

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Environmental Cost )  
Recovery Clause. )  
\_\_\_\_\_ )

Docket No. 070007-EI  
Filed: June 22, 2007

COMMISSION  
CLERK

07 JUN 22 PM 3:30

RECEIVED-FPSC

R.V.N.

**STIPULATION REGARDING PORTIONS OF GULF POWER COMPANY'S  
CAIR/CAMR/CAVR ENVIRONMENTAL COMPLIANCE PROGRAM AND  
JOINT REQUEST FOR APPROVAL**

The Citizens of the State of Florida, through the Office of Public Counsel ("OPC"), the Florida Industrial Power Users Group ("FIPUG"), and Gulf Power Company ("Gulf Power", "Gulf", or "the Company"), (collectively, the "Parties") through their respective undersigned counsel, hereby jointly petition the Florida Public Service Commission ("Commission") for entry of an order approving this stipulation regarding portions of Gulf's plan to achieve and maintain compliance with the Clean Air Interstate Rule ("CAIR"), the Clean Air Mercury Rule ("CAMR") and the Clean Air Visibility Rule ("CAVR"). The Parties represent that this stipulation fairly and reasonably balances the various positions of the Parties and serves the best interests of the customers they represent and the public interest in general and, therefore, is fully consistent with and supportive of the Commission's long standing policy of encouraging

CMP \_\_\_\_\_ the settlement of contested proceedings in a manner that benefits the ratepayers of  
COM 5 utilities subject to the Commission's regulatory jurisdiction and thereby avoid the need  
CTR \_\_\_\_\_ for costly, time-consuming and inefficient litigation of matters before the Commission.  
ECR \_\_\_\_\_

GCL 1 (diskette)

**BACKGROUND**

OPC \_\_\_\_\_ On March 29, 2007, Gulf petitioned the Commission for approval of the  
RCA 1 Company's plan to achieve and maintain compliance with the CAIR, CAMR and CAVR.  
SCR \_\_\_\_\_  
SGA \_\_\_\_\_ Exhibit A to Gulf's supplemental petition is a document entitled "Gulf Power Company  
SEC \_\_\_\_\_  
OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

05021 JUN 22 07

FPSC-COMMISSION CLERK

Environmental Compliance Program for the Clean Air Interstate Rule, Clean Air Mercury Rule and Clean Air Visibility Rule” (“Compliance Plan”). Gulf’s petition explicitly stated that the petition, with the related Compliance Plan, was submitted specifically for the purpose of obtaining the Commission’s review and approval of the reasonableness and prudence of Gulf’s compliance plan. The petition, with the related Compliance Plan, constitutes the supplementary filing made to comply with the Company’s obligations under the terms of a stipulation negotiated between Gulf and the Office of Public Counsel that was subsequently approved by the Commission as set forth at page 9 of Order No. PSC-06-0972-FOF-EI issued November 22, 2006, in Docket No. 060007-EI. The full text of the stipulation, as approved by the Commission, is set forth below:

We approve the following stipulation regarding Gulf’s request for recovery of compliance costs relating to the Clean Air Interstate Rule and the Clean Air Mercury Rule as a project that qualifies for recovery through the ECRC:

Gulf’s reasonable and necessary, prudently incurred costs for compliance with the Clean Air Interstate Rule (CAIR) and Clean Air Mercury Rule (CAMR) are appropriate for recovery through the ECRC as provided for in F.S. 366.8255 and past Commission orders implementing the ECRC. The costs impacting 2007 ECRC revenue requirements as outlined in Gulf’s petition, testimony and exhibits are appropriately incorporated in the Company’s cost recovery factors for 2007 which have been submitted for approval in this proceeding, subject to the normal evaluation and true-up process that takes place in the ongoing ECRC proceedings. Given the magnitude and the scope of Gulf’s ongoing CAIR/CAMR Compliance Program, Gulf agrees to make a supplementary filing in the ECRC docket during the first quarter of 2007 that will identify the timing and current estimates of costs for specific projects planned by the Company in order to comply with CAIR/CAMR requirements along with information regarding the relative value of the planned projects compared to other viable compliance alternatives, if any. This supplemental filing will include a description of the evaluation process used and the results of that process that lead Gulf to conclude that the chosen control technology is both cost effective and that the affected generating units remain economically viable as a source of energy to Gulf’s retail customers

with the addition of the controls. The parties to the ECRC (including the Commission Staff) will be allowed to submit normal requests for discovery in connection with the supplemental filing in order to determine whether there is any objection to any components of the CAIR/CAMR program with regard to the reasonableness or prudence of the proposed action. If there are any objections, the objecting party shall give notice to the Company before the end of the second quarter of 2007 such that testimony and exhibits addressing the resulting issue(s) can be filed in the normal time frame for the 2007 ECRC hearing and the issue(s) can be resolved by the Commission in the normal course of the ongoing ECRC proceedings. The deadlines set forth in this stipulation can be extended for good cause by mutual agreement of the parties. In the event the parties are unable to reach an agreement regarding a request for extension of a deadline, the request may be presented to the prehearing officer for resolution by motion showing good cause why the deadline should be extended.

The first three sections of Gulf's Compliance Plan (Exhibit A to the Petition) provide: (a) an executive summary, (b) a discussion of the requirements of CAIR, CAMR and CAVR, and (c) a discussion of the planning process utilized by Gulf to select the most reasonable and prudent strategy for compliance with environmental laws and regulations in general, and in particular the requirements of CAIR, CAMR and CAVR. Section 4 of Gulf's Compliance Plan is devoted to a discussion of the actual program planning evaluation for CAIR, CAMR and CAVR. Section 5 of the Compliance Plan is a discussion of Gulf's current plan for compliance with CAIR, CAMR and CAVR on a plant- and/or unit-specific basis.

Overall, Gulf's Compliance Plan identifies the timing and current estimates of costs for specific projects planned by the Company in order to comply with CAIR/CAMR/CAVR requirements along with information regarding the relative value of the planned projects compared to other viable compliance alternatives, if any. Gulf's Compliance Plan also includes the description and results of the evaluation process that

lead Gulf to conclude that the chosen means of compliance is the most reasonable, cost-effective alternative and that the affected generating units remain economically viable as a source of energy to Gulf's retail customers with the addition of the controls.

As discussed in Section 5 of Gulf's Compliance Plan, the Company's CAIR/CAMR/CAVR Compliance Program includes the addition of several retrofit applications at Plant Crist, Plant Daniel<sup>1</sup>, Plant Smith and Plant Scholz and additional emission allowance purchases necessary to meet compliance limits:

a. Crist Units 4 through 7 Flue Gas Desulfurization system (scrubber).

Gulf has determined that a scrubber for Units 4 through 7 is the best, most cost-effective means of removing SO<sub>2</sub> and mercury. Construction of the Crist scrubber is scheduled to take place from 2007 through 2009 at an estimated capital cost of approximately \$530 million. Based upon plant specific circumstances, Gulf has chosen the Chiyoda technology for the Plant Crist scrubber. This installation will reduce SO<sub>2</sub> emissions by approximately 43,000 tons per year and mercury emissions by approximately 3,800 ounces per year. Even with this retrofit, Gulf anticipates that it will have to manage compliance through reliance on its bank of allowances and the purchase of additional allowances from the market.

b. Crist Unit 6 Selective Catalytic Reduction system (SCR). Gulf has determined that a SCR for Crist Unit 6 is necessary to meet not only required NO<sub>x</sub> reductions, but also to assure that Pensacola maintains attainment with the new 8-hour ozone standard. The Crist Unit 6 SCR will also serve to mitigate significant local pressure to continue NO<sub>x</sub> reductions from the plant. The Crist Unit 6 SCR will be constructed between 2007 and 2011 and is forecasted to have a total capital cost of approximately \$84 million. The Crist Unit 6 SCR will help assure CAIR compliance as well as CAMR compliance.

c. Crist Units 4 through 7 CAIR and Mercury Monitors. CAIR will require a continuous emission monitoring system for the scrubber. CAMR will require continuous mercury emission monitoring of all four Crist units and the scrubber. The current projected capital cost for these monitoring systems is approximately \$4.6 million.

d. Daniel Units 1 and 2 Flue Gas Desulfurization system (scrubber). Gulf and Mississippi Power have determined that a scrubber for Daniel Units 1 and 2 is needed to meet the requirements of CAIR, CAMR and CAVR. Construction of this scrubber is scheduled for 2007-2011 at an estimated capital cost of approximately \$187 million (Gulf's ownership share). Based upon plant-specific

---

<sup>1</sup> Plant Daniel Units 1 and 2 are co-owned by Gulf and its sister company, Mississippi Power Company.

circumstances, Gulf and Mississippi Power have chosen the Advatech single tower technology for the Plant Daniel scrubber. This scrubber will reduce SO<sub>2</sub> emissions by approximately 18,000 tons per year and mercury emissions by approximately 2,000 ounces per year. Even with this retrofit, Gulf and Mississippi Power anticipate that they will have to manage compliance through reliance on their bank of allowances and the purchase of additional allowances from the market.

e. Daniel Units 1 and 2 Selective Non-catalytic Reduction systems (SNCRs) and Low NO<sub>x</sub> Burners (LNBs). Gulf and Mississippi Power have determined that to meet CAIR annual and seasonal NO<sub>x</sub> requirements and possibly to avoid 8-hour ozone nonattainment, the installation of SNCRs and LNBs are necessary. The SNCRs will be installed between 2009 through 2011 at an estimated capital cost of approximately \$7.5 million, and the LNBs are scheduled to be installed between 2007 and 2010 at an estimated cost of approximately \$7.8 million.

f. Daniel Units 1 and 2 CAIR and Mercury Monitors. CAIR will require a continuous emission monitoring system on the Plant Daniel scrubber and CAMR will require continuous mercury emission monitoring of both Plant Daniel coal units and the scrubber. The current projected capital cost for these monitoring systems is approximately \$877,000.

g. Smith Units 1 and 2 Selective Non-catalytic Reduction systems (SNCRs). Gulf has determined that SNCRs for Smith Units 1 and 2 are the best means of meeting CAIR annual and seasonal NO<sub>x</sub> caps and that such installations should also help maintain local compliance with the 8-hour ozone standard. The SNCR projects for Smith Units 1 and 2 will be constructed between 2007 and 2009 and are forecasted to have a total capital cost of approximately \$10 million.

h. Smith Units 1 and 2 CAIR and Mercury Monitors. CAIR will require a parametric emission monitoring system on the Smith combustion turbine and a continuous emission monitoring system on the Smith scrubber. CAMR will require continuous mercury emission monitoring of both Smith coal units and the scrubber. The current projected capital cost for these monitoring systems is approximately \$2 million.

i. Scholz Units 1 and 2 Mercury Monitors. CAMR will require mercury monitoring of both coal units at Plant Scholz. The current projected capital cost for these monitoring systems to be installed in 2007 and 2008 is approximately \$1 million.

j. Daniel Units 1 and 2 Selective Catalytic Reduction systems (SCRs). Gulf and Mississippi Power have determined that SCRs for Daniel Units 1 and 2 are necessary to help meet CAIR, CAMR and possibly 8-hour ozone nonattainment. The Daniel Units 1 and 2 SCRs will be constructed between 2012

and 2017 and are forecasted to have a total capital cost of approximately \$153 million.

k. Smith Units 1 and 2 Flue Gas Desulfurization system (scrubber). Gulf has determined that a scrubber for Smith Units 1 and 2 will likely be needed to meet CAVR requirements by 2017. The current estimated cost for this scrubber project is \$251 million, which would be expended from 2013 through 2018. The compliance plan for Plant Smith remains very flexible.

l. Smith Unit 2 Baghouse. Gulf anticipates that the construction of a baghouse at Smith Unit 2 will be required to meet CAMR requirements by 2018. Gulf's Compliance Plan includes a capital cost estimate of approximately \$55.6 million for construction of this baghouse during 2015 through 2018.

m. Market Purchase of Additional Emission Allowances. In addition to the retrofit applications described above, Gulf will still have to manage compliance through reliance on its bank of emission allowances and the purchase of additional emission allowances from the market. The projected levels and costs of emission allowances to be purchased are shown on Table 5.5-1 of Gulf's Compliance Plan.

### **STIPULATION**

WHEREAS the Parties agree that Gulf's Compliance Plan satisfies the requirement to submit a supplementary filing as set forth on page 9 of Order No. PSC-06-0972-FOF-EI, issued November 22, 2006 in Docket No. 060007-EI;

WHEREAS the Parties agree that Gulf's Compliance Plan sets forth Gulf's plan to meet the requirements of CAIR/CAMR/CAVR over the 2007 thorough 2018 timeframe; and

WHEREAS the Parties agree that Gulf's supplemental filing provides an appropriate basis on which to conclude that Gulf's CAIR/CAMR/CAVR Compliance Plan is a reasonable and sufficient means for complying with these environmental requirements;

NOW THEREFORE, based on the foregoing recitals, each Party's review of Gulf's supplementary filing as described in the background, and discussions among the Parties, the Parties agree that:

1. The components of Gulf's Compliance Plan that are currently in the process of being implemented and which will be initially operational in the 2007 through 2011 timeframe (each of which is specifically enumerated below) appear to be reasonable and necessary activities for Gulf to pursue in order to meet the CAIR/CAMR/CAVR environmental requirements and therefore, the Parties will not object to, or contest, the reasonableness and prudence of Gulf's decisions to implement the following components of the Compliance Plan now or in the future:

- a. Crist Units 4 through 7 Scrubber;
- b. Crist Unit 6 SCR;
- c. Crist Units 4 through 7 CAIR and Mercury Monitors;
- d. Daniel Units 1 and 2 Scrubber;
- e. Daniel Units 1 and 2 SNCRs and Low NO<sub>x</sub> Burners;
- f. Daniel Units 1 and 2 CAIR and Mercury Monitors
- g. Smith Units 1 and 2 SNCRs;
- h. Smith Units 1 and 2 CAIR and Mercury Monitors; and
- i. Scholz Units 1 and 2 Mercury Monitors.

The Parties acknowledge that the Commission has the authority to review and approve these programs.

Along with implementation of the foregoing, Gulf's Compliance Plan calls for the Company to manage compliance through the use of emission allowances both from Gulf's accumulated bank of emission allowances and from the purchase of additional emission allowances from existing and potential markets. The Parties recognize that in accordance with the Compliance Plan, Gulf may be required to use its accumulated bank of emission allowances and to procure additional allowances from existing and potential markets.<sup>2</sup>

2. The projected and actual costs of the stipulated components of the Compliance Plan enumerated or discussed in the immediately preceding paragraph will be submitted for recovery through the ECRC as provided for in F.S. 366.8255 and past Commission orders through the normal course of the projection and true-up filings of the ongoing ECRC proceedings. Such projected and actual costs remain subject to the normal audit, true-up and review process that takes place in the ongoing ECRC proceedings, unless and until such costs are included in Gulf's base rates in a subsequent rate proceeding as provided for in F.S. 366.8255(5). The Parties' right to review the actual or projected costs of the stipulated components of the Compliance Plan for reasonableness or prudence in the normal course of the ongoing ECRC proceeding (or in a subsequent base rate proceeding if the costs are to be included in base rates and reasonableness and prudence has not previously been addressed in the ECRC proceedings) is not limited by this stipulation.

3. Gulf's Compliance Plan shall become the basis for future filings in the ECRC relating to CAIR/CAMR/CAVR.

---

<sup>2</sup> The components of the Compliance Plan enumerated or discussed in this paragraph may be collectively referred to elsewhere in this document as the "stipulated components."



4. The Parties specifically acknowledge and agree that the remaining components identified in Gulf's Compliance Plan (items j, k and l from the enumerated list set forth in the "Background" section of this document) are still in the planning phase for possible implementation after 2011 and are therefore excluded from the stipulated components of the Compliance Plan enumerated or discussed in paragraph number 1 above. Since Gulf has not yet made its decision whether to implement these three components, there is no agreement between the Parties at this time regarding the reasonableness or prudence of any of these three components or any components that may be added by the Company in the future to the Compliance Plan.

5. With regard to the implementation of these three remaining components of the Compliance Plan (or any new components to the Compliance Plan Gulf may add in the future), once a decision to proceed with implementation is made by the Company, Gulf agrees to make a supplementary filing in the ECRC docket that will identify the timing of the planned implementation and updated estimates regarding the costs for such components prior to incorporating such components in the normal projection or true-up filings that will impact the cost recovery factors applied to customer bills under the ECRC. It is the intent of the Parties that such supplementary filing initiate a period during which all parties to the ECRC (including the Commission Staff, FIPUG and OPC) may submit requests for discovery in connection with the supplementary filing in order to determine whether there is any objection to any such components with regard to the reasonableness or prudence of the proposed action, and the filing of notice regarding any such resulting objections, under time limits similar to what has been afforded as a result


of the stipulation approved by the Commission as set forth at page 9 of Order No. PSC-06-0972-FOF-EI.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

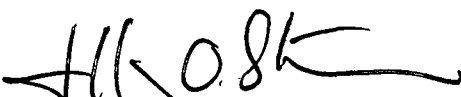
WHEREFORE, the Parties respectfully request that the Commission undertake its review of this stipulation and act upon the above stated request for its approval at the earliest practicable date in order to allow for the orderly implementation of the Agreement and to provide certainty to the Parties and their respective constituents and customers with respect to the outcome of this proceeding.

Respectfully Submitted,


**Office of Public Counsel**

By   
**Patricia A. Christensen, Esquire**  
Florida Bar No. 0989789  
Associate Public Counsel  
111 W. Madison Street, Room 812  
Tallahassee, Florida 32399  
(850) 488-9330

**Gulf Power Company**

By   
**Jeffrey A. Stone, Esquire**  
Florida Bar No. 325953  
Beggs & Lane  
Post Office Box 12950  
Pensacola, FL 32576-2950  
(850) 432-2451

**Florida Industrial Power Users Group**

By   
**John W. McWhirter, Jr. Esquire**  
Florida Bar No. 53905  
**Harold McLean, Esquire**  
Florida Bar No. 193591  
McWhirter, Reeves  
P. O. Box 3350  
Tampa, Florida 33601  
(813) 224-0866

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following individuals via U. S. Mail (or by \*hand delivery) this 22<sup>nd</sup> day of June, 2007:

Martha Carter Brown, Esq.  
Senior Counsel  
Fla. Public Service Comm.  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

John W. McWhirter, Jr., Esq.  
\*Harold McLean, Esq.  
McWhirter, Davidson & McLean  
400 N. Tampa St., Suite 2450  
Tampa, FL 33602

Paula K. Brown, Administrator  
Regulatory Coordination  
Tampa Electric Company  
P. O. Box 111  
Tampa, FL 33601

John T. Butler, Esq.  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420

Lee L. Willis, Esq.  
James D. Beasley, Esq.  
Ausley & McMullen  
P. O. Box 391  
Tallahassee, FL 32302

Norman H. Horton, Jr., Esq.  
Messer, Caparello & Self, P.A.  
P. O. Box 15579  
Tallahassee, FL 32317

\*Patricia Ann Christensen, Esq.  
Office of Public Counsel  
111 W. Madison St., Room 812  
Tallahassee, FL 32399-1400

John T. Burnett, Esq.  
Progress Energy Service Co.  
P. O. Box 14042  
St. Petersburg, FL 33733-4042

William G. Walker, III  
Florida Power & Light Company  
215 South Monroe St., Suite 810  
Tallahassee, FL 32301-1859

Paul Lewis, Jr.  
Progress Energy Florida, Inc.  
106 E. College Ave., Ste. 800  
Tallahassee, FL 32301-7740

Gary V. Perko, Esq.  
Hopping, Green & Sams  
P. O. Box 6526  
Tallahassee, FL 32314

Cheryl Martin  
Florida Public Utilities Company  
P. O. Box 3395  
West Palm Beach, FL 33402-3395

R. Wade Litchfield, Esq.  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420



**JEFFREY A. STONE**

Florida Bar No. 325953

**RUSSELL A. BADDERS**

Florida Bar No. 007455

**STEVEN R. GRIFFIN**

Florida Bar No. 0627569

Beggs & Lane

Post Office Box 12950

Pensacola, FL 32576-2950

(850) 432-2451

Attorneys for Gulf Power Company