

Eric Fryson

From: Mary Davis [MD@beggslane.com]
Sent: Thursday, September 20, 2012 3:01 PM
To: Filings@psc.state.fl.us
Cc: bkeating@gunster.com; Rehwinkel.Charles@leg.state.fl.us; cherylmartin@fpuc.com; Dianne Triplett (Dianne.Triplett@pgnmail.com); george@cavros-law.com; kelly.jr@leg.state.fl.us; jbeasley@ausley.com; jbrew@bbrslaw.com; jwahlen@ausley.com; john.burnett@pgnmail.com; jmoyle@moylslaw.com; Ken.Hoffman@fpl.com; ken.rubin@fpl.com; Lee Eng Tan; paul.lewisjr@pgnmail.com; Regdept@tecoenergy.com; Bruce@flaSEIA.org; RMiller@pcsphosphate.com; samuel.miller@tyndall.af.mil; suzannebrownless@comcast.net; vkaufman@moylslaw.com; sdriteno@southernco.com; Harris, Keith L.; rlmcgee@southernco.com
Subject: E-filing - Docket 120002-EG
Attachments: GP Objections to SACE 2nd POD.pdf

(a) Person responsible for this electronic filing:

Steven R. Griffin
 Beggs & Lane
 P.O. Box 12950
 501 Commendancia Street
 Pensacola, FL 32576-2950
 (850)432-2451
srg@beggslane.com

(b) Docket 120002-EG
 In Re: Energy Conservation Cost Recovery Clause

(c) Document being filed on behalf of Gulf Power Company

(d) There are 6 pages to Gulf's Objections

(e) The document attached for electronic filing is Gulf Power Company's Objections to SACE's Second Request for Production of Documents (No.6)

Mary E. Davis
 Legal Assistant to Jeffrey A. Stone,
 Russell A. Badders and Steven R. Griffin
 Beggs & Lane
 501 Commendancia Street
 Pensacola, FL 32502
 (850)432-2451
 Fax (850)469-3331
md@beggslane.com

CONFIDENTIALITY NOTICE: This e-mail and any files transmitted with it are confidential and are intended solely for the use and benefit of the individual or entity to which they are addressed. This communication may contain material protected by the attorney-client privilege. If you are not the intended recipient or the person responsible for delivering the e-mail to the intended recipient, be advised that you have received this e-mail in error, and that any use, dissemination, forwarding, printing, or copying of e-mail is strictly prohibited. If you received this e-mail in error, please immediately notify Beggs & Lane, RLLP by return e-mail or at telephone number (850)432-2451 ext. 4221.

DOCUMENT NUMBER-DATE

06344 SEP 20 2

9/20/2012

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Conservation cost recovery
clause.

Docket No. 120002-EG
Dated: September 20, 2012

**GULF POWER COMPANY'S OBJECTIONS TO SACE'S SECOND REQUEST
FOR PRODUCTION OF DOCUMENTS (NO. 6)**

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") Second Request for Production of Documents (No. 6), and respectively, and together "the Requests") and states as follows:

GENERAL OBJECTIONS

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 6: Gulf objects to this request on the grounds that that it is vague, overbroad and seeks information which is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, this request directs Gulf to produce "all" documents that have been identified as created during the review of each program's goal achievement. As noted in Gulf's objection to SACE's Second Set of Interrogatories, No. 18(b), Gulf reviews each program's achievements on a continual basis. Literal compliance with this request would result in identification of hundreds if not thousands of documents created in 2011 and 2012 --including customer rebate applications, contractor invoices, routine correspondence with customers/vendors, etc.-- which have no relevance to Gulf's monitoring goal achievement. Notwithstanding the foregoing objection, Gulf will produce documents which are reviewed and relied upon by Gulf management in monitoring each program's goal achievement.

Respectfully submitted this 20th day of September, 2012.

/s/ Steven R. Griffin

JEFFREY A. STONE

Florida Bar No. 325953

RUSSELL A. BADDERS

Florida Bar No. 007455

STEVEN R. GRIFFIN

Florida Bar No. 0627569

Beggs & Lane

P. O. Box 12950

Pensacola, FL 32591

(850) 432-2451

Attorneys for Gulf Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 20th day of September, 2012 to all parties of record as indicated below.

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

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

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

Ms. Paula K. Brown
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601
regdept@tecoenergy.com

Moyle Law Firm
Vicki Gordon Kaufman/Jon C. Moyle, Jr.
118 North Gadsden Street
Tallahassee, FL 32301
vkaufman@moylelaw.com
jmoyle@moylelaw.com

Kenneth M. Rubin, Esq.
Florida Power & Light Co.
700 Universe Boulevard
Juno Beach, FL 33408
Ken.Rubin@fpl.com

Ken Hoffman
Florida Power & Light
215 S. Monroe Street, Ste. 810
Tallahassee, FL 32301-1859
Ken.hoffman@fpl.com

Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 S. Monroe St., Ste 618
Tallahassee, FL 32301
bkeating@gunster.com

Cheryl Martin & Aleida Socarras
Florida Public Utilities Company
P.O. Box 3395
West Palm Beach, FL 33402-3395
cherylmartin@fpuc.com

James W. Brew, Esq.
c/o Brickfield Law Firm
1025 Thomas Jefferson St., NW
8th Floor, West Tower
Washington, DC 20007
jbrew@bbrslaw.com

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

Captain Samuel Miller
Federal Executive Agencies
USAF/AFLOA/JACL/ULFSC
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319
samuel.miller@tyndall.af.mil

Suzanne Brownless, Esq.
1301 Miccosukee Road
Tallahassee, FL 32308
suzannebrownless@comcast.net

Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Suite 800
Tallahassee, FL 32301
Email: Paul.lewisjr@pgnmail.com

Randy Miller
White Springs Agriculture Chemicals, Inc.
P.O. Box 300
15843 Southeast 78th Street
White Springs, FL 32096
RMiller@pcsphosphate.com

Bruce Kershner
Florida Solar Energy Industries Association
231 West Bay Ave.
Longwood, FL 32750-4125
bruce@flaseia.org

Southern Alliance for Clean Energy
c/o George Cavros, Esq.
120 East Oakland Park Blvd., Suite 105
Fort Lauderdale, FL 33334
george@cavros-law.com

/s/ Steven R. Griffin
Steven R. Griffin
Florida Bar No. 0627569