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ORIGINAL  
FREE COPY

February 24, 1994

Steve Tribble, Director  
Division of Public Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399

In re: Docket No. 940001-EI

Fuel and Purchased Power Cost Recovery Clause and Generating  
Performance Incentive Factor.

Dear Mr. Tribble:

Please find enclosed the original and fifteen copies of the Petition for Intervention  
to be filed by Orgulf Transport Co. in the above referenced docket.

Thank you for your attention in this matter.

ACK \_\_\_\_\_  
AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMT \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG LW/m  
LIN 4  
OPC \_\_\_\_\_  
RCH \_\_\_\_\_  
SEC L  
WAS \_\_\_\_\_  
ETH \_\_\_\_\_

MKL/ejc  
Enclosure (16)

Sincerely,

Mark K. Logan

DOCUMENT NUMBER-DATE

01874 FEB 24 1994

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Fuel and Purchased Power Cost )  
Recovery Clause and Generating )  
Performance Incentive Factor )

Docket No.  
940001-EI

ORIGINAL  
FILE COPY

PETITION TO INTERVENE

Pursuant to Rules 25-22.036 and 25-22.039, Florida Administrative Code, Orgulf Transport Co. ("Orgulf") petitions to intervene in this docket. Orgulf supports its petition with the following:

1. The name and address of petitioner:

Orgulf Transport Co.  
1400-580 Building  
Post Office Box 1460  
Cincinnati, Ohio 45201

2. Notices and communications with respect to this petition and docket should be addressed to:

Mark K. Logan  
Bryant, Miller & Olive  
201 South Monroe Street  
Suite 500  
Tallahassee, Florida 32301  
(904) 222-8611

Thomas J. Schmidt  
General Counsel  
Orgulf Transport Co.  
1400-580 Building  
Post Office Box 1460  
Cincinnati, Ohio 45201  
(513) 721-4000

3. Orgulf is a Cincinnati based transportation company that, until July, 1993, transported coal from designated loading points along the Ohio River and its tributaries to electric generating plants operated by Gulf Power Company ("Gulf Power" or "Gulf").

4. On August 31, 1993 this Commission approved, in part, Gulf Power's Clean Air Act Compliance Plan (Docket No. 921155-EI). Gulf Power's plan is predicated upon a fuel switching strategy whereby compliance with Phase I and Phase II of the acid rain provisions of the Clean Air Act Amendments is attained by switching

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FPSC-RECORDS/REPORTING

from the high sulphur coal previously transported by Orgulf to a low sulphur Venezuelan coal which is to be transported by another carrier. Concurrent with the proceedings at issue in Docket No. 921155-EI, Gulf Power improperly and unilaterally suspended performance of, and announced its intention to terminate, its transportation agreement with Orgulf. These actions are the subject of a lawsuit filed by Orgulf on August 30, 1993 in the United States District Court for the Southern District of Ohio - Western Division, claiming damages in excess of \$85,000,000.

5. On January 12, 1994, this Commission, in part, approved, subject to a pending motion for reconsideration, Gulf Power's petition to establish an environmental cost recovery clause pursuant to Section 366.8255, Florida Statutes (1993). Docket No. 930613-EI; Order No. PSC-94-0044-FOF-EI. Gulf's petition in Docket No. 930613-EI essentially consisted of the implementation of its fuel switching strategy approved in Docket 921155-EI.

6. Orgulf sought and was granted intervenor status in Docket 930613-EI. Order No. PSC-93-15606-PCI-EI. Gulf Power did not object to Orgulf's intervention. Consistent with the pleadings and testimony filed by Orgulf in Docket No. 930613-EI, Orgulf intervened principally on the issue of the prudence of Gulf's implementation of its fuel switching strategy as it relates to transportation costs. At hearing Gulf asserted, and the Commission ultimately found, that there were no fuel costs (and therefore, transportation-related costs) for which recovery was sought.

7. During the hearing for Docket No. 930613-EI, Gulf Power's

counsel suggested that there were other dockets where the prudence of fuel-related costs would be determined. This docket is the appropriate forum for the Commission to examine those issues.

8. Orgulf's substantial interests are subject to determination in this proceeding as Gulf Power may seek to recover transportation related charges directly flowing from Gulf Power's suspension and termination of its transportation agreement with Orgulf. In fact, PSC Staff have specifically queried Gulf on the issue of such costs. See, Staff's 4th Set of Interrogatories to Gulf (No. 13). Approval of such charges by this Commission will not only impact Orgulf's financial interests but will jeopardize the jobs of numerous Orgulf employees dedicated to fulfilling the Company's obligations under the transportation agreement. In order to protect Orgulf's substantial interests it is necessary to participate in this dockets to the extent Gulf Power seeks to recover transportation related charges. Approval of imprudently incurred transportation related charges would also unduly burden Gulf Power's ratepayers.

9. Orgulf seeks intervenor status only as it relates to Gulf Power and does not seek intervenor status with respect to any other utility participating in this docket.

10. The following issues of material fact are in dispute in this proceeding:

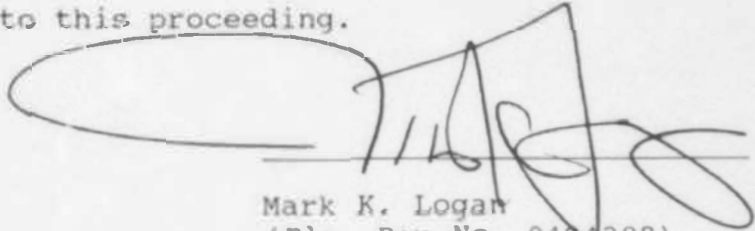
a. The prudence of the Peabody Coal contract buy-out and related action taken by Gulf Power with respect to its coal transportation contract with Orgulf.

11. Orgulf reserves the right to raise additional issues or dispute any issues of material fact which develop during the course of this proceeding.

12. Orgulf alleges as a concise statement of the ultimate facts that Gulf Power is seeking recovery for certain costs, such as the Peabody Coal contract buy-out, that were not prudently incurred and which fail to take into account other significant transportation-based charges.

13. The following statutes and rules entitle Orgulf to relief: Chapters 366 and 120, Florida Statutes; Rule 25-22, Part IV, Florida Administrative Code; Orgulf reserves the right to rely on additional statutory and regulatory authority.

WHEREFORE, Orgulf respectfully requests that it be allowed to intervene as a party to this proceeding.

A handwritten signature in black ink, appearing to read 'Mark K. Logan', is written over a horizontal line. The signature is stylized and somewhat cursive.

Mark K. Logan  
(Fla. Bar No. 0494208)  
Bryant, Miller & Olive  
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(904) 222-8611

Attorney for Intervenor Orgulf  
Transport Co.



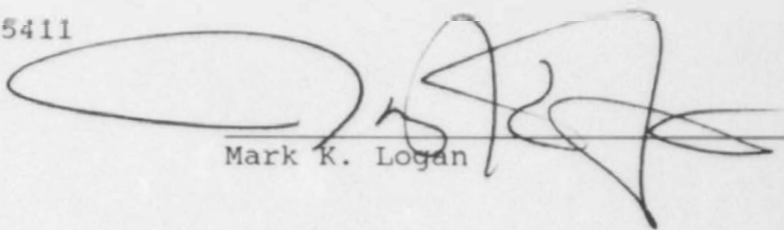
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Mark K. Logan