

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 130140-EI

PETITION FOR RATE INCREASE
BY GULF POWER COMPANY.

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PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONER
PARTICIPATING: COMMISSIONER LISA POLAK EDGAR
PREHEARING OFFICER

DATE: Monday, November 25, 2013

TIME: Commenced at 1:30 p.m.
Concluded at 1:41 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, CRR, RPR
Official FPSC Reporter
(850) 413-6734

1 APPEARANCES:

2 JEFFREY A. STONE, RUSSELL A. BADDERS, STEVEN
3 R. GRIFFIN, AND RUSSELL F. VAN SICKLE, ESQUIRES, Beggs &
4 Lane, Post Office Box 12950, Pensacola, Florida
5 32591-2950; and CHARLES A. GUYTON, ESQUIRE, Gunster Law
6 Firm, 215 South Monroe, Suite 601, Tallahassee, Florida
7 32301-1804; and RICHARD D. MELSON, ESQUIRE, 705 Piedmont
8 Drive, Tallahassee, Florida 32312, appearing on behalf
9 of Gulf Power Company.

10 JON C. MOYLE, JR., ESQUIRE, Moyle Law Firm,
11 P.A., 118 North Gadsden Street, Tallahassee, Florida
12 32301, appearing on behalf of the Florida Industrial
13 Power Users Group.

14 ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III,
15 ESQUIRES, Gardner Law Firm, 1300 Thomaswood Drive,
16 Tallahassee, Florida 32308, appearing on behalf of
17 Wal-Mart Stores East, LP, and Sam's East, Inc.

18 MAJOR CHRISTOPHER THOMPSON, Federal Executive
19 Agencies, AFLOA/JACE-ULFSC, 139 Barnes Drive, Suite 1,
20 Tyndall Air Force Base, Florida 32403-5319, appearing on
21 behalf of the Federal Executive Agencies.

1 APPEARANCES (Continued):

2 CHARLES REHWINKEL, JOSEPH A. MCGLOTHLIN,
3 ESQUIRES, and J.R. KELLY, PUBLIC COUNSEL, Office of
4 Public Counsel, c/o The Florida Legislature, 111 West
5 Madison Street, Room 812, Tallahassee, Florida
6 32393-1400, appearing on behalf of the Citizens of the
7 State of Florida.

8 SUZANNE BROWNLESS, MARTHA BARRERA and KELLEY
9 CORBARI, ESQUIRES, FPSC General Counsel's Office, 2540
10 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
11 appearing on behalf of the Florida Public Service
12 Commission Staff.

13 MARY ANNE HELTON, Deputy General Counsel,
14 Florida Public Service Commission, 2540 Shumard Oak
15 Boulevard, Tallahassee, Florida 32399-0850, Advisor to
16 the Florida Public Service Commission.

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P R O C E E D I N G S

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2 **COMMISSIONER EDGAR:** Welcome, everyone. We
3 will go ahead and get started. So I call this
4 Prehearing Conference to order. I left my glasses at
5 home, so I am going to be squinting at all of you. I
6 apologize for that. You look very blurry today to me.

7 I recognize that we are in a somewhat
8 different procedural posture, so we will walk our way
9 through that. But let's go ahead and get started, and I
10 will ask our staff to please read the notice.

11 **MS. BROWNLESS:** Yes, ma'am.

12 Pursuant to notice, the Florida Public Service
13 Commission announces the Prehearing Conference in Docket
14 Number 130140-EI, petition for rate increase by Gulf
15 Power Company. The purpose of this Prehearing
16 Conference is to simplify the issues; identify the
17 positions of the parties on the issues; consider the
18 possibility of obtaining admissions of facts and of
19 documents, which will avoid unnecessary proof; identify
20 exhibits; establish an order of witnesses; and consider
21 such other matters as may aid in the disposition of this
22 action.

23 **COMMISSIONER EDGAR:** Thank you. And for the
24 record, let's go ahead and take appearances beginning at
25 my left.

1 **MR. STONE:** Thank you, Commissioner Edgar. My
2 name is Jeffery A. Stone of the law firm Beggs & Lane.
3 And I will be entering an appearance also for my
4 partners Russell A. Badders, Steven R. Griffin, and
5 Russell F. Van Sickle. Also entering an appearance on
6 behalf of Gulf Power Company for Charles A. Guyton and
7 Richard D. Melson, attorneys who are not affiliated with
8 Beggs & Lane but who have been actively participants --
9 active participants in representing Gulf in this
10 proceeding.

11 **COMMISSIONER EDGAR:** Thank you.

12 **MR. STONE:** And -- thank you.

13 **COMMISSIONER EDGAR:** Is there more? I didn't
14 mean to cut you off.

15 **MR. STONE:** No. I'm sorry. That was it.

16 **COMMISSIONER EDGAR:** Okay. Thank you.

17 **MR. MOYLE:** Jon Moyle with the Moyle Law Firm
18 appearing on behalf of the Florida Industrial Power
19 Users Group, commonly known as FIPUG.

20 **MR. WRIGHT:** Robert Scheffel Wright and John
21 T. LaVia, III, of the Gardner, Bist, Wiener Law Firm
22 representing Wal-Mart Stores and Sam's East,
23 Incorporated.

24 **COMMISSIONER EDGAR:** Thank you.

25 **MAJOR THOMPSON:** Major Chris Thompson

1 representing the FEA, Federal Executive Agencies.

2 **COMMISSIONER EDGAR:** Thank you, Major.

3 **MR. REHWINKEL:** Charles Rehwinkel, Joe
4 McGlothlin, and J. R. Kelly on behalf of the citizens of
5 Florida.

6 **COMMISSIONER EDGAR:** Thank you.

7 And our staff.

8 **MS. BROWNLESS:** Suzanne Brownless, Martha
9 Barrera, and Kelley Corbari on behalf of the Commission
10 staff.

11 **COMMISSIONER EDGAR:** Thank you.

12 **MS. HELTON:** And Mary Anne Helton, advisor to
13 the Commission.

14 **COMMISSIONER EDGAR:** Thank you very much.

15 Okay. Let me first start off by
16 congratulating all of the parties on your negotiation
17 efforts. And then let me kind of walk us through
18 where -- or my understanding of where we are in this
19 docket, and then I'll look to staff and look to each of
20 the parties.

21 Okay. It is my understanding that on
22 November 15th the parties jointly notified the
23 Commission that a settlement had been reached between
24 the parties. On November 18th the parties filed a joint
25 motion to hold discovery in abeyance, among other

1 things.

2 On November 22nd, approximately 8:00 a.m.,
3 which was Friday, parties filed a joint motion for
4 approval of stipulation and settlement agreement, and
5 the proposed agreement was signed by all parties.

6 As you all are aware, this Prehearing
7 Conference had previously been noticed in anticipation
8 of the evidentiary hearing that had been scheduled to
9 begin on December 9th, two weeks from today.

10 Okay. So procedurally where we are, on
11 Tuesday, November 20th, working with our legal staff, I
12 gave an oral ruling to abate discovery. Orders that are
13 addressing all pending requests for confidential
14 classification and temporary protective orders have been
15 signed and should be issued today, if they have not been
16 already.

17 And earlier today, pursuant to Section
18 120.525, notice was issued that our Chairman has added
19 consideration of the proposed settlement and stipulation
20 to the agenda for the full Commission agenda meeting
21 conference on December 3rd.

22 So now let me look to our legal staff. Have I
23 missed anything that we need to point out, or is there
24 anything that I misstated?

25 **MS. BROWNLESS:** No, ma'am. That's, I think,

1 procedurally where we are.

2 **COMMISSIONER EDGAR:** Okay. So with that, the
3 Commission will consider the proposed settlement and
4 stipulation on December 3rd. So that is where we stand
5 as of now.

6 Let me look to the parties and see if there's
7 anything else that you want to bring to my attention,
8 and then we could walk through sort of future steps
9 after that.

10 Gulf.

11 **MR. STONE:** Nothing on behalf of Gulf,
12 Commissioner, nothing in addition to what you've stated.

13 **COMMISSIONER EDGAR:** Mr. Moyle.

14 **MR. MOYLE:** You're probably going to get to
15 this as you walk through, but I assume that we have some
16 remarks generally about the settlement that the Agenda
17 Conference would be the appropriate time to make those,
18 I would assume.

19 **COMMISSIONER EDGAR:** Okay. Okay. Let me come
20 back to you for that.

21 **MR. WRIGHT:** We have nothing to add,
22 Commissioner. Thank you very much.

23 **COMMISSIONER EDGAR:** Okay.

24 **MAJOR THOMPSON:** Nothing from FEA.

25 **COMMISSIONER EDGAR:** Okay.

1 **MR. REHWINKEL:** Commissioner, the only thing
2 the Public Counsel asks is -- I believe you mentioned in
3 your recitation of the status that you had issued an
4 oral order on discovery.

5 **COMMISSIONER EDGAR:** Yes, sir.

6 **MR. REHWINKEL:** Does that cover both written
7 and deposition discovery? We have -- there's some
8 discovery pending, and we were just -- we think it's all
9 been abated, but we're not, we're not certain.

10 **COMMISSIONER EDGAR:** It covers all discovery.

11 **MR. REHWINKEL:** Okay.

12 **COMMISSIONER EDGAR:** Which is in abeyance
13 until December 4th.

14 **MR. REHWINKEL:** Thank you.

15 **COMMISSIONER EDGAR:** Does that work?

16 **MR. REHWINKEL:** Yes.

17 **COMMISSIONER EDGAR:** Okay. Good.

18 Staff, anything further on that?

19 **MS. BROWNLESS:** No, ma'am. No.

20 **COMMISSIONER EDGAR:** Okay. Then again walking
21 through where, where we are, I understand that our staff
22 will be available after this Prehearing Conference,
23 we're not done yet, but after this Prehearing
24 Conference, and that they may have some questions that
25 they would like to discuss with the parties just to go

1 over some off the technical, legal, et cetera. I would
2 ask that all parties please meet with our staff when we
3 are concluded here. That will be, I think, an efficient
4 way to answer the questions that they have so that our
5 staff can continue to do what they need to do to help
6 the Commission members be ready for consideration of
7 this matter on December 3rd. When we are done here,
8 this Prehearing Conference will be continued until
9 December 4th, if needed.

10 So if the settlement agreement is not approved
11 on December 3rd, then we will meet back here, Prehearing
12 Conference to be continued to take up all matters to be
13 ready to go into hearing during the time period of the
14 dates that have already been set and noticed for hearing
15 December 9th through 13th.

16 **MS. BROWNLESS:** Yes. May I?

17 **COMMISSIONER EDGAR:** Yes. Please, ma'am.

18 **MS. BROWNLESS:** I would just add to that that
19 if the Prehearing Conference is continued until
20 December 3rd -- December 4th, it would commence at 1:30
21 on the 4th if we have to have --

22 **COMMISSIONER EDGAR:** Who decided that?

23 **MS. BROWNLESS:** I believe the Chairman.

24 **COMMISSIONER EDGAR:** He already set a time for
25 the Prehearing Conference?

1 **MS. BROWNLESS:** I believe so, but --

2 **COMMISSIONER EDGAR:** Okay. Well, that's news
3 to me. I thought we had talked about 30 minutes after
4 IA. So that is a new piece of information for me. So
5 apparently I am out of date. What I would ask that
6 y'all do is check the notice, and we will have it, if
7 needed, whenever it is scheduled to be had. But it will
8 be on December 4th. Does that work?

9 **MS. BROWNLESS:** Yes, ma'am.

10 **COMMISSIONER EDGAR:** Okay. Thank you.

11 Okay. Let me just make sure. All right.
12 I'll go back over my notes, see if there's anything else
13 that we haven't covered. But this would be an
14 appropriate time for some general comments from the
15 parties about where we stand and about the document that
16 the Commission will be considering. So let me start to
17 my left.

18 **MR. STONE:** Commissioner, the -- as you
19 pointed out, we were able to reach a definitive written
20 agreement that was filed of record with the Commission
21 approximately 8:00 a.m. on Friday, and we stand ready to
22 discuss the contents of that document. We, at this
23 point we don't have anything to speak about here on the
24 record, but we certainly would be available to answer
25 any questions.

1 **COMMISSIONER EDGAR:** Thank you. And I
2 appreciate you making you and your team available to our
3 staff after this, and for whatever information they need
4 again to do their work to help us be prepared. So thank
5 you for that.

6 Mr. Moyle.

7 **MR. MOYLE:** And I would refrain from providing
8 comments today, with the anticipation that as previous
9 settlements as we've done when we've presented it to the
10 Commission, we'll have the opportunity to address the
11 full Commission when we have the meeting, I guess, on
12 the 3rd; is that right?

13 **COMMISSIONER EDGAR:** That would, of course, be
14 up to the presiding officer at the time, our Chairman.
15 However, that would be my expectation.

16 **MR. MOYLE:** Okay. Well, out of an abundance
17 of caution I would like on the record to say it's a fair
18 deal and FIPUG supports it 100%, if I don't get the
19 opportunity to make more extensive comments in a week or
20 so. Thank you.

21 **COMMISSIONER EDGAR:** Thank you.

22 **MR. WRIGHT:** Thank you, Commissioner. We
23 support the settlement, and we look forward to
24 participating in answering any questions from the
25 Commissioners on December 3. Thanks again.

1 **COMMISSIONER EDGAR:** Thank you.

2 **MAJOR THOMPSON:** FEA is in agreement with the
3 other Intervenors.

4 **MR. REHWINKEL:** We have nothing further to
5 add. Thank you.

6 **COMMISSIONER EDGAR:** Okay. This almost seems
7 too smooth, not that I'm complaining. Please know that.

8 So let me again ask my staff, is there
9 anything that we have not covered that it would be
10 helpful to cover while we are all gathered here
11 together?

12 **MS. BROWNLESS:** No, ma'am. I think that's
13 sufficient.

14 **COMMISSIONER EDGAR:** Okay. Well, then, again,
15 thank you all on behalf of my office for the
16 negotiations and the discussions that you had. I look
17 forward to looking into the details more over the next
18 few days and to the discussion that we will have at the
19 noticed Commission meeting on December 3rd. Please work
20 with our staff. I know you will. And everybody have a
21 wonderful afternoon. This hearing is concluded for
22 today.

23 (Proceeding concluded at 1:41 p.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3
4 I, LINDA BOLES, CRR, RPR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.

18 DATED THIS 26th day of November,
19 2013.

20
21 Linda Boles

22 LINDA BOLES, CRR, RPR
23 FPSC Official Commission Reporters
24 (850) 413-6734
25