

**ORIGINAL
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BEFORE THE PUBLIC SERVICE COMMISSION

PREPARED DIRECT TESTIMONY
OF
ROBERTA S. BASS

~~DOCKET NO. 891345-EI~~

PETITION FOR RATE INCREASE
GULF POWER COMPANY

FOR

THE FLORIDA PUBLIC SERVICE COMMISSION

APRIL 27, 1990

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FPSC-RECORDS/REPORTING

1 DIRECT TESTIMONY - ROBERTA S. BASS

2 Q Please state your name and business address.

3 A My name is Roberta S. Bass. My business address is 101 E.
4 Gaines Street, Tallahassee, Florida 32301.

5

6 Q By whom are you employed and in what capacity?

7 A I am employed as an Economic Analyst in the Fuel
8 Procurement Bureau of the Division of Electric and Gas of
9 the Florida Public Service Commission.

10

11 Q What is your educational and professional background?

12 A I have a Bachelor of Science degree in Finance from
13 Florida State University. I have been employed with the
14 Florida Public Service Commission since April 1983.

15

16 Q What is the purpose of your testimony?

17 A The purpose of my testimony is to discuss circumstances
18 which may cast a cloud over the numbers submitted by Gulf
19 Power Company (Gulf) which support its request for a rate
20 increase. Essentially, these circumstances are the result
21 of allegations made, and events that have occurred, since
22 the Company's last rate case in 1984.

23

24 Q How have you been made aware of these allegations and
25 events?

1 A There has been extensive news coverage about Gulf over the
2 last couple of years. In addition, Staff has conducted
3 depositions, propounded interrogatories, obtained court
4 pleadings and performed an audit of the Company.

5

6 Q Please describe the allegations and events previously
7 mentioned.

8 A To facilitate understanding, I will list the allegations
9 and events and then describe them individually. They are
10 as follows:

11

- 12 1. Inventory shortages of potentially \$2,000,000;
- 13 2. Theft of inventory by Kyle Croft;
- 14 3. A kick-back to a Gulf employee from a contract vendor;
- 15 4. Gulf's continued business dealings with vendors once
 involved in schemes to defraud Gulf;
- 16 5. Potential conflicts of interest;
- 17 6. Recommended dismissal of Jacob Horton; and
- 18 7. Atlanta Federal Grand Jury.

19 Q Please describe the possible inventory shortage of
20 \$2,000,000.

21 A During a warehouse audit in 1982, a net loss of \$10,000 of
22 inventory was found. According to Gulf executives, there
23 were problems with the inventory audit because certain
24 items were not tagged or identified and the warehouse
25 generally was in a sloppy condition. In 1983, another

1 audit was initiated and found a net shortage of \$8,462 of
2 inventory in the warehouse. Carolyn Sirmon, a warehouse
3 supervisor, testified in the Richard Leeper perjury trial
4 and in a staff-conducted deposition that the 1983 audit
5 was inaccurate because Gulf Power had concealed an
6 enormous shortage by counting obsolete and damaged items
7 as good items in the inventory. She estimated the actual
8 shortage at around \$2,000,000. Gulf disputes this amount
9 and maintains the net shortage of \$8,642 is correct.

10

11 Q Please describe the theft of property by Kyle Croft.

12 A In late 1983, Gulf President Doug McCrary received an
13 anonymous letter implicating Kyle Croft, Manager of
14 General Services Operation, in the theft of Gulf
15 property. The author of the letter stated that he
16 recognized Gulf employees at the construction site of
17 Croft's new home over the course of one year and reported
18 the license numbers of Gulf trucks at the site.

19 McCrary ordered an investigation, an audit and an
20 inventory of Gulf warehouses which revealed that Croft was
21 misusing employees and converting company property and
22 supplies for his own use. Misappropriations were
23 estimated to be around \$300,000.

24 Mr. McCrary confronted Croft who denied the
25 allegations. Croft was given the opportunity to resign

1 and when he refused to resign, he was fired by Mr.
2 McCrary. Croft appealed to Jacob Horton, Senior Vice
3 President, to intercede on his behalf. Mr. Horton
4 persuaded Mr. McCrary to allow Croft to resign if he would
5 admit to stealing approximately \$16,000 in supplies,
6 equipment and labor and sign a promissory note for a like
7 amount. Gulf agreed not to bring civil or criminal action
8 against Croft or subject him to civil liability to force
9 payment of the promissory note. To demonstrate the
10 Company's good faith, Mr. Horton signed a personal
11 promissory note to Croft for the same amount. On February
12 3, 1984, Croft agreed to these conditions and was allowed
13 to resign. Croft is now receiving his pension.

14
15 Q Did Croft subsequently file a suit against Gulf regarding
16 his resignation?

17 A Yes. In 1986, Croft filed suit against Gulf and six
18 current and former executives; Edward Addison, Jacob
19 Horton, Ben Kickliter, Alvin Vogtle, Jr., Charles Lambert,
20 and Douglas McCrary. The suit alleged conspiracy to
21 intentionally interfere with a contractual employment
22 relationship, extortion, civil conspiracy to defame, libel
23 and slander, and the intentional infliction of emotional
24 distress. As a remedy, Croft asked that his resignation
25 be rescinded; the \$16,000 promissory note be declared

1 void; and for other direct and consequential damages.

2 Gulf filed a motion for Summary Judgment which was
3 granted on July 11, 1988. On August 10, 1988, Croft
4 appealed the decision to the First District Court of
5 Appeal (DCA) in Tallahassee. The DCA affirmed the Summary
6 Judgment.

7

8 Q Did Gulf conduct a further investigation to determine if
9 other were involved in misappropriations of Company assets?

10 A Yes. The investigation revealed that Joseph Lamar
11 Brazwell, Supervisor of Support Services, was involved in
12 a scheme to defraud Gulf of \$42,000. False invoices had
13 been submitted by West Florida Landscaping through
14 Brazwell. He resigned in 1984, after 15 years with
15 Company and is not currently receiving a pension. Mr.
16 Brazwell also was part-owner, along with Richard Leeper, a
17 former employee of Gulf, of Reliable Electric Distributing
18 Company (REDCO).

19 Another scheme involved the theft of equipment and
20 its ultimate installation at military bases by Line Power
21 Company. Croft had, and continues to have, a 40%
22 ownership interest in this company.

23

24 Q Please discuss the kick-back to a Gulf employee from a
25 contract vendor.

1 A Peggy Miller, a partner in Self Window Cleaning, accused
2 Mark Rubenacker, an accountant at Gulf, of demanding \$750
3 in kick-backs after her company won a \$20,600 contract to
4 wash windows twice at Gulf's new headquarters building in
5 1988. Mr. Rubenacker was dismissed by Gulf on February
6 24, 1989.

7

8 Q Does Gulf continue to do business with vendors who were
9 once involved in schemes to defraud Gulf?

10 A Gulf has represented that, effective December 31, 1988, it
11 has discontinued doing business with three of the four
12 companies involved in schemes to defraud Gulf. The three
13 companies are Southern Scrap, Gulf Coast Paving and
14 Grading, and REDCO Electrical Distributors. Gulf
15 continues to do business with West Florida Landscaping.

16

17 Q How much did Gulf pay these companies in 1987 and 1988?

18 A West Florida Landscaping was paid \$202,127 in 1987 and
19 \$231,234 in 1988 for landscaping services. Gulf Coast
20 Paving and Grading was paid \$61,066 in 1987 and \$44,305 in
21 1988. REDCO was paid \$115,492 in 1987 and \$174,206 in
22 1988.

23

24 Q Have any outside agencies conducted investigations of
25 misappropriations of Gulf assets?

1 A Yes. Around the same time Croft filed his suit, the
2 Internal Revenue Service (IRS) and the FBI began
3 investigations. In 1988, a Pensacola Grand Jury indicted
4 Croft, Brazwell, and Leeper for evading income taxes on
5 money fraudulently obtained from Gulf. Croft pled guilty
6 to tax charges for submitting \$40,000 in fraudulent bills
7 to Gulf. He received a four-month sentence and a \$10,000
8 fine. Brazwell pled guilty and received a nine-year
9 sentence and \$30,000 fine. Leeper was convicted of
10 perjury for lying to the Grand Jury and received an
11 eighteen month sentence.

12

13 Q As a result of the misappropriation of Gulf assets by two
14 employees, did Gulf take any corrective actions?

15 A Yes. Gulf implemented inventory and security procedures
16 to provide better safeguards against further
17 misappropriations. In addition, Gulf adopted a Company
18 Code of Ethics. Part of the implementation of the Code of
19 Ethics was a program to provide employees the confidential
20 opportunity to voluntarily make monetary amends to Gulf
21 without fear of embarrassment or punitive action. This
22 program was called the Amnesty Program.

23

24 Q Please describe the Amnesty Program.

25 A. The program was initiated by Gulf executives and

1 administered through the Levin Law Firm. The Amnesty
2 Program was initiated on June 27, 1984 and was available
3 to all employees of Gulf. Via a company bulletin, Gulf
4 employees were instructed to contact the Levin Law Firm
5 directly, if they wished to participate. The program
6 continued in effect until September 30, 1984. Payments
7 from employees were made to the law firm and deposited in
8 their escrow account. The law firm periodically remitted
9 refund checks from their escrow account to Gulf. The law
10 firm remitted 9 payments to Gulf over the period August 6,
11 1984 through November 16, 1984 totalling \$13,124.23.

12

13 Q What potential conflict of interest was identified by the
14 PSC auditors?

15 A Mr. J. K. Tannehill is on the Board of Directors of Gulf.
16 He also is an officer of Stock Equipment Company. Gulf
17 paid Stock Equipment \$278,977 in 1987, \$344,791 in 1988
18 and continues to do business with this company.

19

20 Q Did the PSC auditors specifically review any documentation
21 of transactions with Stock Equipment Company?

22 A Yes. The auditors reviewed transactions and chose to
23 trace three invoices back to the company's bid list to
24 ensure that the lowest price was paid for the merchandise
25 specified.

1 Q Were the auditors able to do this?

2 A The auditors were informed by Gulf that two of the
3 invoices selected were not bid because the maintenance on
4 the plants in question could only be done by Stock
5 Equipment Company because the machines to be worked on
6 were their machines and only they could work on their
7 machines.

8

9 Q What about the third invoice?

10 A The third invoice was traced back to a bid package. There
11 was only one other bid and it was approximately twice as
12 much as the Stock bid. However, Gulf could not furnish a
13 list of vendors who were notified about the project nor
14 could the auditors verify how many notices, if any, were
15 sent out describing the work that was needed.

16

17 Q What is your opinion of these transactions?

18 A I don't believe a utility should be prohibited from doing
19 business with a company which shares a common officer,
20 director or employee. However, since the potential for a
21 conflict of interest exists, the utility should maintain
22 sufficient documentation of the transaction so that it can
23 prove without a doubt that the transaction was an
24 arms-length transaction.

25

1 Q Please describe the recommended dismissal of Jacob Horton.
2 A Jacob Horton was a Senior Vice President of Gulf. He was
3 killed in a Southern Company plane crash on April 10,
4 1989. The cause of the plane crash is still under
5 investigation by the appropriate federal agencies. Just
6 prior to the crash, Mr. Horton attended a meeting at Gulf
7 with Gulf President McCrary and Dr. Reed Bell, an outside
8 director of Gulf and chairman of the audit committee of
9 the board. At the meeting Mr. Horton was allegedly told
10 that the audit committee had recommended his dismissal.
11 An article in the Pensacola News Journal stated that
12 according to a prepared statement by the Company, "McCrary
13 and Bell discussed with Horton the audit committee's
14 concern over Horton's possible circumvention of company
15 policies and procedures and his supervision of the
16 processing of invoices from vendors."

17
18 Q Please describe the Federal Grand Jury investigation.

19 A In 1988, the Atlanta Federal Grand Jury began an
20 investigation based on an Internal Revenue Service report
21 alleging that top financial officers of Southern Company
22 and its subsidiaries, which includes Gulf Power, have
23 conspired with the accounting firm of Arthur Andersen and
24 Company since 1982 to avoid paying tens of millions of
25 dollars in federal income taxes. The alleged conspiracy

1 was accomplished by establishing an "off-the-books-scheme"
2 to hide the existence of spare parts. It also has been
3 alleged that the Grand Jury's investigation has been
4 expanded to include a review of Political Action
5 Committees established by employees of Gulf. Numerous
6 employees of Gulf and some vendors supplying goods and
7 services to Gulf have been subpoenaed to testify before
8 the Grand Jury.

9
10 Q Have the results of the Grand Jury investigation been
11 released?

12 A No. The report of the Grand Jury is not ever released to
13 the public. The Grand Jury either issues an indictment or
14 remains silent as to the information presented to them.
15 However, as a result of the Grand Jury investigation, on
16 October 30, 1989, Gulf pled guilty to two counts: 1)
17 making contributions to various political candidates on
18 the local, state and national levels; and, 2) impairing,
19 impeding and obstructing the Internal Revenue Service in
20 its audit function and in the ascertainment and collection
21 of income taxes.

22
23 Q Were the contributions to political candidates directly
24 made?

25 A No. Outside vendors were asked to make contributions to

1 various campaigns and candidates. On some occasions, the
2 vendors were asked to submit their contributions to Gulf
3 Power for disbursal to the candidates, while on other
4 occasions, the vendors were asked to transmit their
5 contributions directly to the candidate. Regardless of
6 how the contributions were transmitted, many of the
7 vendors involved submitted, at the direction of Gulf
8 employees, false or inflated invoices in order to recover
9 the amount of the political contribution.

10

11 Q Which vendors were involved in this situation?

12 A According to the plea agreement, Gulf directed money to
13 the 1988 State Senate campaign of W.D. Childers through
14 its payments to Design Associates, Inc. A specific amount
15 was not identified in the plea agreement. However, during
16 1988, Gulf paid \$379,892 to Design Associates for
17 services. Gulf has filed a complaint in Escambia County
18 Circuit Court charging that Design Associates overcharged
19 Gulf for services rendered and expenses incurred and that
20 not all services and expenses invoiced were rendered.

21

22 Q What other vendors were involved?

23 A The Dick Leonard Group II, Inc. was instructed to make
24 campaign contributions to specified candidates in 1984,
25 1985, 1986, 1987, and 1988 and to submit inflated invoices

1 to Gulf in order to be reimbursed for those
2 contributions. Gulf instructed the John Appleyard Agency
3 to make political contributions to specified candidates
4 during 1982, 1983, and 1984. The contributions were
5 funded by Gulf through its monthly payments of \$1,000 -
6 \$2,000 to a "special production file" maintained at the
7 Appleyard Agency.

8 Gulf also instructed Hemmer & Yates to make political
9 contributions to specified candidates. These
10 contributions were funded, in part, through a monthly
11 retainer of \$2,000 paid to the agency during the years
12 1985, 1986 and 1987.

13
14 Q What was the total amount contributed to political
15 candidates and billed to Gulf?

16 A The total amount identified in the plea agreement was
17 \$22,850. Exhibit RSB-1 (Exh. ___) provides a breakdown of
18 this amount by year and vendor.

19
20 Q Please describe the second count in the plea agreement.

21 A The second count is similar to the first. However, in
22 this case, Gulf employees instructed some of its outside
23 vendors to submit false or inflated invoices to Gulf to
24 reimburse those vendors for payments made to others at the
25 direction of Gulf Power.

1 Q Which vendors were involved in this situation and what
2 were the payments ultimately for?

3 A During the period 1981 to 1984, the Appleyard Agency
4 billed Gulf approximately \$39,000 as special production
5 fees which were actually reimbursements for various
6 expenditures to others made at Gulf's direction. Exhibit
7 RSB-2 (Exh. ____) provides a breakdown of this amount and
8 the purpose of the expenditure.

9 The Hemmer and Yates agency expended approximately
10 \$24,000 to others at Gulf's direction during the period
11 1983 to 1986. The reimbursement of these expenditures
12 were billed to Gulf as miscellaneous expenses associated
13 with advertising, public relations and marketing. Exhibit
14 RSB-2 (Exh. ____) provides the details of these
15 expenditures.

16 The Dick Leonard Group billed Gulf \$10,000 as costs
17 and expenses associated with photography and production of
18 television spots relating to Gulf Power projects to secure
19 reimbursement for payments made to others during the
20 period 1983 to 1988. Exhibit RSB-2 (Exh. ____) provides
21 the details of these expenditures.

22

23 Q Did Gulf receive a sentence as the result of this plea
24 agreement?

25 A Yes. Gulf was fined \$500,000 as their sentence. In

1 addition, Gulf agreed that the fine imposed in this case
2 would not be paid by, or passed through to, its ratepayers.
3
4 Q Were there any Gulf employees identified in the plea
5 agreement as being involved in the reimbursement process
6 of falsified vendor invoices?
7 A Yes. The plea agreement indicates that Gulf, in entering
8 a plea of guilty, acknowledges and accepts its
9 responsibility for the unauthorized and illegal activities
10 of its senior vice-president and Board member, Jake
11 Horton, and other employees, Doug Knowles and Ray
12 Yarborough.
13
14 Q What is the employment status of Mr. Knowles and Mr.
15 Yarborough with respect to Gulf?
16 A Mr. Knowles resigned October 30, 1989 and Mr. Yarborough
17 retired October 31, 1989.
18
19 Q Do you have any additional comments you wish to make?
20 A Yes. Although collusion and management override can
21 circumvent and render ineffective even the strictest
22 internal controls, the criminal activity documented as
23 having occurred at Gulf Power extended over a period of
24 approximately eight years. The inability of Gulf
25 management to discover and correct these overt illegal

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actions leads me to believe that the corporate culture was such that employees believed these types of illegal actions were, at the least, condoned by top management.

Q After reviewing the above information, what action do you recommend that the Commission take?

A The information recounted above establishes a pattern of continuous and serious mismanagement of this utility for at least a period of eight years. Although Gulf has worked hard in the recent past to eliminate many of the factors which made the above described illegal activities possible, the utility should be held accountable for its previous lack of effective and ethical management. Thus, the Commission should make the factual finding that Gulf Power has been grossly mismanaged and its return on equity should be appropriately adjusted downward to reflect this finding.

Q Does this conclude your testimony?

A Yes.

Amounts Associated With Plea Agreement - Count 1

Vendor	1982	1983	1984	1985	1986	1987	1988	TOTAL
John Appleyard Agency	\$100	\$1,600	\$1,150					\$2,850
Hemmer & Yates Associates		\$500	\$500	\$7,500	\$1,000	\$1,000		\$10,500
Dick Leonard Group II			\$1,000	\$2,000	\$3,750	\$2,250	\$500	\$9,500
Total for Count 1	\$100	\$2,100	\$2,650	\$9,500	\$4,750	\$3,250	\$500	\$22,850

Amounts Associated With Plea Agreement - Count 2

Date	Vendor	Amount	Purpose
6/4/81 - 9/15/82	John Appleyard Agency	\$16,000.00	Payment to John Appleyard for time expended on writing a book for Jake Norton
2/2/84		\$550.03	Payment for insurance for Kyle Croft who was accused of theft and was terminated
3/13/84		\$751.00	Payment for Kyle Croft's attorney's fees
1/28/82 - 9/15/84		\$16,853.06	Checks converted to currency and given to a Gulf Power manager
3/5/82 - 6/27/84		\$4,650.00	Payments to Al Brown and the International Country Singers
TOTAL		\$39,104.09	
3/1/83 - 2/10/86	Himmer & Yates Associates, Inc.	\$8,550.00	Payments to Al Brown and the International Country Singers
7/27/83		\$288.00	Payment to McGuire's Irish Politicians Club - dues for 2 Gulf employees
8/10/83		\$1,000.00	Payment to "Florida House" - a non-profit group
9/15/83 - 8/5/86		\$7,100.00	Payments to Pensacola Sports Association for golf tournament sponsorships
10/20/83 - 8/2/84		\$2,263.00	Payments for rental of condominium
11/22/83		\$1,000.00	Payment to Pensacola Junior College Foundation
2/22/84		\$3,280.50	Payment to Emil's-Garnny/Kendig event at New World Landing
9/9/83		\$1,000.00	Political contribution
TOTAL		\$24,481.50	
10/21/83 - 12/14/83	Dick Leonard Group II	\$2,000.00	Payments to Pensacola Junior College Foundation
5/7/84-7/11/88		\$8,000.00	Payments to Pensacola Sports Association for golf tournament sponsorships
TOTAL		\$10,000.00	
GRAND TOTAL FOR COUNT 2		\$73,585.59	

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Gulf Power Company) DOCKET NO. 891345-EI
for an increase in its rates and)
charges.)
_____)

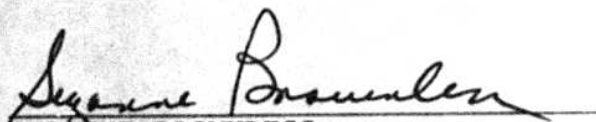
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Prepared Direct Testimony of Roberta S. Bass has been served by First Class U. S. Mail, postage prepaid, on Edison Holland, Jr., Esquire (Gulf Power Company), Beggs and Lane, Post Office Box 12950, Pensacola, Florida 32576, with copies to the following parties of record, this 27 day of April, 1990 :

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