

Dorothy Menasco

From: Williams, Monica A. [MOWILLIA@SOUTHERNCO.COM]
Sent: Wednesday, August 01, 2012 3:11 PM
To: Filings@psc.state.fl.us
Cc: Lee Eng Tan; ken.rubin@fpl.com; jbeasley@ausley.com; jwahlen@ausley.com; ken.hoffman@fpl.com; bkeating@gunster.com; KELLY.JR; rehwickle.charles@leg.state.fl.us; jbrew@bbrslaw.com; regdept@tecoenergy.com; vkaufman@moylelaw.com; jmoyle@moylelaw.com; john.burnett@pgnmail.com; dianne.triplett@pgnmail.com; samuel.miller@tyndall.af.mil; suzannebrownless@comcast.net; paul.lewisjr@pgnmail.com; rmiller@pcsphosphate.com; george@cavros-law.com; Badders, Russell A. (Beggs & Lane); Griffin, Steven R. (Beggs & Lane); 'jas@beggslane.com'
Subject: Gulf Power Company's Objections to SACE's First Request for Production of Documents (Nos. 1-5)
Attachments: Gulf Objections to SACEs 1st Request for PODs.pdf

- A. s/Susan D. Ritenour
Gulf Power Company
One Energy Place
Pensacola FL 32520
850.444.6231
sdriteno@southernco.com
- B. Docket No. 120002-EG
- C. Gulf Power Company
- D. Document consists of 7 pages
- E. The attached document is Gulf Power Company's Objections to SACE's First Request for Production of Documents (Nos. 1-5).

Monica Williams

Gulf Power Company • Corporate Secretary/Treasury
 One Energy Place • Pensacola, FL 32520-0601
 Phone: 850.444.6254 • Fax: 850.444.6026

Stay connected with Gulf Power



DOCUMENT NUMBER-DATE

05182 AUG-1 2012

FPSC-COMMISSION CLERK

Susan D. Ritenour
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and Regulatory Manager

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August 1, 2012

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0870

RE: Docket No. 120002-EG

Dear Ms. Cole:

Attached for electronic filing are Gulf Power Company's Objections to SACE's First Request for Production of Documents (Nos. 1-5) in the above referenced docket.

Sincerely,

A handwritten signature in cursive script that reads "Susan D. Ritenour".

mw

Enclosures

cc: Beggs & Lane
Jeffrey A. Stone, Esquire

DOCUMENT NUMBER - DATE

05182 AUG-1 2012

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Conservation cost recovery
clause.

Docket No. 120002-EG
Dated: August 1, 2012

**GULF POWER COMPANY'S OBJECTIONS TO SACE'S FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS (NOS. 1-5)**

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.350 of the Florida Rules of Civil Procedure, and the Order Establishing Procedure in this matter, Gulf Power Company ("Gulf") hereby serves its objections to the Southern Alliance for Clean Energy's ("SACE") First Request for Production of Documents (Nos. 1-5, and respectively, and together "the Requests") and states as follows:

GENERAL OBJECTIONS

Gulf objects to each request for production to the extent that it seeks information spanning the past five years. The purpose of this docket is to establish conservation cost recovery factors for year 2013 based upon true-up costs incurred by Gulf in 2011, actual/estimated costs for 2012 and projected costs for 2013. Data predating 2011 is not relevant to any issues presented in this docket and is not reasonably calculated to lead to the discovery of admissible evidence. Consequently, Gulf will not provide data predating 2011.

With respect to any "Definitions" and "Instructions" in SACE's Requests for Production, Gulf objects to any definitions or instructions that are inconsistent with Gulf's discovery obligations under applicable rules. If some question arises as to Gulf's discovery obligations, Gulf will comply with applicable rules and not with any of SACE's definitions that are inconsistent with those rules. Gulf also objects to any request that calls for documents to be produced from the files of Gulf's counsel in this matter because such documents are privileged and are otherwise not within the scope of discovery under the applicable rules and law. Furthermore, Gulf objects to any definition or request that seeks to encompass persons or entities

other than Gulf who are not parties to this action and thus are not subject to discovery. Gulf also objects to SACE's request that Gulf provide documents in a specific electronic format. Gulf will produce electronic data in its native format. Non-electronic documents will be scanned and produced in PDF format. Furthermore, Gulf objects to any request that calls for Gulf to create documents that it otherwise does not have because there is no such requirement under the applicable rules and law.

Additionally, Gulf generally objects to SACE's Requests to the extent that they call for documents protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law. Gulf will provide a privilege log in accordance with the applicable law or as may be agreed to by the parties to the extent, if at all, that any document request calls for the production of privileged or protected documents.

Further, in certain circumstances, Gulf may determine upon investigation and analysis that documents responsive to certain requests to which objections are not otherwise asserted are confidential and proprietary and should be produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to provide such information in response to such a request, Gulf is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement, protective order, or the procedures otherwise provided by law or in the Order Establishing Procedure. Gulf hereby asserts its right to require such protection of any and all information that may qualify for protection under the Florida Rules of Civil Procedure, the Order Establishing Procedure, and all other applicable statutes, rules and legal principles.

Gulf generally objects to SACE's Requests for Production to the extent that they call for the production of "all" documents of any nature, including, every copy of every document

responsive to the requests. Gulf will make a good faith, reasonably diligent attempt to identify and obtain responsive documents when no objection has been asserted to the production of such documents, but it is not practicable or even possible to identify, obtain, and produce “all” documents. In addition, Gulf reserves the right to supplement any of its responses to SACE’s Request for Production if Gulf cannot produce documents immediately due to their magnitude and the work required to aggregate them, or if Gulf later discovers additional responsive documents in the course of this proceeding.

By making these general objections at this time, Gulf does not waive or relinquish its right to assert additional general and specific objections to SACE’s discovery at the time Gulf’s response is due under the Florida Rules of Civil Procedure and the Order Establishing Procedure. Gulf provides these general objections at this time to comply with the intent of the Order Establishing Procedure to reduce the delay in identifying and resolving any potential discovery disputes.

SPECIFIC OBJECTIONS

Request 5: Gulf objects to this request on the ground that it seeks information which is not relevant to any issue in this docket and is not calculated to lead to the discovery of admissible evidence. This request seeks information concerning differences between Gulf’s Commission approved portfolio of DSM programs and other alternative portfolios, including those of other utilities. These are matters which relate to program design and program efficiency. As noted in Order No. PSC-11-0507-PHO-EG, “this docket is limited to cost recovery of Commission approved conservation programs.” *Id.* at 14. To the extent that SACE desires to explore such subjects, it must attempt to do so in the context of the individual demand-side management plan dockets which specifically address program design. *Id.* See also, Prehearing Transcript dated 10/20/2011 (Document No. 07767-11) at pages 27-36. Notwithstanding this objection, Gulf

Power notes that it is not in possession, custody or control of any documents which are responsive to this request.

Respectfully submitted this 1st day of August, 2012.

/s/ Steven R. Griffin _____

JEFFREY A. STONE

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 1st day of August, 2012 to all parties of record as indicated below.

<p>Lee Eng Tan, Esq. Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 Ltan@psc.state.fl.us</p> <p>James D. Beasley, Esq. J. Jeffrey Wahlen, Esq. Ausley & McMullen Law Firm P.O. Box 391 Tallahassee, FL 32302 jbeasley@ausley.com jwahlen@ausley.com</p> <p>J.R. Kelly/Charles Rehwinkel Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, #812 Tallahassee, FL 32399 Kelly.jr@leg.state.fl.us Rehwinkel.charles@leg.state.fl.us</p> <p>Ms. Paula K. Brown Tampa Electric Company P.O. Box 111 Tampa, FL 33601 regdept@tecoenergy.com</p> <p>Moyle Law Firm Vicki Gordon Kaufman/Jon C. Moyle, Jr. 118 North Gadsden Street Tallahassee, FL 32301 vkaufman@moylelaw.com jmoyle@moylelaw.com</p>	<p>Kenneth M. Rubin, Esq. Florida Power & Light Co. 700 Universe Boulevard Juno Beach, FL 33408 Ken.Rubin@fpl.com</p> <p>Ken Hoffman Florida Power & Light 215 S. Monroe Street, Ste. 810 Tallahassee, FL 32301-1859 Ken.hoffman@fpl.com</p> <p>Beth Keating Gunster, Yoakley & Stewart, P.A. 215 S. Monroe St., Ste 618 Tallahassee, FL 32301 bkeating@gunster.com</p> <p>Cheryl Martin & Aleida Socarras Florida Public Utilities Company P.O. Box 3395 West Palm Beach, FL 33402-3395</p> <p>James W. Brew, Esq. c/o Brickfield Law Firm 1025 Thomas Jefferson St., NW 8th Floor, West Tower Washington, DC 20007 jbrew@bbrslaw.com</p> <p>John T. Burnett, Esq. Dianne M. Triplett, Esq. Progress Energy Service Company, LLC Post Office Box 14042 St. Petersburg, FL 33733-4042 John.Burnett@pgnmail.com Dianne.Triplett@pgnmail.com</p>
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