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March 24, 2000

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

Dear Ms. Bayo:

RE: Docket No. 991834-EI

Enclosed are an original and fifteen copies of Gulf Power Company's Request for Clarification/Modification of Order No. PSC-00-0476-PAA-EI or in the Alternative Petition for a Formal Proceeding.

Also enclosed is a 3.5 inch double sided, high density diskette containing the Request in WordPerfect for Windows 8 format as prepared on a Windows NT based computer.

Sincerely,

Susan D. Ritenour

APP _____ Susan D. Ritenour
CAF _____ Assistant Secretary and Assistant Treasurer

- APP _____
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cc: Beggs and Lane
Jeffrey A. Stone, Esquire

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for approval of deferred)
accounting treatment for the Gulf Coast) Docket No.: 991834-EI
Ozone Study Program by Gulf Power) Filed: March 27, 2000
Company.)
_____)

**GULF POWER COMPANY'S REQUEST FOR
 CLARIFICATION/MODIFICATION OF ORDER NO. PSC-00-0476-PAA-EI
 OR IN THE ALTERNATIVE
 PETITION FOR A FORMAL PROCEEDING**

GULF POWER COMPANY ("Gulf Power," "Gulf," or "the Company"), by and through its undersigned counsel, hereby requests the Florida Public Service Commission ("Commission") to clarify and/or modify its Order No. PSC-00-0476-PAA-EI, issued in this docket on March 6, 2000 following a vote by the full Commission at its conference on February 15, 2000. In the alternative, if the Commission declines to clarify/modify Order No. PSC-00-0476-PAA-EI as detailed below, Gulf Power, as a party whose substantial interests are affected by the action proposed by said order, hereby petitions the Commission for a formal proceeding in accordance with said order, Rule 25-22.029, Florida Administrative Code and Rule 28-106.201, Florida Administrative Code. As grounds for the relief requested by this request and/or petition, the Company would respectfully show:

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

Jeffrey A. Stone
 Russell A. Badders
 Beggs & Lane
 P. O. Box 12950
 Pensacola, FL 32576-2950

Susan D. Ritenour
 Assistant Secretary and Assistant Treasurer
 Gulf Power Company
 One Energy Place
 Pensacola, FL 32520-0780

2. Gulf is a corporation with its headquarters located at 500 Bayfront Parkway, Pensacola, Florida 32501. The Company is an investor-owned electric utility operating under the jurisdiction of this Commission.

3. At the February 15, 2000 Commission Conference, the Staff's recommendation on Gulf Power's petition for approval of deferred accounting treatment for the Gulf Coast Ozone Study ("GCOS") was considered by the Commission. After lengthy discussion, the Commission voted to allow Gulf Power to have immediate recovery through the Environmental Cost Recovery Clause ("ECRC") of the GCOS expenses that remain following an offset intended to take into account a level of costs for environmental studies that was included in the Company's rate case test year to the extent that the Company is no longer incurring costs for such environmental studies in its base rates (i.e. outside of the ECRC). This so called "netting" was to take into account (1) that there was \$178,000 of identified expenditures for "environmental studies" contained in the Company's test year budget for its last rate case; and (2) that Gulf was no longer incurring costs for such environmental studies as a base rate item.¹ Commissioner

¹The belief that Gulf Power was no longer incurring costs for environmental studies as a base rate item was the result of an error made by the Company in answering a staff interrogatory in January 2000. When the answer to Interrogatory 19 was prepared, the Company mistakenly overlooked four ongoing non-ECRC environmental activities for which the associated costs were included in Gulf's monthly surveillance report. This mistake was discovered after the February 15 agenda conference. For the period ending November 1999, the following environmental studies and their associated costs were included in Gulf's monthly surveillance report:

Advanced Energy Systems	\$	105,519
Regional Air Quality Issues		66,852
Southern Oxidant Study		28,057
Cooperative Tree Planting Program		41,621
Total	\$	242,049

Gulf apologizes for the confusion that has been caused by the error in the interrogatory response.

Deason made the motion that ultimately led to the Commission vote and decision in this case. In the course of discussion on his motion, Commissioner Deason indicated that it was his intent that the amount of the “base rate offset” to be applied against total GCOS expenses to determine the amount recoverable through ECRC would be reduced by the amount of Gulf’s actual expenses for environmental studies undertaken through base rates. Commissioner Deason’s specific comments at the agenda conference (Tr. 53-54) were:

COMMISSIONER DEASON: Right. And I also believe, though, that if, for example, the acid rain studies were continuing and electromagnetic field studies were continuing, or if there were some other study that was continuing that, say, equalled 178,000, there would be no offset. (emphasis added)

4. Notwithstanding the foregoing statement of intent, Order No. PSC-00-0476-PAA-EI contains language that fixes the offset at \$178,000. Specifically, the order states that the estimated recoverable amount for the GCOS “. . . shall be reduced annually by the \$178,000 that is in base rates for environmental studies.” The order further states “. . . , that Gulf Power Company may recover only those annual costs of the Gulf Coast Ozone Study in excess of the \$178,000 already in base rates for environmental studies.” It is these portions of the order found on pages 2 and 3 which Gulf by this request seeks to have the Commission clarify/modify in order to be consistent with the stated intent of the motion.

5. Gulf should not be required to reduce the level of costs for GCOS that can be recovered through ECRC by \$178,000 because the Company is, in fact, incurring expenses outside of the ECRC for “environmental studies” as it was in the rate case test year. As Commissioner Deason stated at the agenda conference, the amount of the “base rate offset” should be reduced from the cap of \$178,000 by an amount equal to the amount actually spent by

the Company on “environmental studies” outside of the ECRC during the relevant recovery period. For example, as shown in the affidavit of Gulf’s witness J. O. Vick attached to this request, Gulf Power has four non-ECRC activities planned for the year 2000 (and beyond) that fall into the broad category of “environmental studies” as that term came to be used in the staff’s recommendation and the Commission’s discussion at the February 15 agenda conference. These four activities are: (1) Advanced Energy Systems [research regarding clean coal burning technologies, etc.]; (2) Regional Air Quality Issues [studies addressing regional air pollution issues such as regional haze; NOx emissions trading, etc.]; (3) the Southern Oxidant Study [research program dedicated to developing a comprehensive scientific understanding of ozone in rural and urban areas of the southern United States]; and (4) the Cooperative Tree Planting Program [part of a research and development effort to evaluate the viability of carbon sequestration through forestry in an effort to identify cost-effective means of reducing, avoiding or offsetting carbon dioxide emissions]. Gulf Power’s total expected expenses in 2000 for these four activities is more than \$300,000, all of which is outside of the ECRC and is therefore being addressed in base rates.

6. In Order No. PSC-94-0044-FOF-EI, by which the Commission first established the ECRC for Gulf Power Company, the Commission specifically rejected the kind of offset for base rate expenditures that is proposed in Order No. PSC-00-0476-PAA-EI. Gulf’s original proposal for establishing the ECRC looked at environmental compliance expenses being incurred by the Company and sought recovery of the incremental differences in these expenses as compared to the level of environmental compliance expenses in the Company’s last rate case test year. The Company made its proposal with the understanding that in some cases, the incremental

difference was a decrease in spending and therefore would have led to a decrease or reduction in the amount ultimately recoverable through the ECRC. The Commission rejected Gulf's original proposal and accepted the staff's recommendation in favor of a policy that limited ECRC recovery to new activities since the last rate case test year and existing activities that have increased in scope due to changes in regulatory requirements since the last rate case proceeding.

In Order No. PSC-94-0044-FOF-EI, at page 20, the Commission stated:

The last nine O&M categories are disallowed because all activities included in each of the following categories are being recovered in base rates. The fact that Gulf's current cost projections is different today from the same activities addressed in the last rate case is not an increase in compliance requirements but an adjustment to reflect changes in projections.

In this case, with over six years experience implementing Order No. PSC-94-0044-FOF-EI by limiting recovery to new activities since the last rate case test year (for which all of the expenses are recoverable through ECRC) and existing activities that have increased in scope due to change in legal requirements since the last rate case test year (for which only the costs associated with the increased level of costs over the test year expense necessary to comply with the new regulation is allowed for recovery through ECRC), the Commission has changed its policy so that an offset to an ECRC recoverable activity for base rate items is required. Such a change in policy is not warranted under the circumstances of the GCOS. First, the GCOS is a new activity that did not exist in the rate case test year. Second, the required offset is tied to activities in the rate case test year which have been identified as "environmental studies" which were essentially research and development ("R&D") activities and, as such, are not eligible for ECRC recovery under the Commission's established policy since such R&D is not specifically required in order

to comply with new environmental laws or regulations. Third, Gulf continues to incur expenses for these types of “environmental studies” outside of ECRC well above the \$178,000 identified for such activities in the rate case test year budget. Therefore, at a minimum, the Commission should clarify/modify Order No. PSC-00-0476-PAA-EI so that Gulf can reduce the amount of the base rate offset by the amounts the Company incurs in connection with “environmental studies” outside of the ECRC during the same recovery period as the Company incurs expenses associated with the GCOS. For the reasons stated above, the Commission could justify modifying Order No. PSC-00-0476-PAA-EI to remove the offset requirement altogether. In either case, Gulf would then be allowed to fully recover its GCOS expenses consistent with the intent of the Commission as expressed at its February 15, 2000 agenda conference.

7. If the Commission declines to clarify/modify Order No. PSC-00-0476-PAA-EI as requested herein above by the Company, Gulf Power hereby petitions for formal proceedings pursuant to Sections 120.569 and 120.57(1), Florida Statutes. In support of this alternative petition for formal proceedings and pursuant to Rule 25-22.029, Florida Administrative Code and Rule 28-106.201, Florida Administrative Code, the Company states:

- a. The agency affected is the Florida Public Service Commission. The agency’s address is 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. The agency’s file number is Docket No. 991834-EI.
- b. The petitioner is Gulf Power Company. The petitioner’s mailing address is One Energy Place Pensacola, FL 32520-0780. The petitioner’s telephone number is 850/444-6231.

The petitioner's representatives and their respective addresses and telephone numbers are:


Jeffrey A. Stone	Susan D. Ritenour
Russell A. Badders	Assistant Secretary and Assistant Treasurer
Beggs & Lane	Gulf Power Company
P. O. Box 12950	One Energy Place
Pensacola, FL 32576-2950	Pensacola, FL 32520-0780
850/432-2451	850/444-6231

The petitioner's substantial interests will be affected by the proposed agency action set forth in Order No. PSC-00-0476-PAA-EI because petitioner's request for recovery of certain amounts through the Environmental Cost Recovery Clause is being reduced or offset without first affording the petitioner an opportunity for an evidentiary hearing on disputed issues of material fact and applicable law.

- c. Petitioner received written notice of the agency decision that is protested by this petition via Order No. PSC-00-0476-PAA-EI issued by the agency's Division of Records and Reporting on March 6, 2000. Petitioner received a copy of said order by fax and/or U.S. Mail on or before March 8, 2000.
- d. The disputed issue of material fact is whether "Gulf continues to collect \$178,000 annually in base rates for environmental studies that it no longer is pursuing" and therefore whether "the estimated recoverable amount for the GCOS of \$250,000 for 2000 and \$250,000 for the next four years [should] be reduced annually by the \$178,000 that is in base rates for environmental studies."
- e. Petitioner alleges that it is going to incur expenses of more than \$300,000 during 2000 and beyond for the same general types of activities as those activities corresponding to the \$178,000 that Order No. PSC-00-0476-FOF-EI identifies as being in Gulf Power's base rates for environmental studies.
- f. Petitioner seeks relief in the form of an order that eliminates the obligation to offset or reduce the amount of expenses associated with the Gulf Coast Ozone Study that is recoverable through the Environmental Cost Recovery Clause by \$178,000. Stated another way, Petitioner seeks relief in the form of being allowed to recover the full amount of the Gulf Coast Ozone Study expenses through the Environmental Cost Recovery Clause, as originally proposed by Petitioner in its filings made in Docket No. 990007-EI.

WHEREFORE, Gulf Power Company respectfully requests the Commission to clarify/modify the language in Order No. PSC-00-0476-PAA-EI as set forth above or, in the alternative, to hold formal evidentiary proceedings for the purpose of determining whether an offset to expenses for GCOS for base rate environmental studies expenses that are no longer being incurred by the Company is appropriate.

Respectfully submitted the 24th day of March 2000.



JEFFREY A. STONE
Florida Bar No. 325953
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(850) 432-2451
Attorneys for Gulf Power Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
Affidavit of J. O. Vick on behalf of Gulf Power Company
Regarding Docket No. 991834-EI

Comes the Affiant, J. O. Vick, and having first been sworn, states as follows:

1. My name is James O. Vick and my business address in One Energy Place, Pensacola, Florida, 32520. I am employed by Gulf Power Company as the Manager of Environmental Affairs. I graduated from Florida State University, Tallahassee, Florida, in 1975 with a Bachelor of Science Degree in Marine Biology. I also hold a Bachelor's Degree in Civil Engineering from the University of South Florida in Tampa, Florida. In addition, I have a Masters of Science Degree in Management from Troy State University, Pensacola, Florida. I joined Gulf Power Company in August 1978 as an Associate Engineer. I have since held various engineering positions such as Air Quality Engineer and Senior Environmental Licensing Engineer. In 1996, I assumed my present position as Manager of Environmental Affairs. As Manager of Environmental Affairs, my primary responsibility is overseeing the activities of the Environmental Affairs section to ensure the Company is, and remains, in compliance with environmental laws and regulations, i.e., both existing laws and such laws and regulations that may be enacted or amended in the future. In performing this function, I have the responsibility for numerous environmental activities.
2. Florida Public Service Commission Order No. PSC-00-0476-PAA-EI referenced \$178,000 of expenses for environmental studies in Gulf Power's test year budget for its last rate case. This \$178,000 of rate case test year expenses was associated with the following five environmental research and development ("R&D") activities: Electric and Magnetic Fields (\$39,000), Atmospheric Fluidized Bed Combustion (\$52,000), Living Lakes, Inc. (\$65,000), Acid Rain Monitoring (\$11,000) and the Florida Seepage Lake Study (\$11,000). A brief description of each of these environmental R&D activities present in Gulf Power's rate case test year budget is set forth in Attachment A to this affidavit.
3. Gulf Power has four environmental R&D activities for which the Company will be incurring expenses of more than \$300,000 outside of the Environmental Cost Recovery Clause ("ECRC") during the year 2000. These four activities (and the expected 2000 expenses for each) are:
 - A. Advanced Energy Systems (\$108,440) This environmental research and development activity was started in 1992. The focus of this activity is to perform engineering research that enables Gulf Power and The Southern Company to maintain a current understanding of and determine the future potential of various processes using coal, such as gasification and liquefaction, and the production of methanol.

- B. Regional Air Quality Issues (\$106,626) This research activity, initiated in 1996, seeks to contract for, contribute to joint efforts for, or perform environmental services which address regional air pollution issues (e.g. regional haze, fine particulate matter (PM 2.5), NOx emissions trading program, etc.) which could result in imposition of environmental constraints on the fossil-fuel generation facilities of Gulf Power and The Southern Company.
- C. Southern Oxidants Study (\$26,365) This environmental activity, also initiated in 1996, is a multi-institutional research program dedicated to developing a comprehensive scientific understanding of ozone in rural and urban areas of the southern United States.
- D. Cooperative Tree Planting Program (\$60,000) This environmental program was initiated in 1996 in cooperation with the U. S. Department of Energy's Climate Challenge Initiative. As part of its commitment to cost-effective programs to reduce, avoid, or offset emissions of carbon dioxide (CO2), the Southern Company identified carbon sequestration through forestry as a promising opportunity. To evaluate the viability of this approach, the company has undertaken a cooperative venture to assist landowners in planting trees on open land in the company's service area. Each of the system operating companies (Alabama Power, Georgia Power, Gulf Power, Mississippi Power, and Savannah Electric) has developed its own specific program within the overall Southern Company framework. These generally have involved developing a cooperative arrangement with each state's forestry agency to jointly establish a process under which landowners may apply for partial reimbursement from the company for land preparation and tree planting. In return for this payment, the landowner agrees not to cut the trees for a specified time of up to 30 years. The landowner also agrees that the company may claim credit (under current or future government programs) for any CO2 offsets generated by the program. The response to this program has been very good and it has thus far resulted in planting approximately 8 million trees on about 12,000 acres of previously open land.

4. The four environmental activities identified in paragraph 3 above are comparable to the environmental R&D activities that comprised the \$178,000 in rate case test year expenses referenced in Order No. PSC-00-0476-PAA-EI.

Further, affiant saith not.

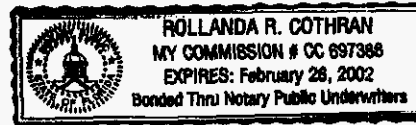
This 24 day of March, 2000.



J. O. Vick

Sworn to and subscribed before me this 24th day of March, 2000, by James O. Vick, who is personally known to me.

Rollanda Cothran
Notary Public, State of Florida at Large



ATTACHMENT A

Description of environmental research and development activities contained in the test year budget for Gulf Power Company's last rate case (Docket No. 891345-EI) that comprised the \$178,000 of rate case test year expenses for environmental studies referenced in Order No. PSC-00-0476-FOF-EI:

Electric and Magnetic Fields (EMF)

In the 1970's and 80's, electric and magnetic fields (EMF) from electric transmission and distribution facilities became a concern for government and utilities, because some scientific studies had suggested a correlation between these fields and adverse health effects. Gulf Power participated with the Florida Electric Power Coordinating Group in funding research and studies on the EMF issue in Florida. At the time the EMF standards were adopted in Florida, the Florida Environmental Regulation Commission established the Florida EMF Research Advisory Task Force to study technical and engineering methods of reducing EMF levels from electrical facilities over a two year period.

Atmospheric Fluidized Bed Combustion (AFBC)

This project, co-sponsored by Southern Company Services, TVA, Duke Power and the Electric Power Research Institute, evaluated the technical and economic viability of atmospheric fluidized bed combustion (AFBC). This technology promised to allow the efficient combustion of coal for power generation with substantially lower SO₂ emissions than uncontrolled units. AFBC also promised to reduce emission in a more efficient manner than conventional scrubbers; therefore, reducing the cost of future coal-fired generation additions or modifications. This project consisted of a full scale 160 mw unit at TVA's Shawnee Station Unit No. 10.

Living Lakes, Inc.

Living Lakes, Inc., was a not-for-profit organization made up of major coal companies and utilities, that was established in January, 1986, to design and implement an applied fisheries management field demonstration program for acidified waters. Its focus was on the treatment of acidified water through the application of neutralizing materials, regardless of the source of acidity. Research focused on application methods and dose-response relationships to raise the pH of acidified lakes and streams.

ATTACHMENT A (continued)

Acid Rain Monitoring

In 1981, the Florida Electric Power Coordinating Group began the funding of the Florida Acid Deposition Study. The first phase of the study, conducted by an independent consultant, was completed in 1986 and concluded that acid rain was not a severe problem in the state. Monitoring showed rainfall in Florida to be one-half as acidic as that of the Northeastern U. S. At the conclusion of the study, the decision was made, based upon the urging of an independent scientific review panel and the Florida Department of Environmental Regulations, to continue acid rain monitoring to complement a growing data base on the acidity of wet and dry deposition. The study was modified in 1987 to include NO_x monitoring and in 1988 to include ozone. The monitoring data was also utilized as an integral resource for the Seepage Lake Study by providing up-to-date current data of emissions for that work.

Florida Seepage Lake Study

A survey conducted by the U. S. Environmental Protection Agency showed Florida to have a high percentage of acidified lakes. Although evidence indicates a natural cause for this acidity, a majority of the acidified water bodies are "seepage" lakes or waters with no inflow or outflow except high water table and evaporation. Because of their stagnant nature, these waters are highly sensitive to additional acid input and are at great risk from further acidification. Little research had been conducted on seepage systems, and work was necessary to identify the stability of these systems and attempt to qualify the risk these bodies have from future deposition. Such knowledge would help identify whether an emissions reductions program, such as that called for in acid rain legislation, was necessary, and if so, could help target protection of these sensitive water bodies.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Deferred)
Accounting Treatment for the Gulf Coast)
Ozone Study Program by Gulf Power Company)

Docket No. 991834-EI

Certificate of Service

this 24th day of March 2000 by U.S. Mail or hand delivery to the following:

Robert V. Elias, Esquire
Staff Counsel
FL Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0863

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