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IN REPLY REFER TO:

September 3, 1999

Ansley Watson, Jr.  
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**VIA FEDERAL EXPRESS**

Blanca S. Bayo, Director  
Division of Records & Reporting  
Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**Re: Docket No. 981591-EG -- Petition for authority to implement Good Cents Conversion Program by Gulf Power Company**

Dear Ms. Bayo:

Enclosed for filing in the above docket on behalf of Peoples Gas System, please find the original and 15 copies of its Motion to Strike Portions of Gulf Power Company's PreFiled Direct Testimony.

Please acknowledge your receipt of the enclosures and the date of their filing on the duplicate copy of this letter enclosed for that purpose, and return the same to me in the preaddressed envelope also enclosed herewith.

Thank you for your usual assistance.

Sincerely,

ANSLEY WATSON, JR.

1999 SEP - 7 AM 9:56  
DIVISION OF ADMINISTRATION  
FLORIDA PUBLIC SERVICE COMMISSION

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG Staff
- LEG 1
- MAS 3AWjr/a
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- SEC 1
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

Enclosures

cc: Jeffrey A. Stone, Esquire  
Russell A. Badders, Esquire  
Tiffany R. Collins, Esquire

RECEIVED & FILED

FPSC-BUREAU OF RECORDS 10683 SEP-7 99

DOCUMENT NUMBER-DATE

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for authority to implement )  
Good Cents Conversion Program )  
by Gulf Power Company. )  
\_\_\_\_\_)

Docket No. 981591-EG

Submitted for Filing:  
9-7-99

**PEOPLES GAS SYSTEM'S  
MOTION TO STRIKE PORTIONS  
OF GULF POWER COMPANY'S  
PRE-FILED DIRECT TESTIMONY**

Peoples Gas System ("Peoples" or "Intervenor"), by its undersigned attorneys, moves the Commission to strike certain portions of the Direct Testimony of Ted S. Spangenberg filed in this docket on July 22, 1999 (hereinafter, "Mr. Spangenberg's Testimony"), on the grounds that such testimony is irrelevant and immaterial, constitutes (or is based on) hearsay, contains conclusions of the witness with respect to advertising and promotional materials which the witness has not submitted as exhibits (and which the Commission and Intervenor are therefore unable to view for the purpose of forming their own conclusions), and unduly prejudicial. Peoples further states in support of its motion to strike:

1. The portion of Mr. Spangenberg's Testimony to which this motion is directed commences at the beginning of line 4 on page 12, and continues through the word "Commission" on line 4 on page 13 of such testimony, which is referred to hereinafter as the "Offending Testimony."

2. While the question to the witness eliciting the answer containing the offending testimony is also irrelevant and immaterial, since it seeks evidence on matters not at issue in this proceeding, Peoples has no objection to the question or to the portion of the answer to which this

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motion is not directed.

3. The Offending Testimony states the witness's conclusions with respect to, or his characterizations of, certain "advertising," "promotional materials," and "cash incentives." While the witness could have done so, he elected not to offer such materials as exhibits at the time of submitting his direct testimony on behalf of Gulf. Under the circumstances, neither Intervenor nor the Commission will have either the opportunity to view materials characterized by the witness, or to determine whether the witness's characterization thereof, or conclusions with respect thereto, have any basis in fact. Under the circumstances, such testimony should be stricken as being unfairly prejudicial.

4. The Offending Testimony has no tendency to prove or disprove any fact which is relevant or material to the Commission's decision on any issue identified by the parties (in cooperation with the Commission Staff) for the hearing in this docket. Although they might have done so, neither the Commission Staff nor Peoples has questioned the incentives provided for in Gulf's Good Cents Conversion Program. Thus, the testimony can have no probative value on any issue in the proceeding which would outweigh the danger of unfair prejudice.

5. The Offending Testimony contains references to certain advertising, promotional materials and cash incentives, each of which contains statements made outside the Commission proceedings in this docket, and each of which is offered by the witness to prove the fact of the matter asserted. As such, the testimony of the witness as to such out-of-Commission statements (*i.e.*, the statements contained in the advertising, promotional materials, and cash incentives) constitutes hearsay, and is inadmissible.

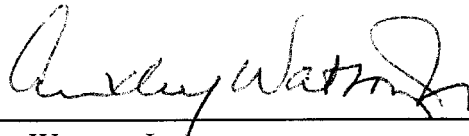
6. The Offending Testimony consists primarily, if not exclusively, of conclusions drawn

by the witness with respect to advertising, promotional materials and cash incentives. Mr. Spangenberg has not been offered by Gulf as an expert witness in the areas of advertising, promotional materials or cash incentives. Therefore, his conclusory testimony with respect to such matters – including their impact on customers in the marketplace – should be stricken, particularly when the witness has chosen not to offer the materials he has attempted to characterize, or about which he has stated certain conclusions.

7. The Offending Testimony serves no purpose in this proceeding since it is not directed to any issue identified by the parties. Admitting such testimony in this proceeding would be prejudicial to Peoples, and the same should be excluded or stricken prior to or at the time it is offered by the witness.

Dated this 3rd day of September, 1999.

Respectfully submitted,



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Ansley Watson, Jr.  
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(813) 273-4200  
Attorneys for Peoples Gas System

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Prehearing Statement of Peoples Gas System has been furnished this 3rd day of September, 1999, by regular U.S. Mail, to Jeffrey A. Stone, Esquire, and Russell A. Badders, Esquire, Beggs & Lane, P. O. Box 12950, Pensacola, Florida 32576-2950; and Tiffany R. Collins, Staff Counsel, Florida Public Service Commission, Capitol Circle Office Center, 2450 Shumard Oak Boulevard, Tallahassee, Florida 32399-0863.



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Ansley Watson, Jr.