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May 3, 2007

Blanca S. Bayo, Director
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 070232-EI, In re: Petition of Gulf Power Company for Approval of a Standard Offer Contract for Purchase of Firm Capacity and Energy From Renewable Energy Facilities or Small Qualifying Facilities and Approval of Tariff Schedule REF-1
Our file: 40522-33

Dear Ms. Bayo:

Enclosed please find one (1) original ^{In} and ~~seven (7) copies~~ of the following document for filing in above referenced Docket:

- 1. Petition of Bay County, Florida, For Leave to Intervene.

Very truly yours,

W. Christopher Browder, Esquire
GrayRobinson, P.A.

JMP _____

COM _____ Enclosures

JTR _____ WCB/eh

ECR _____

ECL _____

JPC _____

RCA _____

SCR _____

SGA _____

SEC _____

OTH Pena

cc: Thomas A. Cloud, Esquire
Terrell Arline, Esquire - Bay County Attorney
Lorena Holley, Esquire - Florida Public Service Commission
Jeffrey A. Stone - Beggs & Lane
Russell A. BAdders - Beggs & Lane
Steven R. Griffin - Beggs & Lane
Susan D. Ritenour - Gulf Power Company
(all with enclosures)

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Gulf Power Company
For Approval of a Standard Offer Contract
For Purchase of Firm Capacity and Energy
From Renewable Energy Facilities or Small
Qualifying Facilities and Approval of Tariff
Schedule REF-1

Docket No.: 070232-EI
Filed: May 3, 2007

PETITION OF BAY COUNTY, FLORIDA, FOR LEAVE TO INTERVENE

Bay County, Florida, a political subdivision of the State of Florida ("Bay County"), by and through its undersigned counsel hereby submits its Petition For Leave to Intervene in the instant proceeding pursuant to Rules 25-22.039, 28-106.201(2) and 28-106.205, Florida Administrative Code (F.A.C.), and as grounds therefore states:

1. The name, address and telephone number of the Petitioner is:

Bay County, Florida
c/o Bay County Manager
810 West 11th Street
Panama City, Florida 32401
(850) 784-4015

2. Copies of all pleadings, notices and orders in this Docket should be provided to:

W. Christopher Browder, Esquire
Thomas A. Cloud, Esquire
Gray Robinson, P.A.
301 East Pine Street, Suite 1400
P.O. Box 3068
Orlando, Florida 32802-3068
(407) 843-8880 Phone
(407) 244-5690 Facsimile

Terrell K. Arline, Esquire
County Attorney
810 West 11th Street
Panama City, Florida 32401

(850) 784-6112 Phone
(850) 784-4026 Facsimile

3. Statement of Substantial Interests.

a. Bay County owns and operates an existing power generation facility within the service area of Gulf Power Company ("Gulf") which is fueled by solid waste ("Biomass Facility") and which meets the definition of a "Renewable Generating Facility" under Rule 25-17.210(1), F.A.C.

b. As the owner of the Biomass Facility, Bay County is currently pursuing the sale of some or all of the electrical output from the Biomass Facility to Gulf and anticipates that the standard offer contract and related tariff provisions that is the subject of these proceedings ("Standard Offer") may govern such sale of electrical output.

c. The Standard Offer includes terms and conditions which would make it extremely difficult, if not impossible, for Bay County to execute "as-is" in the form contemplated in Gulf's tariff revisions filed in this proceeding.

d. If the Standard Offer is approved in its current form, Bay County may be precluded from selling renewable energy due to certain over-reaching contract terms and conditions of the Standard Offer.

e. For these reasons, Bay County's injury is immediate and of the type which is required in order to intervene and become a party in these proceedings. In re: Application of South Hutchinson Service Company, 87 FPSC 10:298 (1987); Agrico Chemical Co. v. Dept. of Env't'l. Reg., 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied 415 So.2d 1359 (Fla. 1982).

4. Statement of Disputed Issues of Material Fact.

The following issues of material fact have been identified in this Docket:

- a. The Commission must determine if the Standard Offer as proposed is consistent with the policy of the Florida Public Service Commission to promote the development of renewable energy as expressed in Rules 25-17.200 – 25.17.310, F.A.C. (the “Rules”).
- b. The Commission must determine if the terms and conditions of the Standard Offer contain overly burdensome and unnecessary terms and conditions.
- c. The Commission must determine if the terms and conditions of the Standard Offer are enforceable against a governmental entity as written and if not, should they be modified to allow use by a governmental entity selling power to Gulf.
- d. The Commission must determine if the Capacity Availability Calculation (“EAF”) is a fair representation of the availability of a Renewable Generating Facility
- e. The Commission must determine if the Capacity Repayment Calculation is accurate and fair.
- f. The Commission must determine if the Standard Offer should include provisions permitted under Rule 25-17.0832(4)(f)(3), F.A.C. to revise the terms in the event Gulf’s avoided costs change during the term of the agreement.
- g. The Commission must determine if Gulf should be permitted to require other economic concessions from owners of Renewable Generating Facilities as part of the Standard Offer if such concessions are unnecessary and unrelated to the avoided cost determination or other cost mitigation of Gulf.

Bay County reserves the right to address other factual issues that may arise.

5. Ultimate Facts Alleged.

Bay County will be discouraged from pursuing sales opportunities under the proposed Standard Offer if the contract terms and conditions are not balanced, economically beneficial, and are otherwise reasonable for execution by Bay County. The Standard Offer as currently proposed by Gulf does not further

the goal of the Florida Public Service Commission to encourage the development and proliferation of renewable energy within the State of Florida where terms and conditions are overly burdensome, punitive and include conditions which make the liability under the agreement unacceptable to Bay County as a governmental entity.

6. Applicable Statutes and Rules

Applicable statutes and rules in this proceeding include, but are not limited to: Chapter 366, Florida Statutes; Chapter 25-17, F.A.C.; Rule 25-22.039, F.A.C.; Rule 28-106.201(2), F.A.C.; and, Rule 28-106.205, F.A.C.

7. Affected Agency

The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

WHEREFORE, Bay County respectfully requests the Commission enter an Order authorizing it to intervene with full-party status.



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Attorneys for Bay County, Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the following parties of record and interested parties, this 3rd day of May, 2007:

Parties of Record:

Jeffrey A. Stone
Russell A. Badders
Steven R. Griffin
Beggs & Lane
P.O. Box 12950
Pensacola, FL 32591
(850) 432-2451

Susan D. Ritenour
Secretary and Treasurer
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780
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