the earliest of: (1) the effective date of new permanent base rates for Gulf as set by the Commission; (2) the issuance of storm recovery bonds pursuant to a financing order entered by the Commission; or (3) eight years after the Commission's acceptance and approval of the Stipulation and Settlement Agreement as a comprehensive settlement of all issues raised in Docket No. 060154-EI. By this letter, all of the counterparties to the Stipulation request that the Commission acknowledge and incorporate this provision for an expiration date in any order issued by the Commission accepting and approving the Stipulation and Settlement Agreement. In this regard, it is important to consider that the proposed settlement set forth in the Stipulation (including, specifically, the agreement to provisions for possible expedited implementation of an interim surcharge to address future storm-activity costs) is in lieu of the requested issuance of storm recovery bonds to be repaid

over a period eight years that would have resulted in an immediate restoration of a positive balance in Gulf's property insurance reserve of approximately \$80 million.

In submitting this letter with the foregoing points of clarification regarding the intent of the counterparties to the Stipulation, all of the counterparties reaffirm their desire that the Commission accept and approve the terms of the Stipulation and Settlement Agreement in its entirety as the full and complete resolution of any and all matters and issues raised in Docket No. 060154-EI relating to Gulf's requested recovery of incurred costs for storm-recovery activities associated with Hurricane Dennis and Hurricane Katrina ("2005 Storm Costs") and the replenishment of Gulf's depleted property insurance reserve. The counterparties further reaffirm their request that the Commission act on their joint petition and take the Stipulation up for consideration at the earliest practicable date in order to allow for the orderly implementation of the Stipulation and to provide certainty to the parties and their respective constituents and customers with respect to the outcome of this proceeding.

On behalf of Gulf Power and all the other counterparties to the Stipulation and Settlement Agreement, I hope that the foregoing points of clarification will be of assistance to the Staff in reaching a prompt recommendation to the Commission that the Joint Petition be granted in all respects and that the Stipulation and Settlement Agreement be accepted and approved as a complete settlement of the matters addressed therein, subject to the clarifications contained in this letter. If there are any questions regarding this submission, please do not hesitate to contact me.

Very truly yours,

*/s/ Jeffrey A. Stone*

Jeffrey A. Stone  
For the firm

Cc: Harold McLean  
Michael B. Twomey  
Robert Scheffel Wright  
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