



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
850-488-9330

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March 30, 2001

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

RE: Docket No. 000808-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Testimony of Kimberly H. Dismukes on behalf of the Office of the Public Counsel for filing in the above-referenced docket.

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.

Sincerely,

Robert D. Vandiver
Associate Public Counsel

RDV/dsb
Enclosures

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of Consumptive)
Water Use Monitoring Activity and Smith)
Wetlands Mitigation Plan as New Programs)
for cost recovery through the Environmental)
Cost Recovery Clause by Gulf Power Company)

Docket No. 000808-EI
Filed: March 30, 2001

TESTIMONY OF KIMBERLY H. DISMUKES

Respectfully submitted,

Jack Shreve
Public Counsel

Robert D. Vandiver
Associate Public Counsel
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

(850) 488-9330

Attorney for the Citizens
of the State of Florida

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FPSC-RECORDS/REPORTING

1 TESTIMONY

2 OF

3 KIMBERLY H. DISMUKES

4 On Behalf of the

5 Florida Office of the Public Counsel

6 Before the

7 FLORIDA PUBLIC SERVICE COMMISSION

8 Docket No. 000808-EI

9

10 **Q. WHAT IS YOUR NAME AND ADDRESS?**

11 A. Kimberly H. Dismukes, 401 Fieldcreek Dr. Friendswood, TX 77546.

12 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

13 A. I am a partner in the firm of Acadian Consulting Group, which specializes in the field of
14 public utility regulation. I have been retained by the Office of the Public Counsel (OPC) on
15 behalf of the Citizens of the State of Florida.

16 **Q. DO YOU HAVE AN APPENDIX THAT DESCRIBES YOUR QUALIFICATIONS IN**
17 **REGULATION?**

18 A. Yes. Appendix I, attached to my testimony, was prepared for this purpose.

19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 A. The purpose of my testimony is to respond to Gulf Power Company's ("Gulf," "Gulf
21 Power," or the "Company") Petition to recover the cost of the Smith Wetlands Mitigation
22 Plan (SWMP) through the Environmental Cost Recovery Clause (ECRC).

23 **Q. WOULD YOU PLEASE DISCUSS THE BACKGROUND OF THIS PROCEEDING?**

24 A. Yes. Gulf Power Company on June 30, 2000, Gulf petitioned the Commission for approval
25 of two programs under the Environmental Cost Recovery Plan: the Consumptive Water Use

1 Monitoring Activity and the Smith Wetlands Mitigation Plan. The Smith Wetlands
2 Mitigation Plan is the subject of the instant proceeding. The SWMP was required as a
3 condition of the final order in DOAH Case No 99-2641EPP, Gulf Power's power plant
4 citing application for the construction of Smith Unit 3. The construction of the new plant at
5 the proposed site would result in the loss of wetlands protected by the Florida Department of
6 Environmental Protection (FDEP) and the Army Corps of Engineers (USACE). In
7 accordance with the Conditions of Certification under the Florida Electrical Power Plant
8 Siting Act, Gulf was required to provide compensation for this loss. The compensation
9 plan proposed by Gulf Power, the Smith Wetlands Mitigation Plan, provided for the
10 enhancement of 130 acres of wetlands in a 232 acre parcel of land near the site of the
11 proposed plant.

12 On November 3, 2000 the Commission issued a Notice of Proposed Agency Action,
13 Order No. PSC-00-2092-PAA-EI on Gulf's Petition. In this order the Commission granted
14 Gulf's petition for approval of cost recovery through the ECRC for costs associated with the
15 Consumptive Water Use Monitoring Activity. The Commission, with Commissioner Baez
16 dissenting, denied the Company's petition for approval of cost recovery through the ECRC
17 for costs associated with the Smith Wetlands Mitigation Plan.

18 On November 27, 2000, Gulf filed a protest of those portions of order PSC-00-
19 2092-PAA-EI that denied the Company cost recovery through the ECRC of costs associated
20 with the Smith Wetlands Mitigation Plan.

21 **Q. WOULD YOU BRIEFLY DESCRIBE THE SMITH WETLANDS MITIGATION**
22 **PLAN?**

23 **A.** Yes. The Smith Wetlands Mitigation Plan is the plan proposed by Gulf Power and adopted
24 by the State of Florida DOAH, to compensate for the loss of wetlands due to the
25 construction of the Smith Unit 3 generating plant. The plant construction project will

1 occupy a 50.1 acre site, of which 26.5 acres are classified as wetlands. Construction of the
2 new plant will affect 15.3 acres these wetlands. As compensation for the loss of these
3 wetlands, the plan provides for the enhancement of 130 acres of land now planted as a wet
4 pine plantation. This land is located in Bay County, approximately one mile north of the
5 plant construction site, and contiguous to a cypress swamp. The SWMP entails removing
6 the planted pines and replanting the land in indigenous hardwoods and cypress.

7 The SWMP also provides for the Company to monitor and maintain the project for a
8 minimum of five years and to place it under a conservation easement to preserve the
9 property in perpetuity. In its petition filed June 30, 2000, the Company estimated the
10 capital expenditures of the SWMP at approximately \$1.27 million for the calendar year
11 2000. A more recent estimate prepared by the Company totaled \$848,766. This is composed
12 of \$648,766 in capital expenditures incurred in 2000 and 2001, with an additional \$210,000
13 in O&M costs for the calendar years 2001 through 2005. (Ritenour Testimony, p. 3.)

14 **Q. WHAT IS THE ENVIRONMENTAL COST RECOVERY CLAUSE THAT IS AT**
15 **THE CENTER OF GULF'S REQUEST?**

16 **A.** The Environmental Cost Recovery Clause, Section 366.8255 of the Florida Statutes, was
17 adopted by the Florida legislature in 1993. It allows for electric utilities to petition the
18 Commission for the recovery of prudently incurred costs of environmental compliance
19 activities through a cost-recovery factor that is separate from the utility's base rates. Section
20 366.8255 (1) (c) defines environmental compliance costs as follows:

21 "Environmental compliance costs" includes all costs or expenses incurred
22 by an electric utility in complying with environmental laws or regulations,
23 including but not limited to:

- 24 1. In-service capital investments, including the electric utility's last
25 authorized rate of return on equity thereon;

- 1 2. Operation and maintenance expenses;
- 2 3. Fuel procurement costs;
- 3 4. Purchased power costs;
- 4 5. Emission allowance costs; and
- 5 6. Direct taxes on environmental equipment.

6 The Commission issued its guidelines concerning the ECRC in Order Nos. PSC-94-
7 0044-FOF-EI and PSC-94-1207-FOF-EI. In Order No. PSC-94-0044-FOF-EI the
8 Commission set forth three criteria that must be met for costs to qualify for recovery
9 through the ECRC. These are:

- 10 1) such costs were prudently incurred after April 13, 1993;
- 11 2) the activity is legally required to comply with a governmentally imposed
12 environmental regulation enacted, became effective, or whose effect was
13 triggered after the company's last test year upon which rates are based; and
14 3) such costs are not recovered through some other cost recovery
15 mechanism or through base rates.

16 A fourth criterion was adopted by the Commission in Order No. PSC-94-1207-FOF-EI: “. .
17 . . a utility's petition for cost recovery must describe proposed activities and projected costs,
18 not costs that have already been incurred.”

19 **Q. WHY DOES THE COMPANY BELIEVE THAT THE SMITH WETLANDS**
20 **MITIGATION PLAN QUALIFIES FOR COST RECOVERY UNDER THE**
21 **PROVISIONS OF THE ECRC?**

22 A. Gulf states that the costs of the SWMP qualify for recovery under the ECRC because the
23 statute “does not exclude from cost recovery the environmental compliance costs associated
24 with new power plants.” (Gulf Power Company, Petition, November 27, 2000.)

25 The Company's petition describes how the costs meet each of the four requirements

1 of the Commission Orders Nos. PSC-94-0044-FOF-EI and PSC-94-1207-FOF-EI. Witness
2 Ritenour reiterates these points. First, no costs related to the project were incurred prior to
3 April 13, 1993. Second, the SWMP was ordered in DOAH Case No. 99-2641EPP and is
4 thus being undertaken to comply with a governmentally imposed environmental regulation,
5 enacted or effective after the Company's last test year. Third, the costs of the project are
6 not now recovered through base rates or any other recovery means. And lastly, "no costs
7 were incurred prior to Gulf's petition for cost recovery filed June 30, 2000." (Ritenour
8 Testimony, p. 7.)

9 **Q. DO YOU AGREE THAT THE COSTS OF THE SMITH WETLANDS MITIGATION**
10 **PLAN SHOULD BE RECOVERED THROUGH THE ECRC?**

11 **A.** No, I do not. I believe the record shows that the ECRC was created to provide for the
12 recovery of costs related to the modification and retrofitting of exiting plants to bring them
13 into compliance with new environmental regulations. It was not intended for the recovery
14 of costs of new power plant construction.

15 Although the statute itself does not state that only costs of modifications to existing
16 plants are to be recovered through the environmental cost recovery mechanism, the intent of
17 the legislation was not to include new power plant construction costs for recovery through
18 the ECRC. This issue was addressed in the Staff Recommendation of September 14, 2000.
19 The ECRC had been adopted as a floor amendment to HR Bill 2129. There were, therefore,
20 no committee reports discussing this amendment which could be consulted to determine
21 legislative intent. In recommending against Gulf's petition, Staff quoted Representative
22 Tobin, the sponsor of the amendment, as reported in the *Journal of the Florida House of*
23 *Representatives*. Rep. Tobin was quoted as stating, "The intent is not to authorize recovery
24 through this procedure of new power plant construction costs. The intent is to allow the
25 recovery of modifications to existing plants in order to bring them into compliance with the

1 environmental standards.”

2 At the Agenda Conference of September 26, 2000, Gulf representative Jeffrey Stone
3 argued that Staff had taken Rep. Tobin’s quotation out of context by neglecting to quote the
4 question it was in answer to. Mr. Stone endeavored to present the exchange between Rep.
5 Tobin and Rep. Davis as drawing a distinction between flowing the entire cost of a new
6 generating plant through the ECRC and recovering only the costs associated with
7 environmental regulation compliance items of a new generating plant through the ECRC.

8 The entire exchange between Representative Tobin, and Representative Davis does
9 not support this interpretation. Rep. Tobin was, as Staff noted, making a distinction
10 between recovering costs of new plant construction, and recovering costs of modifications
11 made to older existing plants. The entire exchange is as follows:

12 **Motion**

13 On motion by Rep. Davis, the rules were waived and the following remarks
14 were ordered spread upon the *Journal*.

15 **Rep. Davis:** Representative Tobin, I understand what your amendment is
16 doing in terms of establishing a procedure for passing through costs
17 associated with complying primarily with the Clean Air Act amendments,
18 which we adopted last year and just modified through legislation earlier
19 today. In fact, last year I know we passed legislation that allowed utilities
20 to submit plans to the Public Service Commission about how they intended
21 to comply with the Clean Air Act, and that is going to be expensive. I’d
22 like to ask you a series of questions that are designed to clarify the
23 legislative intent behind this amendment so it will be used in the most
24 restrictive fashion possible by the Public Service Commission. In the
25 amendment that is before us there is reference to in-service capital

1 investments as a type of cost that the Public Service Commission could
2 allow the utilities to recover under this procedure. Is it the intent of this
3 amendment that the costs of a large capital item such as an entire power
4 plant could be recovered through this procedure?

5 **Speaker Johnson:** In response, Representative Tobin

6 **Rep. Tobin:** Mr. Speaker, this is a series of questions. The answer to that is
7 no. The intent is not to authorize recovery through this procedure of new
8 power plant construction costs. The intent is to allow the recovery of
9 modifications to existing plants in order to bring them into compliance with
10 the environmental standards.

11 **Speaker Johnson:** Representative Davis.

12 **Rep. Davis:** Follow-up question, Representative Tobin. What sort of
13 modifications are intended to be recovered through this procedure?

14 **Rep. Tobin:** Additional scrubbers to remove pollutants from smoke stacks.
15 Another example would be changing the boilers or combustion systems to
16 reduce emissions. This is basically to bring those older plants into
17 compliance with more safe environmental standards.

18 **Speaker Johnson:** Representative Davis.

19 **Rep. Davis:** Does the Public Service Commission retain any discretion
20 under the proposals to determine what type of in-service capital investment
21 is an environmental compliance cost?

22 **Rep. Tobin:** Yes, Mr. Davis. On page 6, at lines 20 through 24, the
23 commission is given authority to determine if a company-proposed activity
24 is for the purpose of complying with environmental standards.

25 **Speaker Johnson:** Representative Davis.

1 **Rep. Davis.** Final question, Representative Tobin. Is it the intent that the
2 Commission be given the flexibility to determine whether the proposed
3 environmental compliance costs should be handled under this procedure or
4 in a full-blown rate case?

5 **Rep. Tobin:** Yes. The intent is for the Commission to have the flexibility
6 to hold a full-blown rate case in certain cases. The Commission may elect
7 to hold a rate case if it determines that the proposed capital investment is so
8 large that it's material to the overall costs and expenses of the company. It
9 may also make such action if it finds that the primary or dominant purpose
10 of the investment is not to comply with environmental standards but to
11 generate electricity. FLA. H.R. JOUR. P. 672 (Reg. Sess. Mar. 24, 1993)

12 Rep. Tobin clearly distinguishes between costs of new plants, and costs of modifications to
13 older existing plants, which are the costs for which the amendment was created.

14 **Q. GULF POWER ARGUES THAT THE COSTS OF THE SWMP ARE NOT**
15 **CONSTRUCTION RELATED COSTS, BUT ARE INSTEAD COSTS INCURRED**
16 **SOLELY IN COMPLYING WITH ENVIRONMENTAL REGULATIONS. DO YOU**
17 **AGREE?**

18 **A.** No, I do not. The costs incurred in completing the SWMP are properly considered as
19 construction costs of the new plant. They are being incurred as a condition of siting the
20 Smith Unit 3 for purposes of generating electricity. Had the utility selected a different site
21 for this plant, it is possible that no wetlands mitigation plan would have been necessary.

22 In addition, the particulars of the SWMP were determined by the utility, which
23 presented this particular plan as a component of its power plant siting application. In the
24 DOAH recommended order it was noted that “. . . the overall mitigation ratio represents an
25 average of 9:1 enhancement, which means for every acre of wetland impact at the Project

1 site, there will be 9 acres of high quality wetlands produced in the mitigation/enhancement
2 area. This Plan is more than adequate to compensate for the wetland impacts on the Project
3 site.” (FL DOAH, Case No. 99-2641EPP, ¶ 44.)

4 The DOAH order does not state the minimum enhancement ratio that would be
5 acceptable, nor does it describe in detail the certification process leading to FDEP’s
6 approval of this particular plan. However, as the SWMP was found to be “more than
7 adequate” it is possible that a less costly project could also have been approved by the FDEP
8 and the DOAH.

9 At the September 26, 2000 Agenda Conference, Mr. Stone stated that “. . . the
10 Smith wetlands mitigation project has absolutely nothing to do with generating electricity.”
11 I disagree.

12 The FDEP accepted this plan in its Site Certification process. Without this plan,
13 the new generating plant would not be constructed at the present site, and no electricity
14 would be generated by it. In this instance, this environmental project is as necessary to
15 construction of the plant as the pouring of the foundation or the installation of the turbines.

16 **Q. WAS THE REQUIREMENT THAT GULF MITIGATE THE WETLANDS THAT IT**
17 **USED TO SITE SMITH UNIT 3 A NEW REQUIREMENT NOT KNOWN BY GULF**
18 **AT THE TIME IT DECIDED TO BUILD UNIT 3?**

19 **A.** Because Gulf proposed the SWMP it would appear that compliance was known by Gulf
20 when it submitted power plant siting applications. Unlike the cost of complying with new
21 environmental regulations, the need to mitigate the wetlands was known to Gulf when it
22 selected the site for Smith Unit 3. This was not a cost imposed by a new environmental
23 regulation. Consequently, it should not be considered by the Commission as a cost for
24 recovery through the ECRC.

25 **Q. IS THE SMITH WETLAND MITIGATION PLAN THE ONLY COMPONENT OF**

1 **THE SMITH UNIT THREE REQUIRED BY EXISING ENVIRONMENTAL**
2 **REGULATIONS?**

3 A. No. If one were to look at all components of the new Smith generating plant, there may well
4 be other items that could conceivably be classified as being necessitated by environmental
5 regulations. For example, in Order No.98-0803-FOF-EI, issued June 9, 1998, the
6 Commission approved Gulf Power's petition to recover through the ECRC the costs of low
7 No_x burner tips installed at the Crist Units 4 & 5. These upgrades to the Crist units were
8 required to comply with amendments to the Clean Air which became effective in 2000.
9 Certainly the Smith Unit 3 plant will also be in compliance with the standards set by these
10 amendments. Gulf has not isolated any costs related to whatever engineering and
11 construction elements may have been necessary to meet any environmental regulations other
12 than the SWMP.

13 **Q. WOULD ALLOWING GULF TO RECOVER THE COST OF THE SWMP CAUSE**
14 **REGULATORY PROBLEMS?**

15 A. Yes. There are several policy reasons why the Commission should reject Gulf's request.
16 First, a plant constructed today, such as Smith Unit 3, when compared with a plant built
17 twenty years ago, would show many differences, any number of which could be related to
18 meeting environmental regulations. Quantifying what share of these construction costs are
19 associated only with environmental regulations would be daunting, if not impossible.

20 Second, if the Commission were to approve Gulf's request, it could open the door to
21 substantial costs of the environmental compliance for new plants being passed through the
22 ECRC. Clearly, such situations would be inequitable to current ratepayers and run counter to
23 generally accepted ratemaking practices. Costs of new plants should be recovered over their
24 economic life, not over a few years. The effect of opening such a Pandora's box would
25 require current customers to pay for the cost of environmental compliance for new plants

1 when the useful life to the asset would be significantly longer—30 years or more. In
2 addition, because these costs can be large, passing such costs through the ECRC could lead
3 to rate shock and/or rate instability.

4 Third, if the Commission were to allow the costs of environmental compliance to be
5 passed through the ECRC, it could lead to protracted proceedings due to the significant costs
6 and consequences. This runs counter to the intent of the ECRC which is to allow electric
7 utilities to recover the cost of modifying existing plants due to regulations largely beyond
8 their control in a timely manner.

9 Fourth, Gulf Power has made no effort to identify all the construction costs of Smith
10 Unit 3 that will be incurred to meet environmental regulations. It should not be allowed to
11 segregate the costs of the wetlands mitigation plan from the other construction costs of the
12 project.

13 **Q. DID THE COMMISSION MAKE A SIMILAR FINDING IN ITS PAA ORDER**
14 **REJECTING GULF'S ORIGINAL PETITION?**

15 **A.** Yes it did. In its PAA Order the Commission found that allowing the cost of the Smith
16 Wetlands Mitigation Plan could lead other environmental costs of new plants being passed
17 through the ECRC. The Commission noted that such a policy could be problematic:

18 Approval of Gulf's petition would set a precedent for recovery, through the
19 ECRC, of a class of expenses that is quite large. Because many of the
20 components of a new plant must meet environmental requirements, a
21 substantial percentage of the cost of a new plant could be recovered
22 through the ECRC. For example, it could be argued that the cost of
23 selective catalytic reduction could be recovered through the ECRC. Tampa
24 Electric Company estimates the cost of the Gannon repowering will be over
25 \$600 million. Furthermore, some environmental requirements are

1 inextricably bound with construction requirements, which makes it very
2 difficult, if not impossible, to distinguish between environmental
3 compliance costs and construction costs. (Order No. PSC 00-2092-PAA-
4 EI @ page 6, November 3, 2000.)

5 The Commission should make the same finding now. Gulf has not offered any new
6 evidence that would suggest a different decision.

7 **Q. DID THE COMMISSION MAKE ANY OTHER FINDINGS IN ITS PAA ORDER**
8 **THAT MERIT DISCUSSION?**

9 A. Yes. The Commission found that other adjustment clauses which allow for the pass-through
10 of costs similar to the ECRC were established due to the unpredictable nature of the cost and
11 a utility's general inability to control such costs. The Commission found that the
12 construction costs of a new plant did not fall into this category.

13 Construction of a new plant can not be characterized as an unpredictable
14 event. It is a predictable event, as evidenced by inclusion of new plants in
15 the utilities' ten-year site plans, submitted annually, and the requirement to
16 solicit bids for construction of new plants in Rule 25-22.082, Florida
17 Administrative Code. Because the event of construction is predictable, the
18 utility is able to anticipate when it will incur costs. Furthermore, much of
19 the planning process is under the control of the utility, unlike costs of fuel
20 or changing environmental regulations for existing plants which increase
21 the costs upon which base rates are set. Thus, the rationale behind the
22 clauses does not apply in the case of planned construction of a new power
23 plant. (Ibid., @ page 6.)

24 Again, Gulf has offered no new evidence that would indicate the Commission should
25 abandon its prior finding. Furthermore, as addressed above, the cost of mitigation was not an

1 unknown when Gulf selected the site for Unit 3. The site was controlled by Gulf Power and
2 it could have selected a different site.

3 **Q. HAS THIS COMMISSION IN THE PAST ALLOWED A UTILITY TO RECOVER**
4 **NEW PLANT CONSTRUCTION COSTS THROUGH THE PROVISIONS OF THE**
5 **ECRC?**

6 A. No, it has not. But to date, no other utility has requested the recovery of new plant
7 construction costs through the ECRC. The most recent generating plants constructed under
8 the jurisdiction of this Commission are plants constructed by Florida Power Corporation,
9 Florida Power & Light Company, and TECO. Florida Power Corporation is now
10 constructing Hines Unit 2 in Polk Count; Hines Unit 1 was completed in 1999. Florida
11 Power & Light Company recently constructed the Martin Units 3 and 4, and is also
12 repowering its Sanford and Ft. Myers plants. And in late 1996, TECO placed its Polk Unit 1
13 plant in service, the construction of which began in 1994. In none of these instances did the
14 utility petition the Commission for recovery of any construction related costs through the
15 ECRC.

16 **Q. WHAT PROJECTS HAS THE COMMISSION APPROVED FOR COST**
17 **RECOVERY THROUGH THE ECRC?**

18 A. The Commission has approved a variety of projects for cost recovery under the ECRC.
19 These projects, to date, have all been related to retrofits and modifications of existing
20 generating plants.

21 In 1993, the first year the ECRC was in effect, the Commission approved a wide
22 variety of projects for cost recovery through the ECRC. Gulf Power first petitioned the
23 Commission in June of that year with thirty-one projects for which it sought cost recovery
24 through the ECRC. In Order PSC-94-0044-FOF-EI, the Commission approved both capital
25 investment and O&M expense cost recovery for 24 of those activities at the company's

1 Crist, Smith, and Scholz plants. The capital investment projects approved included such
2 diverse items as Fuel Oil Remediation for the Crist plant, a Waste Water Treatment Facility
3 for Plant Smith, Underground Fuel Tank replacements, Precipitator Upgrades at Crist Units
4 5,6,7, Air Emission Fees, Air Quality Assurance Testing, and Flue Gas Conditioning at Crist
5 Unit 7.

6 More recently, in 1998 it approved Gulf Power's recovery of the costs of the low
7 No_x burner tips installed at the Crist Units 4 & 5, described earlier. In 2000, it approved
8 the inclusion under the ECRC of the costs of the Gulf Coast Ozone Study, in 1999 it
9 approved the Plant Smith Sodium injection project. It has also approved a large number of
10 environmental activities for TECO and Florida Power & Light. The TECO projects include
11 the stack extension at the Gannon plant to meet Clean Air Act Ambient Air Quality
12 Standards, (PSC-98-1764-FOF-EI), oil tank upgrades at the Phillips plant to comply with
13 DEP regulations, (PSC-98-0408-FOF-EI), classifier, gas conditioning and gas integration
14 projects at Big Bend to meet Clean Air Act Acid Rain standards (PSC-96-1048-FOF-EI).
15 Similarly, Florida Power & Light has recovered costs through the provisions of the ECRC
16 for a wastewater/stormwater discharge elimination project to meet EPA's water pollution
17 control standards, (PSC-98-1764-FOF-EI, a spill abatement project at the Riviera Plant, and
18 a Noncontainerized Liquid Waste Disposal Project (PSC-96-0361-FOF-EI). In all instances,
19 the projects for which cost recovery through the ECRC has been approved have been
20 projects undertaken at existing power plants to upgrade them to meet new or revised
21 environmental standards and regulations. In no instance has a project undertaken as part of
22 a new power plant's construction been submitted to the Commission for ECRC cost
23 recovery.

24 **Q. ARE THERE OTHER REASONS YOU BELIEVE THE COMMISSION SHOULD**
25 **NOT ALLOW RECOVERY OF THESE COSTS THROUGH THE ECRC?**

1 A. Yes. Gulf Power is currently under a rate freeze and revenue sharing plan. This plan is in
2 accordance with a stipulation signed by the Company, the Office of Public Counsel, the
3 Florida Industrial Power Users Group, and the Coalition for Equitable Rates in October
4 1999. The plan calls for a \$10 million per year reduction in base rates, with revenues,
5 above certain levels, to be shared between the Company and its customers. The expiration
6 date of the provisions of the stipulation is set as the earlier of either the day before the
7 commercial in-service date of Smith Unit 3, or December 31, 2002.

8 Section 7 of the stipulation includes the following provisions:

9 No party to this Stipulation and Settlement will request, support, or seek to
10 impose a change in the application of any provision hereof. The Office of
11 Public Counsel, the Florida Industrial Power Users' Group and the
12 Coalition for Equitable Rates will neither seek nor support any additional
13 reduction in Gulf Power Company's base rates and charges, including
14 interim rate decreases, to take effect until after the Expiration Date unless
15 such reduction is initiated by Gulf Power Company. Gulf Power Company
16 will not petition for an increase in its base rates and charges, including
17 interim rate increases, to take effect until after the Expiration Date. (PSC,
18 Order No. PSC-99-2131-S-EI, Attachment A.)

19 At the time the stipulation between Gulf Power and Public Counsel (as well as
20 others) expires Gulf Power will be free to ask for increased base rates for Smith Unit 3. This
21 is the way things have traditionally been done; if earnings are inadequate to absorb a major
22 plant addition, the utility petitions for a rate increase. When, and if, Gulf Power asks for
23 base rates to cover the costs of Smith Unit 3, the Commission would normally consider all
24 costs transferred to plant-in-service, including the wetland mitigation costs at issue here.
25 Thus, the Commission must consider whether, when it approved the stipulation now in

1 effect, it contemplated a portion of Smith Unit 3's costs increasing rates separately from,
2 and earlier than, the base rate proceeding which can only occur after the stipulation expires.

3 Finally, the Company earned in excess of the high end of the Commission allowed
4 return in 2000 and the same may happen in 2001¹. Adding the entire cost of SWMP to
5 Gulf's rate base for the year 2000 would have still produced an over earnings situation.
6 Thus, there is no harm to Gulf Power in not passing these costs through the ECRC. The
7 Company's current and most likely future rates will provide it with an adequate return on
8 this investment, until such time as the Company seeks a rate increase for Smith Unit 3.

9 **Q. DOES THIS COMPLETE YOUR TESTIMONY FILED MARCH 30, 2001?**

10 **A.** Yes, it does.

¹ Gulf Power's forecasted earning surveillance report for calendar year 2001 indicates that it will earn towards the high end of the Commission's authorized return for that year.

APPENDIX

1 **APPENDIX I**

2 **QUALIFICATIONS**

3

4 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

5 A. I graduated from Florida State University with a Bachelor of Science degree in Finance in
6 March, 1979. I received an M.B.A. degree with a specialization in Finance from Florida
7 State University in April, 1984.

8 **Q. WOULD YOU PLEASE DESCRIBE YOUR EMPLOYMENT HISTORY IN THE**
9 **FIELD OF PUBLIC UTILITY REGULATION?**

10 A. In March of 1979 I joined Ben Johnson Associates, Inc., a consulting firm specializing in
11 the field of public utility regulation. While at Ben Johnson Associates, I held the following
12 positions: Research Analyst from March 1979 until May 1980; Senior Research Analyst
13 from June 1980 until May 1981; Research Consultant from June 1981 until May 1983;
14 Senior Research Consultant from June 1983 until May 1985; and Vice President from
15 June 1985 until April 1992. In May 1992, I joined the Florida Public Counsel's Office, as
16 a Legislative Analyst III. In July 1994 I was promoted to a Senior Legislative Analyst. In
17 July 1995 I started my own consulting practice in the field of public utility regulation.

18 **Q. WOULD YOU PLEASE DESCRIBE THE TYPES OF WORK THAT YOU HAVE**
19 **PERFORMED IN THE FIELD OF PUBLIC UTILITY REGULATION?**

20 A. Yes. My duties have ranged from analyzing specific issues in a rate proceeding to
21 managing the work effort of a large staff in rate proceedings. I have prepared testimony,
22 interrogatories and production of documents, assisted with the preparation of cross-
23 examination, and assisted counsel with the preparation of briefs. Since 1979, I have been
24 actively involved in more than 170 regulatory proceedings throughout the United States. I
25 have analyzed cost of capital and rate of return issues, revenue requirement issues, public

1 policy issues, market restructuring issues, and rate design issues, involving telephone,
2 electric, gas, water and wastewater, and railroad companies.

3 In the area of cost of capital, I have analyzed the following parent companies:
4 American Electric Power Company, American Telephone and Telegraph Company,
5 American Water Works, Inc., Ameritech, Inc., CMS Energy, Inc., Columbia Gas System,
6 Inc., Continental Telecom, Inc., GTE Corporation, Northeast Utilities, Pacific Telecom,
7 Inc., Southwestern Bell Corporation, United Telecom, Inc., and U.S. West. I have also
8 analyzed individual companies like Connecticut Natural Gas Corporation, Duke Power
9 Company, Idaho Power Company, Kentucky Utilities Company, Southern New England
10 Telephone Company, and Washington Water Power Company.

11 **Q. HAVE YOU PREVIOUSLY ASSISTED IN THE PREPARATION OF**
12 **TESTIMONY CONCERNING REVENUE REQUIREMENTS?**

13 **A.** Yes. I have assisted on numerous occasions in the preparation of testimony on a wide
14 range of subjects related to the determination of utilities' revenue requirements and related
15 issues.

16 I have assisted in the preparation of testimony and exhibits concerning the
17 following issues: abandoned project costs, accounting adjustments, affiliate transactions,
18 allowance for funds used during construction, attrition, cash flow analysis, conservation
19 expenses and cost-effectiveness, construction monitoring, construction work in progress,
20 contingent capacity sales, cost allocations, decoupling revenues from profits, cross-
21 subsidization, demand-side management, depreciation methods, divestiture, excess
22 capacity, feasibility studies, financial integrity, financial planning, gains on sales,
23 incentive regulation, infiltration and inflow, jurisdictional allocations, non-utility
24 investments, fuel projections, margin reserve, mergers and acquisitions, pro forma
25 adjustments, projected test years, prudence, tax effects of interest, working capital, off-

1 system sales, reserve margin, royalty fees, separations, settlements, used and useful,
2 weather normalization, and resource planning.

3 Companies that I have analyzed include: Alascom, Inc. (Alaska), Arizona Public
4 Service Company, Arvig Telephone Company, AT&T Communications of the Southwest
5 (Texas), Blue Earth Valley Telephone Company (Minnesota), Bridgewater Telephone
6 Company (Minnesota), Carolina Power and Light Company, Central Maine Power
7 Company, Central Power and Light Company (Texas), Central Telephone Company
8 (Missouri and Nevada), Consumers Power Company (Michigan), C&P Telephone
9 Company of Virginia, Continental Telephone Company (Nevada), C&P Telephone of
10 West Virginia, Connecticut Light and Power Company, Danube Telephone Company
11 (Minnesota), Duke Power Company, East Otter Tail Telephone Company (Minnesota),
12 Easton Telephone Company (Minnesota), Eckles Telephone Company (Minnesota), El
13 Paso Electric Company (Texas), Entergy Corporation, Florida Cities Water Company
14 (North Fort Myers, South Fort Myers and Barefoot Bay Divisions), Florida Power and
15 Light, General Telephone Company (Florida, California, and Nevada), Georgia Power
16 Company, Jasmine Lakes Utilities, Inc. (Florida), Kentucky Power Company, Kentucky
17 Utilities Company, KMP Telephone Company (Minnesota), Idaho Power Company,
18 Louisiana Gas Service Company, Oklahoma Gas and Electric Company (Arkansas),
19 Kansas Gas & Electric Company (Missouri), Kansas Power and Light Company
20 (Missouri), Lehigh Utilities, Inc. (Florida), Mad Hatter Utilities, Inc. (Florida), Mankato
21 Citizens Telephone Company (Minnesota), Michigan Bell Telephone Company, Mid-
22 Communications Telephone Company (Minnesota), Mid-State Telephone Company
23 (Minnesota), Mountain States Telephone and Telegraph Company (Arizona and Utah),
24 Nevada Bell Telephone Company, North Fort Myers Utilities, Inc., Northwestern Bell
25 Telephone Company (Minnesota), Potomac Electric Power Company, Public Service

1 Company of Colorado, Puget Sound Power & Light Company (Washington), Sanlando
2 Utilities Corporation (Florida), Sierra Pacific Power Company (Nevada), South Central
3 Bell Telephone Company (Kentucky), Southern Union Gas Company (Texas), Southern
4 Bell Telephone & Telegraph Company (Florida, Georgia, and North Carolina), Southern
5 States Utilities, Inc. (Florida), Southern Union Gas Company (Texas), Southwestern Bell
6 Telephone Company (Oklahoma, Missouri, and Texas), Sprint, St. George Island Utility,
7 Ltd., Tampa Electric Company, Texas-New Mexico Power Company, Tucson Electric
8 Power Company, Twin Valley-Ulen Telephone Company (Minnesota), United Telephone
9 Company of Florida, Virginia Electric and Power Company, Washington Water Power
10 Company, and Wisconsin Electric Power Company.

11 **Q. WHAT EXPERIENCE DO YOU HAVE IN RATE DESIGN ISSUES?**

12 A. My work in this area has primarily focused on issues related to costing. For example, I
13 have assisted in the preparation of class cost-of-service studies concerning Arkansas
14 Energy Resources, Cascade Natural Gas Corporation, El Paso Electric Company, Potomac
15 Electric Power Company, Texas-New Mexico Power Company, and Southern Union Gas
16 Company. I have also examined the issue of avoided costs, both as it applies to electric
17 utilities and as it applies to telephone utilities. I have also evaluated the issue of service
18 availability fees, reuse rates, capacity charges, and conservation rates as they apply to
19 water and wastewater utilities.

20 **Q. HAVE YOU TESTIFIED BEFORE REGULATORY AGENCIES?**

21 A. Yes. I have testified before the Arizona Corporation Commission, the Connecticut
22 Department of Public Utility Control, the Florida Public Service Commission, the Georgia
23 Public Service Commission, Louisiana Public Service Commission, the Missouri Public
24 Service Commission, the Public Utility Commission of Texas, and the Washington
25 Utilities and Transportation Commission. My testimony dealt with revenue requirement,

1 financial, policy, rate design, and cost study issues concerning AT&T Communications of
2 Southwest (Texas), Cascade Natural Gas Corporation (Washington), Central Power and
3 Light Company (Texas), Connecticut Light and Power Company, El Paso Electric
4 Company (Texas), Florida Cities Water Company, Kansas Gas & Electric Company
5 (Missouri), Kansas Power and Light Company (Missouri), Houston Lighting & Power
6 Company (Texas), Lake Arrowhead Village, Inc. (Florida), Lehigh Utilities, Inc. (Florida)
7 Jasmine Lakes Utilities Corporation (Florida), Mad Hatter Utilities, Inc. (Florida), Marco
8 Island Utilities, Inc. (Florida), Mountain States Telephone and Telegraph Company
9 (Arizona), North Fort Myers Utilities, Inc. (Florida), Southern Bell Telephone and
10 Telegraph Company (Florida, Louisiana and Georgia), Southern States Utilities, Inc.
11 (Florida), St. George Island Utilities Company, Ltd. (Florida), Puget Sound Power & Light
12 Company (Washington), and Texas Utilities Electric Company.

13 I have also testified before the Public Utility Regulation Board of El Paso,
14 concerning the development of class cost-of-service studies and the recovery and allocation
15 of the corporate overhead costs of Southern Union Gas Company and before the National
16 Association of Securities Dealers concerning the market value of utility bonds purchased in
17 the wholesale market.

18 **Q. HAVE YOU BEEN ACCEPTED AS AN EXPERT IN THESE JURISDICTIONS?**

19 A. Yes.

20 **Q. HAVE YOU PUBLISHED ANY ARTICLES IN THE FIELD OF PUBLIC UTILITY
21 REGULATION?**

22 A. Yes, I have published two articles: "Affiliate Transactions: What the Rules Don't Say",
23 Public Utilities Fortnightly, August 1, 1994 and "Electric M&A: A Regulator's Guide"
24 Public Utilities Fortnightly, January 1, 1996.

25 **Q. DO YOU BELONG TO ANY PROFESSIONAL ORGANIZATIONS?**

1 A. Yes. I am a member of the Eastern Finance Association, the Financial Management
2 Association, the Southern Finance Association, the Southwestern Finance Association, and
3 the Florida and American Water Association.

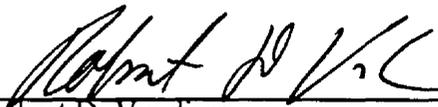
CERTIFICATE OF SERVICE
DOCKET NO. 000808-EI

I HEREBY CERTIFY that a copy of the foregoing Testimony of Kimbelry H. Dismukes on behalf of the Office of Public Counsel has been furnished by U.S. Mail or *hand-delivery to the following parties this 30th day of March, 2001.

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

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

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



Robert D. Vandiver
Associate Public Counsel