



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
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RECORDS AND
REPORTING

July 22, 1999

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Petition by the Citizens of the State of Florida to Have the Florida Public Service Commission Conduct a Full Revenue Requirements Rate Case and Establish Reasonable Base Rates and Charges for Gulf Power Company; Docket No. 990 947 -E1

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of a Petition by the Citizens of the State of Florida to Have the Florida Public Service Commission Conduct a Full Revenue Requirements Rate Case and Establish Reasonable Base Rates and Charges for Gulf Power Company for filing in your office.

Also enclosed is a 3.5 inch diskette containing the Petition in WordPerfect for Windows 6.1. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

RECEIVED & FILED


FPSC-BUREAU OF RECORDS

Sincerely,


Jack Shreve
Public Counsel

JRH/dsb
Enclosures

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a full revenue
requirements rate case for
Gulf Power Company.

Docket No.: _____
Filed: July 22, 1999

**PETITION BY THE CITIZENS OF THE STATE OF FLORIDA
TO HAVE THE FLORIDA PUBLIC SERVICE COMMISSION
CONDUCT A FULL REVENUE REQUIREMENTS RATE
CASE AND ESTABLISH REASONABLE BASE RATES
AND CHARGES FOR GULF POWER COMPANY**

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to Section 350.0611, Florida Statutes (1997), petition the Florida Public Service Commission to initiate and conduct a full revenue requirements base rate proceeding for Gulf Power Company. In support of this petition, the Citizens state:

1. The agency affected by this petition is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850. A docket number has not yet been assigned.
2. Petitioners, the Citizens of the State of Florida, are represented by the Office of Public Counsel. Notices, pleadings, correspondence and orders in this docket should be sent to:

Jack Shreve
Public Counsel
John Roger Howe
Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

The Public Counsel, Jack Shreve, is authorized, pursuant to Section 350.0611, Florida Statutes (1997), to provide legal representation for the people of the state in proceedings before the Commission. Subsection 350.0611(1) authorizes the Public Counsel "[t]o recommend to the

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FPSC-RECORDS/REPORTING

Commission, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the Commission and to urge therein any position he or she deems to be in the public interest.” Public Counsel is filing this petition on behalf of Gulf Power Company’s retail customers who are substantially and adversely affected by Commission-approved rates and charges which provide Gulf with excessive profits in terms of the company’s allowed return-on-equity (ROE) range and in terms of prevailing financial market conditions.

3. Jurisdiction to consider this petition and to establish fair and reasonable retail rates and charges for electric utilities is vested in the Commission pursuant to Chapter 366, Florida Statutes (1997). Gulf Power Company, a Maine corporation with headquarters at 500 Bayfront Parkway, Pensacola, Florida 32501, owns and operates electric generation production facilities in Florida, Georgia and Mississippi which are used to provide retail electric service in Northwest Florida. Gulf Power Company is a “public utility” and an “electric utility” as those terms are defined in Subsections 366.02(1) and (2), Florida Statutes (1997). Retail electric rates and charges currently being collected by Gulf Power Company were authorized by the Commission in various orders issued pursuant to its statutory authority.

4. The rate-setting process has long been recognized as dynamic, imposing upon the Commission an obligation to investigate and establish new rates and charges whenever changed circumstances allow previously established rates and charges to provide a utility company with excessive profits. Section 366.06, Florida Statutes (1997), requires the Commission in such circumstances to balance the interests of an electric utility and its customers by setting new base rates and charges for retail service so that customers’ rates do not yield excessive compensation for the

services rendered.¹ The Commission, itself, recently acknowledged the existence of changed circumstances justifying a lower return on equity and lower rates in the proposed agency action order (Order No. 99-1047-PAA-EI) issued May 24, 1999, in Dockets Nos. 990250-EI and 990244-EI. That order, however, was protested by the Coalition for Equitable Rates on June 14, 1999, and never became final agency action.

5. Current conditions in the capital markets as well as ROE's being awarded in other jurisdictions demonstrate that Gulf Power Company's currently allowed ROE range is excessive. Gulf Power Company's last full revenue requirements rate case was decided almost nine years ago by Order No. 23573, issued October 3, 1990, in Docket No. 891345-EI. Gulf Power Company's currently allowed ROE range of 11% to 13%, with a 12% midpoint, was established by Order No. PSC-93-0771-FOF-EI, issued May 20, 1993, in Docket No. 930139-EI. Consideration of relevant matters affecting the reasonableness of Gulf Power Company's ROE should lead the Commission to set a new midpoint well below 12%. The most recent quarterly "Cost of Equity Analysis" prepared by the Commission staff suggests a fair ROE for Gulf Power Company would be 9.03%.

6. The Commission is requested to require Gulf to file a full set of minimum-filing-requirements (MFRs) based upon a six-months historic and six-months projected 1999 test year. Such

¹In Bluefield Waterworks & Improvement Co. v. Public Service Comm'n of West Virginia, 262 U.S. 679, 693 (1923), the United States Supreme Court observed that "[a] rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally." In United Telephone Company v. Mann, 403 So. 2d 962, 968 (Fla. 1981), the Florida Supreme Court said the Commission can adjust a utility's rates even though it is earning within its previously established rate of return range. In United Telephone Co. v. Mayo, 345 So. 2d 648, 653 (Fla. 1977), the Court observed that a utility's rate of return "cannot be set so low as to confiscate the property of the utility, nor can it be made so high as to provide greater than a reasonable rate of return, thereby prejudicing the consumer."

a test year would permit Gulf to provide relevant data in a timely manner incorporating the most recent historical data with a minimum amount of projections. Moreover, a 1999 test year, with appropriate adjustments for known and measurable changes, would be representative of future operations.

7. The Commission is also requested to order Gulf Power Company to hold all revenues collected during the pendency of this proceeding which contribute to earnings above the 13% maximum of its currently authorized ROE range subject to refund pursuant to Section 366.071, Florida Statutes (1997). The company's forecasted 1999 earnings surveillance report shows that its earnings calculated in a manner consistent with its last rate case will be above 13%.

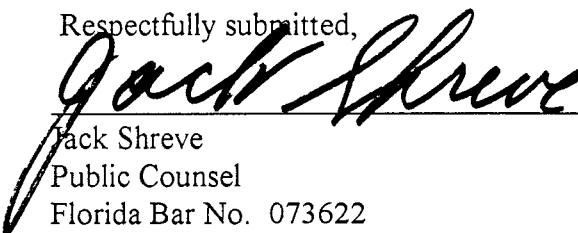
8. The Commission is also requested to consider including in base rates the current and projected environmental investments and costs subject to environmental cost recovery pursuant to Sections 366.825 and 366.8255, Florida Statutes (1997), as provided for in Subsection 366.8255(5).

9. The Commission is also requested to adopt a procedural schedule to guide further activity in this docket, allowing for customer hearings in Gulf's service area, and including hearings to be held pursuant to Sections 120.569 and 120.57(1), Florida Statutes (Supp. 1998). Disputed issues of material fact are unknown at this time but can be expected to arise from virtually all aspects of rate case analysis, such as revenues and expenses on the income statement; rate base components, including fixed assets and working capital; capital structure components, balances, ratios, and cost rates; and rate structure.

WHEREFORE, the Citizens of the State of Florida, through the Office of Public Counsel, petition the Florida Public Service Commission to: (1) order Gulf Power Company to hold all

revenues contributing to earnings above a 13% return on equity subject to refund with interest pending the outcome of hearings; (2) order Gulf Power Company to file a full set of MFRs based upon a partially historic and partially projected 1999 test year; (3) adopt a procedural schedule to allow for the expeditious processing of a full revenue requirements rate case; (4) conduct hearings pursuant to Sections 120.569 and 120.57(1), Florida Statutes (Supp. 1998), (including customer hearings in Gulf's service area) to take evidence on matters affecting the reasonableness of Gulf Power Company's base rates and charges, including but not limited to, the allowed return on equity, rate base, capital structure, quality of service, and costs currently being recovered and projected to be recovered through environmental cost recovery factors; and (5) issue a final order directing the return to customers of rates held subject to refund, adopting a lower return on equity, and setting lower retail base rates and charges designed to allow Gulf Power Company a reasonable opportunity to earn at the newly-established midpoint of the return-on-equity range.

Respectfully submitted,


Jack Shreve
Public Counsel
Florida Bar No. 073622

John Roger Howe
Deputy Public Counsel
Florida Bar No. 0253911
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
(850) 488-9330

Attorneys for the Citizens
of the State of Florida

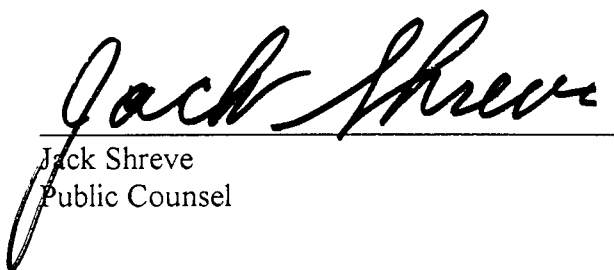
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above PETITION BY THE CITIZENS OF THE STATE OF FLORIDA TO HAVE THE FLORIDA PUBLIC SERVICE COMMISSION CONDUCT A FULL REVENUE REQUIREMENTS RATE CASE AND ESTABLISH REASONABLE BASE RATES AND CHARGES FOR GULF POWER COMPANY has been furnished by U. S. mail or hand-delivery (*) to the following parties this 22nd day of July, 1999:

Robert V. Elias, Esquire*
Legal Division
Florida Public Service Division
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Jeffrey A. Stone, Esquire
Russell A. Badders, Esquire
Beggs & Lane
3 West Garden Street, Suite 700
P. O. Box 12950
Pensacola, FL 32576-2950

Mr. Arlan E. Scarbrough
Vice-President, Finance
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0100



Jack Shreve
Public Counsel

STATE OF FLORIDA

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.



DIVISION OF RECORDS & REPORTING
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770

Public Service Commission

July 23, 1999

Jack Shreve, Public Counsel
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison St., Room 812
Tallahassee, Florida 32399-1400

Re: Docket No. 990947-EI

Dear Mr. Shreve:

This will acknowledge receipt of a petition for a full revenue requirements rate case for Gulf Power Company by the Citizens of the State of Florida, which was filed by this office on July 22, 1999 and assigned the above-referenced docket number. Appropriate staff members will be advised.

Mediation may be available to resolve any dispute in this docket. If mediation is conducted, it does not affect a substantially interested person's right to an administrative hearing. For more information, contact the Office of General Counsel at (850) 413-6078 or FAX (850) 413-6079.

Division of Records and Reporting
Florida Public Service Commission