

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of ) DOCKET NO. 921155-EI  
plan to bring generating units ) ORDER NO. PSC-93-0994-PHO-EI  
into compliance with the Clean ) ISSUED: 7/6/93  
Air Act by Gulf Power Company. )

Pursuant to Notice, a Prehearing Conference was held on April 1, 1993, in Tallahassee, Florida, before Commissioner Thomas M. Beard, as Prehearing Officer. A second hearing conference was held on June 30, 1993 in Tallahassee, Florida before Commissioner Thomas M. Beard, as Prehearing Officer, pursuant to notice.

APPEARANCES:

G. EDISON HOLLAND, JR., Esquire, JEFFREY A. STONE, Esquire, and TERESA E. LILES, Esquire, Beggs & Lane, 700 Blount Building, 3 West Garden Street, Post Office Box 12950, Pensacola, Florida 32576-2950  
On behalf of Gulf Power Company.

JOSEPH A. MCGLOTHLIN, Esquire and VICKI GORDON KAUFMAN, Esquire, McWhirter, Grandoff and Reeves, 315 South Calhoun Street, Suite 716, Tallahassee, Florida 32301 and JOHN W. MCWHIRTER, JR., McWhirter, Grandoff and Reeves, Post Office Box 3350, Tampa, Florida 33601-3350  
On behalf of the Florida Industrial Power Users Group.

ROSS S. BURNAMAN, Esquire, 115 North Gadsden Street, Tallahassee, Florida 32303  
On behalf of Legal Environmental Assistance Foundation, Inc.

SUZANNE BROWNLESS, P.A., 2546 Blairstone Pines Drive, Tallahassee, Florida 32301 and EUGENE M. TRISKO, Esquire, Post Office Box 596, Berkeley Springs, West Virginia 25411  
On behalf of the United Mine Workers of America.

JOHN ROGER HOWE, Esquire, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, FL 32399-1400  
On behalf of the Citizens of the State of Florida.

DONNA L. CANZANO, Esquire and ROBERT V. ELIAS, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

DOCKETED

07150 JUL-93

PREHEARING ORDER

I. CASE BACKGROUND

On November 6, 1992, Gulf Power Company (Gulf) filed a petition for approval of its plan to bring generating units into compliance with the Clean Air Act, pursuant to Section 366.825, Florida Statutes (Supp. 1992). Accordingly, this matter is currently set for a formal administrative hearing.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the

confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

#### Post-hearing Procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions that must include a summary of each position of no more than 50 words, set off with asterisks. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding. The Prehearing Officer has ruled that for

this proceeding, each party is entitled to a summary of each position of no more than 75 words.

The Prehearing Officer has also ruled that a party's proposed findings of fact and conclusions of law, if any, and brief, shall together total no more than 50 pages (excluding the statement of issues and positions) and shall be filed at the same time. The Prehearing Officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

### III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled, except for Mr. Kilgore, who has not prefiled direct testimony. Gulf states that Mr. Kilgore may be called as a possible rebuttal witness depending on how cross-examination develops. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

### IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>(Direct)</u>		
E.B. Parsons, Jr.	Gulf	1-4, 10-12, 15-16
Samuel J. Dwyer, IV	FIPUG	1-15, 21-23

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
Micheal W. Buckner Available on July 8, 1993	UMWA	1-3, 5-12, 14, 15, 19, 21-23
<u>(Rebuttal)</u> E.B. Parsons, Jr.	Gulf	5-9, 13-14, 21,22,23
J. Thomas Kilgore, Jr.	Gulf	

V. BASIC POSITIONS

GULF POWER COMPANY (GULF): It is the basic position of Gulf Power Company that its Clean Air Act Compliance Plan is reasonable, prudent, and in the public interest as well as in the best interests of Gulf's customers. The Plan provides the Company with the flexibility needed for the Company to continue to monitor and evaluate regulatory, technical and marketplace developments and select other least-cost options as circumstances may change. The particular compliance activities presently called for under the Plan for both Phase I and Phase II requirements will bring the Company into full compliance with the Clean Air Act Amendments of 1990 at costs which are presently projected to be the least cost to the Company's customers.

The Company's proposed Clean Air Act Compliance Plan should be approved by the Commission at this time in order to provide assurance that the Company will be allowed to recover costs incurred under the Plan subject to a subsequent determination that such costs were reasonable and necessary.

FLORIDA INDUSTRIAL POWER USERS GROUP (FIPUG): The filing which Gulf Power has made in this docket, while commendable in its objective of flexibility, is only a beginning. Before the Commission approves a compliance plan, it must have the underlying information necessary to perform an appropriate analysis. Gulf Power has not submitted the supporting workpapers and calculations showing that its proposal is the least-cost Southern system plan and has not provided sensitivity analyses demonstrating the impact on revenue requirements of a variety of alternate Southern system compliance plans. Such information is critical to an analysis of the plan. Therefore, it is FIPUG's position that the plan should not be approved at this time.

The Commission should defer ruling on Gulf Power's plan until Gulf Power files additional data on its plan, including information on the relationship of Gulf Power's plan to the compliance plans of the other Southern companies. Further, if and when a Gulf Power compliance plan is approved, the Commission should retain continuing jurisdiction over the plan so that it can review the timeliness and prudence of Gulf Power's responses to changes. It should require annual updates (including appropriate sensitivity analyses) and establish a benchmark test to enable the Commission to evaluate on an ongoing basis whether the plan remains the least-cost Southern system strategy.

**LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION, INC. (LEAF):** Gulf has not identified with particularity a "plan" that can be approved. Gulf's petition does not contain information required by Section 366.825 (2), Fla. Stat. (1992). Gulf has failed to demonstrate that its plan, and the estimated costs of Clean Air Act compliance and the estimated impact on rates are in the public interest. Gulf did not meaningfully evaluate the extent to which additional demand side management or conservation could allow compliance that is in the public interest. LEAF's statement of issues and positions is without prejudice to its right to raise issues or take positions based upon the responses to LEAF's discovery that is pending at this time.

**UNITED MINE WORKERS OF AMERICA (UMWA):** Gulf Power Company's (Gulf's) proposed compliance plan of fuel-switching and emission allowance purchasing should not be approved by the Commission as submitted because this plan would expose Gulf's ratepayers to unreasonable risks of fuel and emission allowance price increases. Additionally, the UMWA believes that the compliance plan submitted by Gulf for Phase I and Phase II is inadequate to permit the Commission to make a determination as to its reasonableness, or to determine its costs relative to other compliance options available to Gulf and to the Southern Company System, because the plan has not been developed or analyzed in sufficient detail. Finally, the UMWA takes the position that Gulf's proposed purchase of emission allowances in lieu of emission reduction on the Southern Company system during Phase II is inconsistent with the public interest standard of Section 366.825, F.S. (Supp. 1992).

**OFFICE OF PUBLIC COUNSEL (OPC):** Public Counsel does not believe Gulf Power's compliance plan is developed in sufficient detail at this time to allow the Commission to make the decisions required by Section 366.825, Florida Statutes (Sup. 1992). Gulf Power has



properly recognized the uncertainty surrounding the emission allowance market by retaining the flexibility to adjust to future conditions. But this uncertainty means Gulf Power's plan must remain in a formative stage at this time. It also means the Commission does not know what the final plan will be. The Commission, therefore, lacks sufficient information to determine whether the plan is prudent and in the public interest.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

#### VI. ISSUES AND POSITIONS

**ISSUE 1:** Should the pricing of sulfur dioxide emission allowances for purposes of sales and purchases be U.S. market based as opposed to company-specific based costs?

**GULF:** Yes, the pricing of sulfur dioxide (SO<sub>2</sub>) emission allowances should be U.S. market based for purposes of sales and purchases in order to ensure that the costs of compliance are properly allocated to customers served.  
(Parsons)

**FIPUG:** The pricing of emission allowances should be market based to ensure that allowances are procured at the least cost.  
(Dwyer)

**LEAF:** No position.

**UMWA:** No. Market allowance prices should be used as a benchmark to measure the reasonableness of proposed allowance banking, purchase or sales relative to the company's actual incurred costs for creating or saving emission allowances. Market allowance prices shouldn't be used for intra-system allowance transfers where actual company-specific costs are ascertainable.

**OPC:** Yes.

**STAFF:** Yes.

**ISSUE 2:** Has Gulf Power Company established reasonably adequate and sufficient guidelines and procedures which ensures its customers of the most cost-effective compliance in Phase I of the Clean Air Act Amendments of 1990?

**GULF:** Yes. The compliance activities currently specified under the Company's plan are the least-cost options for compliance with Phase I requirements. Gulf is committed to continual monitoring of regulatory, technical and market developments, and to updating its Compliance Plan at least annually in order to identify other flexible and least-cost options as circumstances change. This process will enable the Company to implement the compliance options which are the most cost-effective to our customers, in accordance with Gulf's flexible strategy. The Company will file its Compliance Plan updates with the Commission on at least an annual basis. (Parsons)

**FIPUG:** No. At this point in time Gulf Power has not submitted enough information about its Phase I plan as a part of the Southern system compliance plan and has not provided adequate explanation of its analysis supporting the Phase I plan. Nor has it provided an appropriate sensitivity analysis. (Dwyer)

**LEAF:** No. Gulf has not adequately described guidelines and procedures that it would employ if its "plan" were approved. This position is without prejudice to LEAF's position that the "public interest" standard in Section 366.825, Florida Statutes (1992 Supp.) is broader than customer rate effects.

**UMWA:** No.

**OPC:** No. The flexibility Gulf Power must maintain to adjust to future conditions prevents it from establishing current procedures which ensure its customers the most cost-effective compliance in Phase I.

**STAFF:** No position at this time.

**ISSUE 3:** Has Gulf Power Company established reasonably adequate and sufficient guidelines and procedures which ensures



its customers of the most cost-effective compliance in Phase II of the Clean Air Act Amendments of 1990?

**GULF:** Yes. As stated in the Company's position on Issue 2, above, the review and compliance process under the Company's proposed plan, in accordance with the flexible strategy concept, will enable Gulf Power to continually evaluate and implement the compliance options which are the most cost-effective to Gulf's customers. This process will ensure that, by the beginning of Phase II, the Company will have fully considered and evaluated regulatory, technical and market developments, and will be prepared to achieve Phase II compliance at the least cost to its customers. (Parsons)

**FIPUG:** No. At this point in time Gulf Power has not submitted enough information about its Phase II plan as a part of the Southern System compliance plan and has not provided adequate explanation of its analysis supporting the Phase II plan. Nor has it provided an appropriate sensitivity analysis. (Dwyer)

**LEAF:** No. See Issue 2.

**UMWA:** No.

**OPC:** No. See position on Issue 2.

**STAFF:** No.

**ISSUE 4:** Has Gulf Power Company established reasonably adequate and sufficient guidelines and procedures which ensures its customers of the most cost-effective compliance with Title III-Hazardous Air Pollutants of the Clean Air Act Amendments of 1990?

**GULF:** Yes. Gulf, both in conjunction with the Southern electric system and in accordance with the flexible strategy concept, has a compliance organization in place which is charged with monitoring these and other regulatory developments, and with evaluating and selecting least-cost compliance options. Gulf's flexible Compliance Plan will ensure least-cost compliance with Title III of the Clean Air Act Amendments of 1990, as

regulations are developed which may impact the Company.  
(Parsons)

**FIPUG:** No. Gulf Power submitted no information on the procedures and guidelines it may use to comply with Title III. Therefore there is no basis upon which to evaluate cost-effectiveness. (Dwyer)

**LEAF:** No. See Issue 2.

**UMWA:** No.

**OPC:** No. See position on Issue 2.

**STAFF:** No.

**ISSUE 5:** Has Gulf Power Company reasonably, adequately and sufficiently estimated the effects of its Compliance Plan, including the estimated costs and the expected impact on rates resulting from implementing the plan and alternatives to the plan?

**GULF:** Yes. (Parsons)

**FIPUG:** No. Gulf Power has not submitted sufficient sensitivity analyses with its plan to show it is part of a least-cost Southern system plan. Such analyses are necessary to evaluate alternatives to the plan proposed by Gulf Power and to assess whether the proposed costs and impacts are reasonable. Additionally, Gulf Power did not submit the workpapers underlying its proposed plan to demonstrate it is the least-cost Southern system plan. (Dwyer)

**LEAF:** No. Gulf has not described its "plan" with specificity, and Gulf unreasonably rejected potential DSM/conservation compliance alternatives.

**UMWA:** No.

**OPC:** No. At this stage of the process, Gulf Power has only formulated a preliminary plan to guide its initial decisions.

**STAFF:** No position at this time.

**ISSUE 6:** Would scrubbing, allowance market trading, use of a variety of coals, or other compliance measures provide a better balance of risk between the ratepayers and the stockholders than Gulf Power Company's Compliance Plan for Phase I?

**GULF:** No. The premature commitment to a scrubber strategy for SO<sub>2</sub> compliance would eliminate the flexibility to implement other, less capital intensive compliance strategies for Phase I and Phase II requirements. The compliance activities currently identified for implementation under the Company's Plan are projected to enable the Company to comply with the requirements of Phase I at the least cost to Gulf's ratepayers. Gulf's flexible strategy protects both the ratepayer and the shareholder from incurring unnecessary, imprudent or unwarranted expenditures, while allowing the Company the opportunity to continually evaluate regulatory, technical and market developments in selecting least-cost options for Phase I compliance. (Parsons)

**FIPUG:** At this time, the answer to this question is unknown. Because Gulf Power has not submitted sufficient sensitivity analyses vis-a-vis other Phase I plan alternatives, it is impossible to evaluate whether other alternatives might be preferable to fuel switching. As just one example, Gulf Power apparently did not thoroughly evaluate the cost of scrubbing high sulfur coal at other places on the Southern system as part of a least-cost plan. Such an analysis needs to be done before the best plan can be determined. (Dwyer)

**LEAF:** Maybe. Gulf's Plan, "a flexible strategy", is not specific enough to compare with other potential alternatives. Further, Gulf has not provided an analysis of components of revenue requirements projections for all Phase I compliance alternatives.

**UMWA:** Yes, scrubbing at Gulf Power Company's or other Southern Company's Phase I units would provide a better balance of risk between Gulf's stockholders and its ratepayers.

**OPC:** Gulf Power has an obligation to adopt a least-cost compliance strategy to minimize its customers' rates. As such, there is really no risk to balance.

**STAFF:** No position at this time.

**ISSUE 7:** Would scrubbing, allowance market trading, use of a variety of coals, or other compliance measures provide a better balance of risk between the ratepayers and the stockholders than Gulf Power Company's Compliance Plan for Phase II?

**GULF:** No. The premature commitment to a scrubber strategy for SO2 compliance would eliminate the flexibility to implement other, less capital intensive compliance strategies for Phase I and Phase II requirements. The compliance activities currently identified for implementation under the Company's Plan are projected to enable the Company to comply with the requirements of Phase II at the least cost to Gulf's ratepayers. Gulf's flexible strategy protects both the ratepayer and the shareholder from incurring unnecessary, imprudent or unwarranted expenditures, while allowing the Company the opportunity to continually evaluate regulatory, technical and market developments in selecting least-cost options for Phase II compliance. (Parsons)

**FIPUG:** At this time, the answer to this question is unknown. Because Gulf Power has not submitted sufficient sensitivity analyses vis-a-vis other Phase II plan alternatives, it is impossible to evaluate whether other alternatives might be preferable to fuel switching. As just one example, Gulf Power apparently did not thoroughly evaluate the cost of scrubbing high sulfur coal at other places on the Southern system as part of a least-cost plan. Such an analysis needs to be done before the best plan can be determined. (Dwyer)

**LEAF:** Maybe. Gulf's Plan, "a flexible strategy", is not specific enough to compare with other potential alternatives. Further, Gulf has not provided an analysis of components of revenue requirements projections for all Phase II compliance alternatives.

**UMWA:** Yes, scrubbing at Gulf Power's or other Southern Company's units would provide a better balance of risk between Gulf's stockholders and its ratepayers. Gulf's proposed reliance on Phase II allowance purchasing is

unreasonable based on the company's own analyses provided to both the Georgia Public Service Commission and this Commission.

OPC: See position on Issue 6.

STAFF: No position at this time.

ISSUE 8: Would scrubbing of selective units, purchases of SO<sub>2</sub> allowances or other compliance measures be more economical for Gulf Power Company's customers than Gulf Power Company's Compliance Plan for Phase I?

GULF: No. Gulf has fully evaluated all viable compliance options, and has determined that, at this time, alternatives to its current strategy are not least-cost compliance options for Phase I. Gulf Power's current strategy enables the Company to continue to evaluate regulatory, technical and market developments and to select other options for Phase I compliance, on a least-cost basis, as circumstances may change. (Parsons)

FIPUG: At this time, the answer to this question is unknown. Because Gulf Power has not submitted sufficient sensitivity analyses vis-a-vis other Phase I plan alternatives, it is impossible to evaluate whether other alternatives might be preferable to fuel switching as part of a least-cost Southern system plan. (Dwyer)

LEAF: Maybe. Gulf's Plan, "a flexible strategy" is not specific enough to compare with other potential alternatives.

UMWA: Yes. Selective scrubbing at Gulf Power's or other Southern Company's Phase I affected units is the least-cost strategy for Phase I compliance.

OPC: Maybe. Gulf Power must evaluate and adopt such measures if its current plan is not the least-cost alternative.

STAFF: No position at this time.

**ISSUE 9:** Would scrubbing of selective units, purchases of SO<sub>2</sub> allowances or other compliance measures be more economical for Gulf Power Company's customers than Gulf Power Company's Compliance Plan for Phase II?

**GULF:** No. Gulf has fully evaluated all viable compliance options, and has determined that, at this time, alternatives to its current strategy are not least-cost compliance options for Phase I. Gulf Power's current strategy enables the Company to continue to evaluate regulatory, technical and market developments and to select other options for Phase II compliance, on a least-cost basis, as circumstances may change. (Parsons)

**FIPUG:** At this time, the answer to this question is unknown. Because Gulf Power has not submitted sufficient sensitivity analyses vis-a-vis other Phase II plan alternatives, it is impossible to evaluate whether other alternatives might be preferable to fuel switching as part of a least-cost Southern system plan. (Dwyer)

**LEAF:** See Issue 8.

**UMWA:** Yes. Selective scrubbing at Gulf Power's or other Southern Company's units is the least-cost strategy for Phase II compliance.

**OPC:** See position on Issue 8.

**STAFF:** No position at this time.

**ISSUE 10:** Is Gulf Power Company's current Compliance Plan Strategy consisting of coal switching and U.S. market based allowance trading the most reasonable and cost-effective strategy to Gulf Power Company's customers for purposes of compliance with Phase I of the Clean Air Act Amendments of 1990?

**GULF:** Yes. These compliance options are the most cost-effective at this time. Gulf's flexible strategy will enable the Company to continually evaluate regulatory, technical and market developments in order to select

other least-cost options for Phase I compliance as circumstances may change. (Parsons)

**FIPUG:** At this time, the answer to this question is unknown. Because Gulf Power has not submitted sufficient sensitivity analyses vis-a-vis other Phase I plan alternatives, it is impossible to evaluate whether other alternatives might be preferable to fuel switching as part of a least-cost Southern system plan. Even if the plan is approved, the Commission must recognize that changes in the variables could require a timely and prudent response from Gulf Power in the future. Any approval given now must make clear the Commission's continuing jurisdiction and the utility's continuing responsibility. (Dwyer)

**LEAF:** No.

**UMWA:** No.

**OPC:** Maybe. It will depend on the development of the emission allowance market, whether all alternatives have been considered, and whether the Southern System strategy is also the best for Gulf Power individually.

**STAFF:** No position at this time.

**ISSUE 11:** Is Gulf Power Company's current Compliance Plan Strategy consisting of coal switching and U.S. market based allowance trading the most reasonable and cost-effective strategy to Gulf Power Company's customers for purposes of compliance with Phase II of the Clean Air Act Amendments of 1990?

**GULF:** Yes. These compliance options are the most cost-effective at this time. Gulf's flexible strategy will enable the Company to continually evaluate regulatory, technical and market developments in order to select other least-cost options for Phase II compliance as circumstances may change. (Parsons)

**FIPUG:** FIPUG: At this time, the answer to this question is unknown. Because Gulf Power has not submitted sufficient sensitivity analyses vis-a-vis other Phase II plan



alternatives, it is impossible to evaluate whether other alternatives might be preferable to fuel switching as part of a least-cost Southern system plan. Even if the plan is approved, the Commission must recognize that changes in the variables could require a timely and prudent response from Gulf Power in the future. Any approval given now must make clear the Commission's continuing jurisdiction and the utility's continuing responsibility. (Dwyer)

LEAF: No.

UMWA: No.

OPC: See position on Issue 10.

STAFF: No position at this time.

ISSUE 12: Will Gulf Power Company's participation in the Southern Company's compliance plan result in costs less than or equal to costs that would be incurred if Gulf proceeded on a stand-alone basis?

GULF: Yes. (Parsons)

FIPUG: At this time, based on the information provided by Gulf Power, it is impossible to tell what effect Gulf Power's participation in the Southern Company's strategy will have on costs. Gulf Power should be required to submit information on the cost of compliance for each of the operating companies making up the Southern Company for a complete spectrum of alternate Southern system compliance plans.

LEAF: Unknown. It is impossible to determine what Gulf's least cost strategy might be without further information and analysis, such as an evaluation of additional DSM/conservation alternatives.

UMWA: No. Gulf's participation in the Southern Company's compliance strategy may result in costs greater than would be incurred if Gulf proceeded on a stand-alone basis, and greater than the costs that would be incurred if Gulf participated in the "internal" compliance

strategy evaluated by the Southern Company for selective scrubbing of certain power plants in the Southern System located outside of the State of Florida.

OPC: It appears that Gulf Power has not considered alternatives that might answer this question. For example, Gulf Power assumed, for purposes of comparing its stand-alone costs versus the Southern System strategy, that it could not purchase allowances on the open market. It may be less expensive for the utility to proceed on a stand-alone basis if it purchases allowances independently.

STAFF: No position at this time.

ISSUE 13: Has Gulf Power Company demonstrated that the proposed Southern Company's system-wide compliance will result in an appropriate allocation of compliance costs to Gulf Power Company's retail customers?

GULF: Yes. (Parsons)

FIPUG: No. Gulf Power should be required to demonstrate that its plan fairly allocates compliance costs across the Southern system. Georgia Power owns all or part of 23 of the 28 Southern Company Phase I units. Florida should work together with the other Southern Company jurisdictions to ensure that compliance costs are appropriately allocated. (Dwyer)

LEAF: No.

UMWA: No.

OPC: No.

STAFF: No position at this time.

ISSUE 14: Has Gulf Power Company's Compliance Plan been developed in sufficient detail to permit the Commission to make a determination whether it is prudent and should be approved in the public interest pursuant to Section 366.825(3), Florida Statutes (Supp. 1992)?

GULF: Yes. (Parsons)

FIPUG: No. Gulf Power has not filed critical pieces of the extensive type of documentation that would be necessary for the Commission to make such a determination. As just one example, Gulf Power has not filed sufficient sensitivity studies which are critical to determining whether ratepayers' interests are protected. (Dwyer)

LEAF: No. Gulf has not adequately described what its plan entails, nor how it will evaluate the many contingencies described. Gulf has not adequately addressed the public interest in additional cost-effective DSM/conservation or the public interest in reduction of air pollution and the sale of "excess allowances" through SO2 over-compliance.

UMWA: No.

OPC: No.

STAFF: No position at this time.

ISSUE 15: Should Gulf Power Company's Compliance Plan be found to be in the public interest and therefore be approved?

GULF: Yes. (Parsons)

FIPUG: No. Gulf Power's plan should not be approved for two reasons. First, Gulf Power (as discussed in other issues) has not filed sufficient information to enable the Commission and the parties to thoroughly evaluate its compliance plan; specifically, it has not filed a sufficient sensitivity analyses on alternate Southern system compliance plans. Second, Gulf Power's apparent request for total approval of its plan is inappropriate and premature. Gulf Power should be required to update and continue to justify the cost-effectiveness of its plan. (Dwyer)

LEAF: No.

UMWA: No.

OPC: The plan is too preliminary to warrant explicit acceptance or rejection at this time. Gulf Power should be required to continue evaluating alternatives and to report back on a periodic basis.

STAFF: No position at this time.

ISSUE 16: Does Gulf Power Company's Clean Air Act Compliance Plan have an effect upon Gulf's proposed plan on construction and operation of proposed facilities?

GULF: No. Gulf's Clean Air Act Compliance Plan was designed to bring existing facilities into compliance with the Clean Air Act Amendments of 1990, and does not require construction of new generating units for compliance. The facilities proposed in Gulf's current ten year site plan will burn natural gas, and thus will have no compliance requirements. (Parsons)

FIPUG: No position.

LEAF: No. Although Gulf's Petition alleges that its 1992 Ten Year Site Plan "remains in effect for construction and operation of additional facilities", Gulf can not reasonably be expected to act in a manner that is consistent with its Ten Year Site Plan. It does not appear that Gulf modeled the units described in the Ten Year Site Plan in its Clean Air Act compliance planning.

UMWA: No position.

OPC: No position.

STAFF: No position at this time.

ISSUE 17: Does Gulf's proposed plan pursuant to Section 186.008 (6), Florida Statutes, comply with the adopted State Comprehensive Plan, Chapter 187, Florida Statutes?

GULF: Gulf considers this to be a legal issue. Gulf's position on this issue is that its proposed plan is consistent with the State Comprehensive Plan.

FIPUG: No position.  
LEAF: No.  
UMWA: No position.  
OPC: No position.  
STAFF: No position at this time.

Legal Issues

ISSUE 18: Would approval or denial of Gulf Power Company's Clean Air Act Compliance Plan for Phase I constitute approval or denial of Clean Air Act Amendments of 1990 compliance related cost recovery?

GULF: No. Section 366.825(3), Florida Statutes (Supp. 1992) specifically states that the reasonableness of compliance related costs shall be considered by the Commission in a "subsequent proceeding". A finding that the Compliance Plan itself is prudent, however, would ensure that costs reasonably incurred in conducting compliance related activities would not be disallowed on the basis of a subsequent finding that the investment itself was imprudent.

FIPUG: No. Section 366.825(3) states that the Commission retains jurisdiction to determine in a subsequent proceeding if the actual costs of compliance are reasonable. Therefore, approval or denial of Gulf Power's plan in this docket will not affect ultimate cost recovery which will have to be the subject of a subsequent proceeding. Further, any approval given now cannot constitute "preapproval" of responses or decisions which Gulf Power may make (or may not make) in response to future developments.

LEAF: No. Cost recovery is contingent upon a finding of reasonableness in future proceedings.

UMWA: No, Section 366.825(3), F.S., states in part: "[a]pproval of a plan submitted by a public utility shall establish that the utility's plan to implement compliance is

prudent and the commission shall retain jurisdiction to determine in a subsequent proceeding that the actual costs of implementing the compliance plan are reasonable;. . ." Based upon this clear language, approval or denial of Gulf's Compliance Plan will not affect the ultimate compliance cost recovery which will be determined in a subsequent proceeding, e.g., Gulf's next rate case.

OPC: No.

STAFF: No.

ISSUE 19: For purposes of Section 366.825, Florida Statutes (1992 Supp.), what is encompassed by the phrase "in the public interest"?

GULF: The phrase "in the public interest" as used in Section 366.825, Florida Statutes, encompasses those matters within the jurisdiction of the Florida Public Service Commission; to wit, the rates charged and services provided by Gulf Power Company to its customers.

FIPUG: The public interest standard which the Commission is to use is defined in the statute in terms of cost and rate impact and applies, in this instance, specifically to Gulf Power's ratepayers. The Commission must insure that any plan which it approves is the most cost-effective plan for the ratepayers in the petitioning utility's territory by insuring that the costs incurred by the utility in implementing the plan are the least cost way to implement the plan and by insuring that the effect on rates, if any, is appropriately distributed among customer classes.

LEAF: The statute speaks to the broad interest of all Floridians in clean air, environmental protection and energy efficiency rather than only to the financial interests of Gulf's billpayers, although customer and utility costs should be considered by the Commission.

UMWA: The "public interest" includes, but is not limited to, the potentially harmful environmental and health consequences and ratepayer impacts of Gulf Power's

participation in the Southern Company's proposed Clean Air Act Compliance Plan.

OPC: No position.

STAFF: No position at this time.

ISSUE 20: Is the Commission required to consider Gulf's proposed Clean Air Act Compliance Plan pursuant to Section 186.008 (6), Florida Statutes?

GULF: Gulf takes no position at this time as to whether the phrases "plan" and "utility plans" as used within Section 186.008(6) includes Gulf's Clean Air Act Compliance Plan; however, the Commission's approval of Gulf's Plan is not conditioned upon a finding of consistency with all or part of the State Comprehensive Plan, so long as the specific requirements of Section 366.825, Florida Statutes, are met.

FIPUG: No position.

LEAF: Yes.

UMWA: No position.

OPC: No position.

STAFF: No position at this time.

#### Policy Issues

ISSUE 21: If Gulf Power Company's Compliance Plan is approved by the Commission, should the Commission require Gulf Power Company to file benchmarks, market indicators, guidelines and procedures, or other quantitative cost controls for purposes of assuring cost-effective compliance with the Clean Air Act Amendments of 1990?

GULF: The Commission should not require the filing of "benchmarks" or market indicators at this time. The most appropriate "benchmark" to evaluate the cost-effectiveness of a given compliance option will be the



market value of sulfur dioxide allowances. Since the market is, at present, undeveloped, the establishment of a "benchmark" at this time would be premature and arbitrary. Gulf has committed, however, to the filing of its annual Compliance Plan updates with the Commission, which will enable the Commission to review and evaluate the cost-effectiveness of Gulf's plan on at least an annual basis. (Parsons)

**FIPUG:** The Commission should establish a benchmark test to ensure that any higher fuel costs related to Clean Air Act compliance are reasonable in terms of the equivalent cost of SO<sub>2</sub> removed. The Commission should require Gulf Power to justify any compliance costs in excess of the established test before allowing full cost recovery. (Dwyer)

**LEAF:** Yes.

**UMWA:** Yes. If the FPSC determines that Gulf should be permitted to go forward with its Phase I sulfur dioxide control strategy of coal-switching and emission allowance banking, ratepayers should be protected against unreasonable costs associated with this strategy. The Staff of the Georgia PSC has recently proposed a mechanism in GPSC Docket No. 4133-U, Georgia Power Company Supply Side Certification, 1992, that would limit recovery of low-sulfur coal price premiums to that of the costs of scrubbing higher-sulfur coals.

**OPC:** Yes.

**STAFF:** No position at this time.

**ISSUE 22:** If Gulf Power Company's Compliance Plan is approved by the Commission, what future plan filings should be required of Gulf Power Company?

**GULF:** As stated in the Company's position on Issue 21, above, Gulf Power Company will submit annual Compliance Plan updates to the Commission for review and approval. No additional filing requirements should be established at this time. (Parsons)

- FIPUG:** The Commission should retain continuing jurisdiction over Gulf Power's compliance plan strategy and should require Gulf Power to update its strategy annually, including providing appropriate sensitivity studies quantifying the present value revenue requirements under Gulf Power's strategy and demonstrating that this strategy continues to be more cost-effective than other Southern system alternatives. (Dwyer)
- LEAF:** If Gulf's Petition is conditionally approved, then the Commission should require Gulf to update its Plan during an annual review of the Company's Least Cost Integrated Resource Plan.
- UMWA:** Future filings by Gulf will be dependent upon the FPSC's determinations regarding the reasonableness of Gulf's proposed clean air compliance plan. However, merely filing an updated clean air compliance plan on an annual basis, as suggested by Gulf, is no substitute for effective ratepayer safeguards such as those discussed above in Issue 21.
- OPC:** Gulf Power should be required to file all modifications to its compliance plan as they become available. Additionally, it should be required to provide a formal report summarizing all activities and developments every six months.
- STAFF:** No position at this time.
- ISSUE 23:** Should the Southern Company's allowance banking, purchasing and trading activities be subject to the Florida Public Service Commission's review of the multistate activities of the Southern Company?
- GULF:** It is not necessary for the Florida Public Service Commission to review the Southern Company's allowance banking, purchasing and trading activities except insofar as those activities pertain to or affect Gulf Power Company. However, as stated in the Company's position on Issues 21 and 22, above, Gulf Power Company has committed to submitting its annual Compliance Plan updates to the Commission. In addition to filing Gulf's 1992 Clean Air Act Compliance Plan Update with the Commission, Gulf has

recently submitted the 1992 system strategy update to all counsel in this docket. Since Gulf's plan is based on a system compliance strategy, the annual filing will provide the Commission the opportunity to review the system's allowance banking, purchasing and trading activities on an ongoing basis.

**FIPUG:** Yes. (Dwyer)

**LEAF:** Yes. To the extent that Gulf's preferred Clean Air Act compliance plan is described, it appears contingent upon the Southern Company's allowance banking, purchasing and trading activities and those activities should be reviewed by the Commission.

**UMWA:** Yes.

**OPC:** No position.

**STAFF:** No position at this time.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Parsons	Gulf	(EBP-1)	'92 - '95 Capital Costs; Comparison of Strategies Projections; Summary of Alternative Compliance Strategies; Market Strategy Graphs; Internal Strategy Graphs; Scrubber Costs
Parsons	Gulf	(EBP-2)	Gulf Power Company's 1992 Compliance Plan Update
Dwyer	FIPUG	(SJD-1)	Georgia Public Service Commission Order in Docket No. 4133-U
Buckner	UMWA	(MWB-1)	Crist Units 6 and 7 Emission allowances
Buckner	UMWA		AEP's CAA Analysis

(MWB-2)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Buckner	UMWA	<u>(MWB-3)</u>	Potomac Electric Power Co.'s 1992 Integrated Least-Cost Resource Plan
Buckner	UMWA	<u>(MWB-4)</u>	Recommendations for Implementation of the Clean Air Act Amendments of 1990
Buckner	UMWA	<u>(MWB-5)</u>	Response to data request - West Penn. Power
Buckner	UMWA	<u>(MWB-6)</u>	1990 Clean Air Act: Effects on utility compliance decisions, fuel and allowance trading markets
Buckner	UMWA	<u>(MWB-7)</u>	First Quarter 1991 DRI McGraw-Hill Energy Review, Coal Market Focus
Buckner	UMWA	<u>(MWB-8)</u>	DRI Marginal Mine Mouth Prices
Buckner	UMWA	<u>(MWB-9)</u>	Gulf Power Co. Clean Air Act Compliance Costs
Buckner	UMWA	<u>(MWB-10)</u>	Market Strategy Stacking
Buckner	UMWA	<u>(MWB-11)</u>	Internal Strategy Stacking
Buckner	UMWA	<u>(MWB-12)</u>	Georgia PSC Staff's calculation of scrubbing costs for Plant Bowen
	LEAF		Requests for Admission with Responses

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
	LEAF		Interrogatories with Responses
	LEAF		Matters Officially Recognized
	LEAF		Unknown Rebuttal Exhibits if necessary and permitted
Parsons	Staff	<u>(STAFF-1)</u>	High Sulfur Coal Price Premiums based on Scrubber Options (Composite of Staff's 3rd Set of Interrogatories Items 32, 33, 34)
Parsons	Staff	<u>(STAFF-2)</u>	Break-Even Allowance Price based on not fuel switching or scrubbing (Composite of Staff's 3rd set of Interrogatories Item 35 and Staff's 5 <sup>th</sup> Set of Interrogatories Item 67)
Parsons	Staff	<u>(STAFF-3)</u>	Incremental Rate impact on a 1,000 KWH residential bill (Composite of Staff's 5th Set of Interrogatories Items 68 and 69)
Parsons	Staff	<u>(STAFF-4)</u>	Gulf's Filings with the EPA (Composite of Staff's 4th Set of Interrogatories Items 46 and 47)
Parsons	Staff	<u>(STAFF-5)</u>	Gulf's coal supply contract characteristics re: dates and CAAA provisions

(Composite of Staff's  
4th Set of  
Interrogatories Items  
51 through 56 inclusive)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Parsons	Staff	<u>(STAFF-6)</u>	Modeling assumptions including capital, fuel, O&M and escalators (Composite of Staff's 1st Set of Interrogatories Item 1 and Staff's 5th Set of Interrogatories Item 61)
Parsons	Staff	<u>(STAFF-7)</u>	Gulf's Allocated SO <sub>2</sub> Allowances and Market activity (Composite of Staff's 3rd Set of Interrogatories Item 31 and Staff's 1st Request for Production of Documents, Item 1)
Parsons	Staff	<u>(STAFF-8)</u>	Southern Company Fossil Generation Compliance Strategy (The Southern Company Fossil Generation Compliance Strategy for the Clean Air Act Amendments of 1990, dated May 1993)
Parsons	Staff	<u>(STAFF-9)</u>	Forecasted coal prices used in Gulf's Compliance Plan Update (Staff's 5th Set of Interrogatories, Item No. 66)

Parsons	Staff	<u>(STAFF-10)</u>	Market Based Strategy Annual Compliance Data for Plant Crist Units 6 & 7 (Staff's 3rd Set of Interrogatories, Item No. 37, pages 14-16 and 23-25 of 76)
<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Parsons	Staff	<u>(STAFF-11)</u>	Company by Company Strategy Annual Compliance Data for Plant Crist Units 6 & 7 (Staff's 3rd Set of Interrogatories, Item No. 37, pages 20-22 and 29-31 of 76)
Parsons	Staff	<u>(STAFF-12)</u>	Capacity Additional Reported in Gulf's 10 Year Site Plan for 1992 and 1993 (Gulf Power Company's 10 year site plan; 1992 page 40; 1993 page 41)

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

Gulf has drafted a proposed stipulation regarding its CEMs and NO<sub>x</sub> strategies. At this time it is unclear whether the parties agree to the proposed stipulation. This matter will be discussed prior to the hearing.

IX. PENDING MOTIONS

None.

X. RULINGS

None.



ORDER NO. PSC-93-0994-PHO-EI  
DOCKET NO. 921155-EI  
PAGE 30

It is therefore,

ORDERED by Commissioner Thomas M. Beard, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Thomas M. Beard, as Prehearing Officer, this 6th day of July, 1993.



THOMAS M. BEARD, Commissioner and  
Prehearing Officer

( S E A L )  
DLC:bmi

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary,

ORDER NO. PSC-93-0994-PHO-EI  
DOCKET NO. 921155-EI  
PAGE 31

review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary,

procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.