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1917-1981

December 22, 1989

Mr. Steve Tribble, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, FL 32399-0870

Re: Amendment of Rule 25-14.003, F.A.C., Corporate Income  
Tax Expense Adjustment: Midpoint and Additional  
Changes - Docket No. 891278-EI

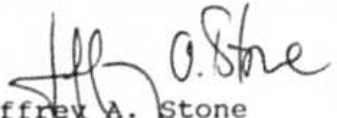
Dear Mr. Tribble:

Enclosed are an original and fifteen copies of Gulf Power  
Company's Request for Hearing and Comments for official filing in  
the docket referred to above.

Please acknowledge receipt and filing of the enclosed  
material by stamping the duplicate copy of this letter and  
returning same to the attention of the undersigned.


Thank you for your assistance in this matter.

Very truly yours,

  
Jeffrey A. Stone  
For the Firm

- ACK \_\_\_\_\_
- AFA 3
- APP 1 w/m
- CAF \_\_\_\_\_
- CMH \_\_\_\_\_
- CTR \_\_\_\_\_
- ESS \_\_\_\_\_
- LES \_\_\_\_\_
- LIN JAS/tlg
- Enclosures
- \_\_\_\_\_
- \_\_\_\_\_

RECEIVED & FILED

  
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
12232 DEC 22 1989  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Amendment of Rule 25-14.003, )  
F.A.C., Corporate Income Tax Expense ) DOCKET NO. 891278-PU  
Adjustment: Midpoint and Additional )  
Changes. ) Date Filed: 12/22/89  
\_\_\_\_\_)

REQUEST FOR HEARING AND COMMENTS  
OF GULF POWER

Comes now Gulf Power Company, by and through its undersigned counsel, and pursuant to Order No. 22237 in the above docket, hereby submits this request for hearing and the following comments:

Recently proposed Rule 25-14.003 F.A.C., establishes policy and procedures for adjusting utility income tax expense when there are revisions in federal or state corporate income tax rates. The proposal to revise this rule in Order No. 22237 dated November 29, 1989 would calculate the rate of return (ROR) of a utility, for the purposes of the income tax expense adjustment, by assigning a zero cost to the company's investment tax credits. Such a revision would violate the normalization provisions of Internal Revenue Code Section 46 and Internal Revenue Regulation Section 1.46-6, thereby subjecting the utility to the recapture of all non-amortized investment tax credits (ITC). Accordingly, Gulf Power Company recommends that such revision not be implemented, or in the alternative that a private letter ruling be requested from the Internal Revenue Service prior to any company be subjected to the provisions of the proposed rule.

In essence, Code Section 46(f)(2) and Regulation Section

DOCUMENT NUMBER-DATE  
1.46-6 outline three ratemaking accounting methods that, if  
12232 DEC 22 1989

adopted, would create a normalization violation preventing the subject utility from claiming investment tax credits. These accounting methods are: (1) reducing the taxpayer's cost of service for ratemaking purposes by more than a ratable portion of the ITC, (2) reducing the taxpayer's rate base by any portion of the ITC, or (3) adopting any method of accounting that reduces cost of capital or rate base in an indirect manner. Gulf is concerned that the proposed revision to the income tax expense adjustment policy would violate the second provision.

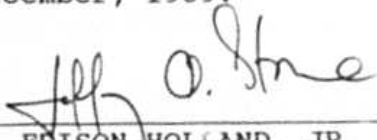
Regulation 1.46-6(b)(3)(ii)(A) states, "In determining whether, or to what extent, a credit has been used to reduce rate base, reference shall be made to any accounting treatment that affects rate base. In addition, in those cases in which the rate of return is based on the taxpayer's cost of capital, reference shall be made to any accounting treatment that reduces the permitted return on investment by treating the credit less favorably than the capital that would have been provided if the credit were unavailable. Thus, the credit may not be assigned a "cost of capital" rate that is less than the overall cost of capital rate, determined on the basis of a weighted average, for the capital that would have been provided if the credit were unavailable."

Because the proposed revision to Rule 25-14.003 treats ITC as having a zero cost in computing ROR (as opposed to assigning the overall cost of capital), which in turn directly affects the amount of rates that will be collected from

customers, an apparent normalization violation would occur under the above quoted regulation. The results of such a violation would be that the unamortized credits of the utility would have to be recaptured creating a significant financial cost. As a result of such consequences, Gulf recommends that the proposed revision to Rule 25-14.003 not be adopted or in the alternative that its adoption be predicated on the receipt of a ruling from the Internal Revenue Service that the new procedure does not create a normalization violation.

WHEREFORE, Gulf Power Company hereby requests a hearing on the proposed changes of Rule 25-14.003 F.A.C. set forth in Order No. 22237 and that the provision in said proposed rule concerning the investment tax credits be revised to conform with the comments set forth above.

Dated this 22nd day of December, 1989.

  
\_\_\_\_\_  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Amendment of Rule 25-14.003, )  
F.A.C., Corporate Income Tax Expense ) DOCKET NO. 891278-PU  
Adjustment: Midpoint and Additional )  
Changes. )  
\_\_\_\_\_ )

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been furnished this 22 day of December, 1989 by U.S. Mail or hand delivery to the following:

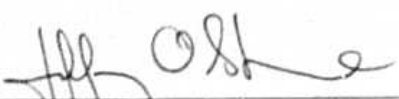
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