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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for increase) DOCKET NO. 110138-EI
in rates by Gulf Power) FILED: November 22, 2011
_____)

TELEPHONE DEPOSITION OF: HELMUTH W. SHULTZ

TAKEN ON BEHALF OF: FLORIDA PUBLIC
SERVICE COMMISSION

DATE: TUESDAY, NOVEMBER 29, 2011

TIME: Commenced at 9:35 A.M.
Concluded at 10:31 A.M.

LOCATION: 2540 SHUMARD OAK BLVD.
ROOM 382D
TALLAHASSEE, FLORIDA

REPORTED BY: DEBRA R. KRICK
Notary Public in and for
the State of Florida
at Large

* * *

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NO.	DESCRIPTION	MARKED
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NONE MARKED

*Uh-uh is a negative response
*Uh-huh is a positive response

1 D E P O S I T I O N

2 MS. KLANCKE: It is my understanding that
3 Witness Shultz has a notary there with him. At
4 this time, Madame Notary, would you please
5 administer the oath?

6 NOTARY: Yes. Would you raise your right
7 hand?

8 Whereupon,

9 HELMUTH SHULTZ

10 was called as a witness, having been first duly sworn to
11 speak the truth, the whole truth, and nothing but the
12 truth, was examined and testified as follows:

13 MS. KLANCKE: And, Mr. Notary, would you
14 please FAX a copy of that oath to the following --
15 I am going to give you a FAX number, okay?

16 NOTARY: All right.

17 MS. KLANCKE: Okay. It is (850)413-6221.

18 NOTARY: It will be coming momentarily.

19 MS. KLANCKE: And you can make that to my
20 attention, to Caroline Klancke. Thank you so much.

21 EXAMINATION

22 BY MS. KLANCKE:

23 **Q Okay. As I just specified, my name is**
24 **Caroline Klancke. I am a staff attorney with the**
25 **Florida Public Service Commission.**

1 I just -- Mr. Shultz, I just want to thank
2 you, first of all, for agreeing to converse with us here
3 this morning.

4 And, Mr. Shultz, since we are not the room,
5 not in the room, I would like it just go over some
6 things. Since we are not in the room together in
7 particular, I will need you to make sure that all of
8 your responses are audible, okay?

9 A Yes. Not a problem.

10 Q I realize that, you know, we are going to be
11 going through some documents, and sometimes, you know,
12 if you are not there with me, just let me know. I can
13 give you additional time to find the document that I am
14 referring to so that we are all the on the same page.
15 Please don't feel pressed with respect to that.

16 Also, during the deposition I may use some
17 abbreviations. If I use an abbreviation or a term that
18 you are not familiar with, would you please go ahead and
19 stop me and ask for a clarification, okay?

20 A I will.

21 Q And if you need a break -- I don't believe I
22 have too many questions, but if you need a break at any
23 time, I would greatly appreciate it if you would just
24 let me know and we can stop and take a break.

25 In addition, if at any time you need to

1 clarify a question that I have asked you, you can just
2 let me know and we can stop and we can -- we can clarify
3 that, okay?

4 A Okay.

5 Q Okay. With that, I am going to begin the
6 formal part of this deposition.

7 MR. MELSON: Caroline, do you want to take
8 appearances from the attorneys?

9 MS. KLANCKE: Oh, absolutely. I am ahead of
10 myself. I was so excited to stalk you to today,
11 Mr. Shultz.

12 I am Caroline Klancke from Commission legal
13 staff. Also with me in the room from Commission
14 staff is Melissa Lamoreaux, David Dowds and Curt
15 Mouring.

16 MR. MELSON: Rick Melson on behalf of Gulf
17 Power.

18 MS. KLANCKE: And I believe we have identified
19 all individuals on the phone. Just to make sure no
20 one else has -- is present on the phone who is a
21 party and needs to identify themselves.

22 MR. MCGLOTHLIN: For the record, this is Joe
23 McGlothlin. I am an attorney with the Office of
24 Public Counsel and I will be defending the deponent
25 today.

1 MS. KLANCKE: I believe that we have
2 everybody. The court reporter is specifying that
3 for the purposes of the record, she has everybody
4 identified.

5 EXAMINATION

6 BY MS. KLANCKE:

7 **Q Would the deponent please state your full name**
8 **and business address for the record?**

9 A My name is Helmuth W. Shultz, III. My
10 business address is 15728 Farmington Road, Livonia,
11 Michigan, 48154.

12 **Q And, Mr. Shultz, you are employed by whom and**
13 **in what capacity?**

14 A I am employed by Larkin & Associates, PLLC. I
15 am a Senior Regulatory Consultant, and we are acting as
16 consultants for the Florida Office of Public Counsel.

17 **Q Could you briefly describe your**
18 **responsibilities as Senior Regulatory Consultant?**

19 A My responsibility is, in this case, was to
20 review certain portions of the filing of Gulf Power and
21 present testimony in response to the areas reviewed.

22 **Q You have prefiled direct testimony and**
23 **exhibits in this docket, Docket Number 110138-EI; is**
24 **that correct?**

25 A That is correct.

1 **Q** At this time, do you have any additions,
2 deletions or corrections to your prefiled direct
3 testimony or exhibits?

4 A I have some corrections --

5 **Q** Excellent.

6 A -- that were prepared and put on an errata
7 sheet.

8 **Q** We all have copies of the errata sheet in
9 front of us, but for the purposes of the record, I would
10 like you to go through each correction and briefly
11 describe the change that is necessitated in each
12 instance.

13 A Okay. In the testimony, on page 23, line
14 eight, after the word "charges", you would insert
15 "excluding the severe 2004/2005 storms," comma.

16 Also on line eight, you would delete the words
17 "and eight" and insert the words "a ten".

18 On line -- on page 26, line 22, you would
19 delete the word "eight" and insert the word "ten".

20 On page 33, line 22, you will be deleting the
21 second word "from" in that sentence, that's just before
22 the 2010, and inserting "when comparing the 10-year
23 average for 2001 to", that's T-O.

24 On page 35, line three --

25 **Q** Just for clarification purposes, with respect

1 to that last change, on page 33, that would make your
2 testimony read, if I am not mistaken, just for clarity,
3 on line 22, it would specify "to increase from
4 14 percent to as high as 38 percent when comparing the
5 10-year average for 2001 to 2010 to 2012"?

6 A That's correct.

7 Q Okay.

8 A It's the timeframe 2001 to 2010 being compared
9 to the year 2012.

10 Q Okay. Please continue.

11 A All right. I would could have worlded it
12 better maybe.

13 On page 35, line three, after the word
14 "actual" you will insert the word "net". And after the
15 word "from", you will insert "2008 to", that's T-O. And
16 also on page 35, line six, you will delete "1.18%" and
17 insert "2.24%".

18 The following changes would be made to the
19 exhibits:

20 On Schedule C-1, page two, line 27, you will
21 change it from an eight-year average to a 10-year
22 average.

23 On Schedule C-4, page one, line six, you will
24 change in the column labeled change, the 5.05% to
25 10.31%. And on line seven, you will change the 1.18% to

1 2.24%.

2 Q Excellent. In the notice issued in this
3 proceeding, I have requested that you bring several
4 documents with you. Could you please describe what
5 documents you have with you?

6 A I have my prepared testimony, my errata sheet,
7 and I have various responses to discovery requests as
8 provided by the company. And I have copies of company
9 testimony and rebuttal testimony.

10 Q Excellent. I would like to begin with your
11 direct prefiled testimony, and in particular if you
12 could turn to page 18. And let me know when you are
13 there. Each time I ask you to turn to a page, it would
14 just be easier, instead of me asking you, you can just
15 say, I am there, okay?

16 A I am there.

17 Q On lines 15 through 16, you state that, quote,
18 "additionally, the request is not adequately justified
19 by the company based on the storm standards established
20 for Florida electric utilities." Do you see that?

21 A Yes, I do.

22 Q Could you explain what storm standards you are
23 referring to there?

24 A Well, in Florida, there has been storm
25 hardening requirements that have been, I guess you could

1 say, imposed upon the company. They are required to
2 harden the system, to make it be able to stand up more
3 to the storms, and the company's request does not factor
4 in that storm hardening.

5 Q And we are going to discuss that in a little
6 further detail, but is that the entirety of the --
7 sorry, there is a serious paper shuffling sound going
8 on.

9 Okay. Are there any other standards with
10 respect to applicable to Florida electric utilities that
11 you are referencing here? Any empirical standards,
12 studies, commissions?

13 A Well, I can't think of any off the top of my
14 head right now that I would be applying, other than the
15 fact that, you know, the evidence isn't known and
16 measurable.

17 Q Okay. Can you now refer to lines 21 through
18 23 on page 18?

19 A I am there.

20 Q On line -- beginning on line 21, you reference
21 a target level reserve set in Docket 951433-EI for Gulf
22 of 25.1 million to 36 million. Do you see that?

23 A I do.

24 Q Do you believe that the Commission's target
25 range of 25 million to 36 million for the reserve is

1 **adequate to cover potential storm charges in today's**
2 **market?**

3 A I do.

4 Q **Could you explain why you believe that this**
5 **target range is appropriate at this time?**

6 A Well, one item to consider is the average
7 storm costs that have been incurred for storms that
8 weren't basically covered by a surcharge has averaged,
9 as I indicated in my testimony, \$575,000 a year.

10 In that docket, the -- bear with me a
11 second -- when that was set, the average of storms
12 charged in the last five years by Gulf was
13 one-and-a-half million. So the difference between more
14 recent history and that timeframe suggests that once
15 that level was set back then, there was a higher amount
16 of damage being incurred on average, and therefore, with
17 the lower level, I believe that level of damage is still
18 reasonable.

19 And it also takes -- I would also take into
20 the consideration the fact that the company has been
21 undergoing the storm hardening program, and that should
22 reduce the costs that would be incurred as a result of
23 any storms.

24 Q **Okay. Page 19, would you please turn to page**
25 **19, and in particular, lines 12 through 17. In this**

1 section, you state that it is your opinion that the
2 storm study was not used by Gulf to determine the level
3 of the proposed accrual, but rather the study merely
4 reflects what the company decided it wanted to collect
5 in rates at the outset.

6 Then you specify, on lines 15 through 17, that
7 this opinion is based on, quote, "on my concerns with
8 the focus of the study, the assumptions made, recent
9 history and the conclusions that resulted from the
10 study." Do you see that?

11 A I do.

12 Q In addition to the concerns that I just
13 quoted, you state that you -- that you also have --
14 there is also a concern with what was not factored into
15 the study. Do see that?

16 A I do.

17 Q With respect to the formulation of your
18 opinion and these concerns, did you use any outside
19 sources or studies to determine your position with
20 respect to Gulf's storm accrual?

21 A No. The only outside -- I would say outside
22 of the information filed in this case that I relied upon
23 was in the Progress Energy case a very similar study was
24 filed. A lot of the wording is very, very similar. In
25 fact, my understanding, the individual who prepared this

1 study was the same that did one in the Progress Energy.

2 Q And by the Progress Energy case, are you
3 referring to Docket 090079, the Progress rate case?

4 A Yes.

5 Q In this proceeding, you are recommending that
6 the storm accrual be reduced to \$600,000; is that
7 correct?

8 A That is correct.

9 Q Can you walk me through how you calculated
10 this \$600,000 figure?

11 A Well, the 600,000 is -- basically I calculated
12 that average of 575,000, and I rounded it upward to
13 600,000.

14 Q I want -- I kind of want to talk a little bit
15 more about the study itself. On page 19, lines 16
16 through 17, you state that there is a concern about what
17 was not factored into the study; correct?

18 A Yes.

19 Q And on pages 24 and 25, you explain those
20 concerns; is that correct?

21 A That is correct.

22 Q In particular, you cite several concerns,
23 including, as you previously specified, the failure of
24 Gulf to include storm hardening in its study. Did you
25 factor any of these concerns into your calculation of

1 **the \$600,000 figure?**

2 A Well, I factored it into the -- when I
3 calculated what the average costs were for damages over
4 the last 10 years, I took into consideration the fact
5 that -- with the fact -- with the storm hardening, we
6 would anticipate that these costs could be minimalized,
7 mitigated to some extent, so that based upon the
8 historical damages, that 600,000 would be reasonable.

9 **Q With respect to the storm hardening efforts**
10 **and their failure to include those efforts, could you**
11 **talk in a little bit more detail impact you believe the**
12 **inclusion of the storm hardening efforts would have**
13 **on -- would have had on the storm study?**

14 A Well, if you are factoring in the damages that
15 are going to occur, first of all, when you -- if you are
16 ignoring the fact that you are putting up stronger
17 poles, then the replacement of the poles that you are
18 anticipating is going to be overstated, because the
19 stronger poles may withstand the storm better than those
20 weakened poles and the older type poles, therefore, you
21 wouldn't have the damage occurring.

22 With respect to the tree trimming, the company
23 undertook an extensive danger tree program between 2007
24 and 2009. And danger tree in storms are one of your
25 Achilles heels to speak of when it comes to damage that

1 can be caused. These trees are dead, or dying and
2 diseased, and so they are in a weakened state, and they
3 are the ones that are more likely to be knocked over and
4 cause damage to your system.

5 The company's extensive program eradicated a
6 concern there to a great degree. In fact, it's to the
7 point that they indicated that they have accomplished
8 enough to essentially shift the focus from the danger
9 trees to more lateral cutting for overhead hanging work.
10 So that's a significant factor.

11 And then you have your pole inspections. The
12 company has made pole inspections part of their program,
13 and in doing so, they are identifying the weaker poles.
14 Presumably those will be replaced with the stronger
15 poles.

16 So you have got the various storm hardening
17 factors that will play into it specifically that will
18 reduce the costs that could be incurred going forward.

19 **Q You just mentioned Gulf's decision with**
20 **respect to their vegetation management plan that**
21 **currently exists to shorten the lateral cycle as well as**
22 **shift the focus to reduce the emphasis from dangerous**
23 **tree removal. With respect to that specification, did**
24 **you take into consideration, in the preparation of your**
25 **testimony, the vegetation management cycle changes that**

1 were required by the Commission, or approved by the
2 Commission in Docket 100265?

3 A Yes. That's part of it. I mean, they are
4 reducing the cycle on the laterals, therefore, it should
5 improve the system's ability to withstand a storm
6 because you will have less tree interference.

7 Q With respect to your testimony on pages -- on
8 page 28, you only reference Gulf's vegetation management
9 program provided for in Docket Number 060198 and 010949,
10 and in no place in your testimony, to my knowledge, do
11 you reference the vegetation management changes that we
12 just discussed in 100265. Why did you not elect to
13 include those changes to the cycles and to tree trimming
14 which we just discussed in your testimony?

15 A Why I didn't address those is the emphasis on
16 the tree trimming expense is the company, in a previous
17 storm hardening plan that began from 2007 to 2009, asked
18 for a certain level of spending. That level of spending
19 was approximately \$4.7 million a year. The company
20 failed to spend, on average, that \$4.7 million a year
21 over that three-year period.

22 The point of the testimony is, the plan may
23 have a number in it in dollar-wise, but apparently,
24 based upon the company's actual accomplishments over the
25 2007 to 2009 period, it appears that they can accomplish

1 it at a lower dollar level than what was put into the
2 plan. So the focus was, on making the tree trimming
3 adjustment, was that it had to deal with the company
4 wasn't spending what they were allowed to spend for tree
5 trimming.

6 **Q Given the lack of information based on actual**
7 **storms that have impacted the company's service**
8 **territory since the adoption of their vegetation**
9 **management programs as a result of the 2004/2005 storm**
10 **season, how could the company have included this in**
11 **their storm study in the absence of any actual storm**
12 **information?**

13 A Well, the company's storm study is just based
14 upon what conditions exist in previous times when the
15 system was weaker. The upgrades that were proposed as
16 part of the storm hardening, those are known to make
17 poles that can withstand higher winds. They are made to
18 be able to withstand the storms better than the other,
19 the older poles and such.

20 So even though there has been no analysis done
21 to see how much may have impacted because a storm
22 happened yet that would be able to allow them to do
23 that, the fact remains that you can't make an analysis
24 based upon old information when you knew -- know more
25 new and improved conditions exist.

1 So you have to take into consideration that
2 fact, whether it be just adjusting your numbers by some
3 other variable.

4 **Q** I would like you to turn to page 20 of your
5 **testimony.**

6 A I am sorry, I didn't catch that. I heard a
7 cough.

8 **Q** I am sorry. I would like you to turn to page
9 **20 of your testimony.**

10 A 20?

11 **Q** Yes, 20. And beginning --

12 A I am there.

13 **Q** Excellent. Beginning on lines 11 through 13,
14 you reference Gulf's response to OPC Interrogatory
15 Number 210, in which Gulf stated that they did not have
16 any storm data available by ZIP Code. And in your
17 testimony, you state that this means that there is,
18 quote, "no support for the damage values incorporated
19 into the study."

20 Could you explain how the absence of storm
21 data at the ZIP Code level implies that the storm damage
22 study's damage values are unsupported?

23 A The point of that is that the storms are going
24 to hit in certain areas. And, if historically, a storm
25 hits in an area where there wasn't that much property

1 that could be damaged, that's an important factor. If
2 the storm doesn't hit in an area where the -- all the
3 dollars are for the facilities, then that's an important
4 factor. I mean, you have to know, when you are
5 establishing the value of the damages that can occur,
6 whether the probability of the occurrence is there.

7 This was similar to what happened in the
8 Progress Energy case. Their testimony even emphasized,
9 that, oh, we have got all this service territory, and in
10 this certain area there is a lot of dollars involved.
11 And when they were asked, well, what storms have hit in
12 that area. There weren't storms that hit in that area.
13 They hit in the other areas of the company's service
14 territory.

15 So the area of service territory that is more
16 likely to be impacted by a storm is important.

17 **Q On the next page, on page 21, and in**
18 **particular beginning on line 16, you state that you**
19 **believe that Gulf's use of storms applicable to areas**
20 **outside of Gulf's service territory has skewed the**
21 **results of the storm study; is that correct?**

22 A That's correct.

23 **Q How do you believe that this use of storm data**
24 **impacting areas outside of Gulf's territory has skewed**
25 **the results of the study?**

1 A The intensity of different storms and where
2 they hit, again, if they are outside the area and are
3 used to determine what's going to be the damage in
4 Gulf's territory, there is a misconnection. I mean,
5 that storm that hits outside the area of Gulf's service
6 territory may not have any impact on Gulf. But if you
7 are using the intensity of that storm in your analysis,
8 you are using a storm that doesn't apply to Gulf's
9 service territory.

10 So to use something outside that area would be
11 inappropriate, in addition to the fact that these are --
12 you are looking at the thousands of scenarios that the
13 company has utilized, or the company's consultant
14 utilized in developing this storm data when there has
15 been, as Gulf said, a limited number of storms that has
16 actually hit their service territory.

17 **Q Gulf has specified that many storms have not**
18 **directly impacted their service territory or made**
19 **landfall therein, but has, nevertheless, caused severe**
20 **damage to their territory. Doesn't this -- shouldn't**
21 **that be considered in the storm model, even though those**
22 **have not impact-- have not directly made landfall within**
23 **the service territory?**

24 A They can be considered to an extent. But,
25 again, you have to put in -- you have to focus on what's

1 actually impacting the service territory of Gulf.

2 If you were looking at a storm like Irene that
3 hit the east coast, and you are looking at the intensity
4 of that storm and the impact. And if a storm of
5 comparable damage and intensity was used in the study,
6 that's not an appropriate storm to factor into the Gulf
7 study.

8 Again, because you have all these simulated
9 hurricanes that were factored in and they are Category 1
10 through 4 that -- in fact, in FEA 133, it says, the
11 hurricane losses analysis included simulated events,
12 over 4,000 simulated hurricanes of Category 1 through 4
13 that make landfall. Now, 4,000 simulated hurricanes
14 making landfall, that's going to have a significant
15 impact on the study's results.

16 In response to staff 18 to 20, it was
17 indicated that 110 years, only 67 hurricanes have made
18 landfall in the state of Florida. That's a big
19 difference.

20 So I think that the volume of storms and the
21 intensity has to be more focused on what's really
22 impacting the Gulf service territory. And granted, if
23 there is a storm that hits landfall, as some did,
24 outside of the territory that do have an impact, those
25 would have to be considered, but that's the key point.

1 What storms had an impact on Gulf and should be
2 considered.

3 (Discussion off the record.)

4 BY MS. KLANCKE:

5 Q Okay. We are going back on the record now.

6 Okay. Could you please turn to page 22 of
7 your testimony. Are you there?

8 A Yep.

9 Q On lines one through two, you specify that the
10 reserve is for major storms that are not considered
11 extraordinary, is that correct?

12 A That's correct.

13 Q What, in your opinion, constitutes an
14 extraordinary storm?

15 A I think the level of extraordinary storm would
16 be made up of two pieces. One, the level of damage that
17 has occurred. And two, whether the Commission decides
18 that this is the type of storm that should be subject to
19 recovery through a surcharge.

20 Q Is it your opinion that the storm reserve
21 should not be set at a level sufficient to cover any
22 extraordinary storms?

23 A I guess you are going to have to clarify the
24 terminology "any".

25 Q Well, here, you specify that the reserve is

1 for major storms that are not considered extraordinary.
2 And you have clarified that that means, in your opinion,
3 severe damage and whether or not a surcharge could be
4 approved by the Commission.

5 I would like you to just explain to us, or
6 clarify the limits of where you think the storm reserve
7 should be, in that do you think it should be sufficient
8 to cover some storms that result in severe damage and
9 possibly could theoretically be approved for a
10 surcharge, or should it cover none of them?

11 A I guess you could say that it could cover some
12 to an extent, as it did in the past. The Commission
13 basically has indicated in different decisions that the
14 intent of the reserve is not to recover all storms, but
15 certain storms, because of their unusual and
16 extraordinary nature, should be addressed through other
17 means.

18 Therefore, basically following what the
19 Commission has decided in the past is where I am coming
20 from when I talk about extraordinary costs. Those
21 extraordinary costs were the ones that were allowed the
22 recovery through the surcharge.

23 Q You have clarified that you believe that it
24 should cover some extraordinary storms. Can you give us
25 a percentage with respect to a portion of the storm

1 reserve that you -- strike that.

2 Can you provide us how many -- quantify in
3 percentage how many severe storms do you believe the
4 storm accrual should be capable of covering the damage
5 of? 75 percent of those storms?

6 A Not -- let me back up, then. I am not sure if
7 I confused you with my prior explanation.

8 It's going -- the storm reserve is to recover
9 costs that are for normal major storms, okay. Because
10 the company has -- first of all, they have dollars in
11 their overall O&M budget to cover just the small storms,
12 and it's separate from the reserve accrual.

13 The reserve accrual is to catch the major
14 storms. The big storms. The ones that cost, you know,
15 it can vary, maybe two million, three million, five
16 million, 10 million. It will cover those storms. What
17 it isn't designed to do is cover the total cost of
18 significant storms such as Dennis and Ike that occurred.

19 What the company has actually said in their
20 testimony, they are suggesting that this is to mitigate
21 the cost of a surcharge in the future for those type of
22 storms. That's not the intention of, from my
23 understanding, of what past orders were.

24 And so to the extent that -- if a severe
25 storm, as you were using in your terminology there, was

1 a storm of \$5 million, that's the storm that could be
2 charged to the reserve. But to the extent that you have
3 a storm the magnitude of Dennis, that's not a storm that
4 should be charged against the reserve. Although some of
5 the costs may be charged against the reserve, and you
6 use up what's in the reserve and then a surcharge is
7 applied. But that's not your typical storm.

8 So what I am thinking, as being the amount to
9 be charged against the reserve is your more typical
10 storm as opposed to your nontypical storms of the
11 magnitude that we had in 2004 and 2005.

12 Do I have a number? No, there is not a number
13 that I can specifically say. I don't have a percentage
14 to specifically say, because I don't know what the
15 reserve balance would be should another reoccurrence
16 ever happen comparable to Dennis.

17 **Q That's fair enough.**

18 **I would like to turn your attention now to the**
19 **issue of Directors & Officers Liability Insurance. And**
20 **in particular, could you please turn to page 36 of your**
21 **testimony.**

22 **A I am there.**

23 **Q On page 26, line 18, you state that according**
24 **to Gulf's response to OPC's request for production of**
25 **documents number 19, Gulf has included, quote, at least**

1 \$118,767 of expense in account number 925 for Directors
2 & Officers Liability Insurance; is that correct?

3 A That's correct.

4 Q Now, we have analyzed the response, the
5 company's response to POD 19. And if you could turn to
6 that response, it would be helpful for this
7 conversation. It had a series of Excel files. And in
8 particular, I would like you to turn to the file
9 entitled, Gulf Draft Premium Budget 7.02.2010 monthly
10 and FERC allocations, and let me know when you are
11 there.

12 And in particular, there is a series of Excel
13 spreadsheets, and the one delineated for the projected
14 test year of 2012.

15 A Okay. I have POD 19.

16 Q Are you at the page -- there is several pages
17 of Excel spreadsheets by year, the budget insurance
18 estimates by year. Are you at the estimates for the
19 2012 test year?

20 A Yes.

21 Q Okay. On this page, in this response, listed
22 for Directors & Officers Liability Insurance, the
23 budgeted insurance estimates for 2012 for Directors &
24 Officers Liability Insurance, it specifies an amount of
25 122,160. Do you see that?

1 A Yes. My number came from the far right.

2 Q Explain.

3 A Where you see 118,766.75.

4 Q Okay. Your number is 118,767. In here, it's
5 118,766. So you just rounded up the total figure and
6 you didn't include any jurisdictional calculations with
7 respect to that?

8 A No.

9 Q Fair enough. We just wanted to make sure.

10 On page 37 of your testimony, line 18, when
11 discussing the benefits of Directors & Officers
12 Liability Insurance, you state that the cost associated
13 with DOL insurance benefits shareholders first and
14 foremost; is that correct?

15 A That is correct.

16 Q Can you explain what you base this assertion
17 on?

18 A Over the years that I have reviewed Directors
19 & Officers Liability Insurance, I have found that the
20 primary litigant is the shareholder. The shareholder is
21 the one who appoints the directors of the company. The
22 directors, in turn, hire the officers. So what this
23 insurance basically does is it protects the shareholders
24 from their decision on who they appoint as directors
25 and, ultimately, the officers of the company.

1 **Q** Assuming that DOL insurance does primarily
2 benefit the shareholders, as we just discussed, would
3 you agree that Directors & Officers Liability Insurance
4 also provides at least some benefit to the ratepayers?

5 A I agree they provide some benefit, and that's
6 why I only recommended removal of 50 percent.

7 **Q** Could you describe what benefits the
8 ratepayers would receive by the acquisition and
9 retention of Directors & Officers Liability Insurance?

10 A Well, I am going to give you the argument that
11 the companies always present, is that it's required to
12 attract and retain competent individuals.

13 **Q** Do you believe that that is correct, in your
14 opinion?

15 A I believe there is some justification to that.
16 But then when you look at it, you kind of have to
17 wonder, well, if it's required to attract and retain
18 competent individuals, then why is it that those
19 individuals are the ones who are being sued by the
20 people who appointed them in the first place?

21 So that's why I indicate that it's primarily
22 shareholders that are responsible, but there can be some
23 derivative benefit to ratepayers. And that's why I
24 recommend splitting that cost.

25 **Q** Where did you derive that 50 percent splitting

1 **figure from?**

2 A In most cases that I have participated in,
3 where the Commission has made a determination to remove
4 some, I say the majority of them get an allocation of a
5 cost, as opposed to some may have eliminated 100 percent
6 of the cost, but some would split it. And generally the
7 split usually falls in line of a 50-50 split.

8 **Q Is your adoption, through your recommendation**
9 **of splitting this 50-50 allocation, in recognition, in**
10 **part, of the equal benefits derived from the**
11 **shareholders and the ratepayers from Directors &**
12 **Officers Liability Insurance?**

13 A Well, I wouldn't say it's equal, but based
14 upon what the predominant decision has been made when
15 allocating costs, it's been 50-50. So I have just gone
16 with the flow, so to speak, as to continuing the 50-50
17 split.

18 **Q Fair enough.**

19 A I believe that it's more shareholder oriented.
20 And, in fact, in a recent case, I did make a
21 recommendation to allocate 75 percent to shareholders
22 and 25 percent to ratepayers. But this is more
23 consistent with what was done in the Progress Energy
24 case, so this is what I continue to recommend.

25 MS. KLANCKE: Fair enough. Here, let me go

1 off the record for just a moment to confer with
2 staff with respect to this, but -- so I may have a
3 few additional questions, but we will -- just give
4 me a moment and I will be right back.

5 (Brief recess.)

6 MS. KLANCKE: With that, I do not have any
7 additional questions for this witness.

8 EXAMINATION

9 BY MR. MELSON:

10 Q I have got just one or two questions,
11 Mr. Shultz. This is Rick Melson representing Gulf
12 Power.

13 With respect to the errata sheet that you
14 handed out -- or referred to at the beginning of the
15 deposition; the purpose of that, as I understand it, was
16 to correct several errors in your testimony, is that
17 right?

18 A That's correct.

19 Q And isn't it true that each of those errors
20 was first brought to your attention through the rebuttal
21 testimony filed by Gulf Power witnesses?

22 A That is correct.

23 MR. MELSON: That's all I have got. Thank
24 you.

25 MS. KLANCKE: Does -- I know that no other

1 party, to my knowledge, has cross-noticed this
2 deposition. Does anyone present on the phone have
3 any questions for this witness?

4 MR. MCGLOTHLIN: Let me look at a few notes
5 and I will be back to you. We don't have to go off
6 the record.

7 I have no questions.

8 MS. KLANCKE: Okay. With that, I believe this
9 deposition is complete. Thank you everyone.

10 Thank you, Mr. Shultz, in particular.

11 (Whereupon, the deposition was concluded at
12 10:31 a.m., and the witness did not waive reading and
13 signing.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA R. KRICK, Professional Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 4 through 31, are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 30th day of November, 2011.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #DD797877
EXPIRES JULY 13, 2012

ERRATA SHEET

1 I have read the transcript of my deposition, pages 4
2 through 31 and hereby subscribe to same, including any
3 corrections and/or amendments listed below.

4 DATE: _____

HELMUTH SHULTZ

5 (In re: Petition for increase in rates by Gulf Power
6 company, Docket No. 110138-EI)

7 PAGE/LINE	CORRECTION/AMENDMENT	REASON FOR CHANGE
8 _____	_____	_____
9 _____	_____	_____
10 _____	_____	_____
11 _____	_____	_____
12 _____	_____	_____
13 _____	_____	_____
14 _____	_____	_____
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21 _____	_____	_____
22 _____	_____	_____

23 DATE OF DEPOSITION: 11/29/2011

24 REPORTER: DEBBIE KRICK

25

1
2
3 PREMIER REPORTING
4 114 West 5th Avenue
5 Tallahassee, FL 32303
6 (850) 894-0828

7 November 30, 2011

8 TO: Joseph A. McGlothlin, Esq.

9 re: Petition for increase in rates by Gulf Power Company

10 Dear Mr. McGlothlin:

11 Enclosed please find your copy of the deposition of
12 Helmuth Shultz taken on 11/29/11, in the above-styled
13 case.

14 As the witness did not waive reading and signing, I am
15 also attaching the errata sheet as the last page of the
16 transcript and request that your office make the
17 necessary arrangements with your witness to read your
18 copy of the deposition, noting any corrections on the
19 errata sheet, then dating and signing the errata sheet,
20 within 30 days or before commencement of trial,
21 whichever is first.

22 PLEASE FORWARD THE ORIGINAL, SIGNED AND DATED to all
23 counsel of record. If the errata sheet or a request for
24 an extension is not received within 30 days, Counsel may
25 assume that the signature has been waived.

It was a pleasure working with you on this matter.

Sincerely yours,



DEBBIE R. KRICK

Professional Reporter
Enclosures (Errata sheet and transcript.)

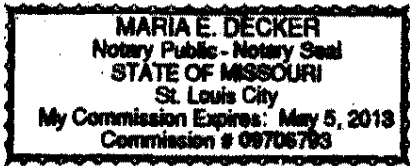
CERTIFICATE OF OATH

STATE OF MISSOURI)
)
COUNTY OF SAINT LOUIS)

SS

I, the undersigned authority, certify that David L. Stowe personally appeared before me at 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017 and was duly sworn by me to tell the truth.

WITNESS my hand and official seal in the City of Chesterfield, County of St. Louis, State of Missouri, this 29th day of November, 2011.



Maria E. Decker

Notary Public
State of Missouri

Personally known X OR produced identification _____.

Type of identification produced _____.