

M E M O R A N D U M

AUGUST 21, 2001

TO: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

FROM: DIVISION OF LEGAL SERVICES (M. STERN) MKS RVE

RE: DOCKET NO. 010827-EI - PETITION BY GULF POWER COMPANY FOR APPROVAL OF PURCHASED POWER ARRANGEMENT REGARDING SMITH UNIT 3 FOR COST RECOVERY THROUGH RECOVERY CLAUSES DEALING WITH PURCHASED CAPACITY AND PURCHASED ENERGY.

Attached is STAFF'S PREHEARING STATEMENT to be issued in the above referenced docket.

MKS/jb

cc: Division of Economic Regulation
Division of Safety and Electric Reliability
Division of Competitive Services
Division of Regulatory Oversight
Division of Policy Analysis and Interagency Liaison

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Gulf Power Company for approval of purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased capacity and purchased energy.

DOCKET NO. 010827-EI

FILED: AUGUST 21, 2001

STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-01-1532-PCO-EI, filed July 24, 2001, the Staff of the Florida Public Service Commission files its Prehearing Statement.

a. All Known Witnesses

Jim Dean (tentative)

b. All Known Exhibits

Staff Composite Exhibit No. 1: Gulf Power Company's responses to Staff Interrogatories 1 through 65; Gulf Power Company's responses to Staff's Production of Documents requests numbers 1 through 15, and 17 through 23

Staff Exhibit No. 2: Transcript of Deposition of M. W. Howell, taken 8/15/01

Staff Exhibit No. 3: Transcript of Deposition of Ronnie R. Labrato, taken 8/15/01

Staff Exhibit No. 4: Transcript of Deposition of Maria Jeffers Burke, taken 8/15/01

Staff Exhibit No. 5: Order No. PSC-99-1478-FOF-EI, dated 7/16/99, in Docket No. 990325-EI, Gulf Power Company's Petition for Determination of Need for Smith Unit 3

c. Staff's Statement of Basic Position

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein. Staff has identified Jim Dean as a potential witness in this proceeding. The specific subject matter of his testimony, if any, will not be known until after intervenor testimony is filed on August 27, 2001.

d. Staff's Position on the Issues

LEGAL ISSUES:

ISSUE 1: Is the proposed transfer of ownership of Smith Unit 3 to Southern Power consistent with Commission Order No. PSC-99-1478-FOF-EI, issued August 2, 1999, in Docket No. 990325-EI, the determination of need for Smith Unit 3?

POSITION: No position at this time.

ISSUE 2: Must the Commission make the specific findings required by the Energy Policy Act of 1992, 15 USCA § 79z-5a(c), before Smith Unit 3 can be transferred to Southern Power?

POSITION: No position at this time.

ISSUE 3: Will Gulf's proposed purchased power arrangement with Southern Power affect the Commission's ability to direct Gulf Power to make additions or extensions of facilities to the plant and equipment at the Smith site pursuant to Section 366.05, Florida Statutes?

POSITION: No position at this time.

ISSUE 4: Must Gulf Power demonstrate changed circumstances since Order No. PSC-99-1478-FOF-EI was issued in order for Gulf's petition to be approved?

POSITION: No position at this time.

ISSUE 5: Will the Commission have the same authority, pursuant to Section 366.04(2)(c), Florida Statutes, over the disposition of power from Smith Unit 3 into the Florida grid: A) If Smith Unit 3 is in the rate base of a Florida utility? B) If Smith Unit 3 is owned by Southern Power Company?

POSITION: No position at this time.

FACTUAL ISSUES:

ISSUE 6: What is the projected difference in costs to Gulf's retail customers, if any, between Gulf Power's proposed purchased power arrangement with Southern Power, including the transfer of Smith Unit 3, and rate base treatment of Smith Unit 3?

POSITION: No position at this time.

ISSUE 7: What is the projected difference in fuel costs to Gulf's retail customers, if any, between Gulf Power's proposed purchased power arrangement with Southern Power, including the transfer of Smith Unit 3, and rate base treatment of Smith Unit 3?

POSITION: No position at this time.

ISSUE 8: What risks and benefits to retail ratepayers should the Commission consider in deciding whether to grant Gulf's request for approval of the proposed purchased power arrangement with Southern Power regarding Smith Unit 3?

POSITION: No position at this time.

ISSUE 9: What is the difference, if any, in the impact of wholesale sales on Gulf's retail customers between Gulf

Power's proposed purchased power arrangement with Southern Power, including the transfer of Smith 3, and rate base treatment of Smith 3?

POSITION: No position at this time.

ISSUE 10: Based on the RFP process reviewed and approved by the Commission in Docket No. 990325-EI wherein the selection of Smith Unit 3 was recognized as a more cost-effective alternative to purchases from non-affiliated third parties, is the price to be paid by Gulf Power under the proposed purchased power arrangement with Southern Power no higher than the price Gulf would have paid to purchase power from a non-affiliate?

POSITION: No position at this time.

ISSUE 11: Is it necessary that Gulf Power demonstrate its proposed purchased power arrangement with Southern Power regarding Smith Unit 3 would be the least cost alternative for its retail customers? If so, has Gulf made such a demonstration?

POSITION: No position at this time.

ISSUE 12: If Gulf's proposed purchased power arrangement (PPA) with Southern Power is approved for cost recovery, should the Florida Public Service Commission condition its approval upon there being no modifications to the PPA without the prior consent of the Florida Public Service Commission?

POSITION: No position at this time.

ISSUE 13: If Gulf's proposed purchased power arrangement (PPA) with Southern Power is approved, should Gulf file any price changes permitted under the PPA with the Florida Public Service Commission for prior review as to compliance with the agreement and that the costs are prudently incurred?

POSITION: No position at this time.

ISSUE

13a: If Gulf's proposed purchased power arrangement (PPA) with Southern Power is approved, should the Florida Public Service Commission condition its approval upon there being no price changes permitted under the PPA without the prior consent of the Florida Public Service Commission? (Suggested rewording by Staff)

POSITION: No position at this time.

ISSUE 14: Did Gulf seek competitive bids for the purchase of power and voltage regulation before entering into the contract with Southern Power? If not, should it have? (FIPUG)

POSITION: No position at this time.

ISSUE

14a: Was it necessary that Gulf seek competitive bids for the purchase of power and voltage regulation before entering into the contract with Southern Power? If so, did Gulf comply with such bidding requirement? (Gulf)

POSITION: No position at this time.

ISSUE 15: If Gulf's proposed purchase power arrangement with Southern Power is approved and Smith 3 is transferred, what assets will be transferred and what will be the transfer price?

POSITION: No position at this time.

ISSUE 16: Have Gulf Power's retail customers been charged to date with any costs associated with Smith 3? If so, how will Gulf's customers be compensated for these prior costs if

the proposed purchased power arrangement is approved and Smith Unit 3 is transferred to Southern Power?

POSITION: No position at this time.

ISSUE 17: As a matter of public policy, should a Florida regulated utility be allowed to construct a power plant for the benefit of a non-regulated affiliate when independent power producers cannot construct merchant plants in Florida, except under limited circumstances?

POSITION: No position at this time.

ISSUE 18: If Gulf's petition is granted, what conditions, if any, should be imposed on Gulf due to the affiliate relationship between Gulf and Southern Power?

POSITION: No position at this time.

ISSUE 19: Should the Commission approve the proposed purchase power arrangement regarding Smith 3 for cost recovery through the cost recovery clauses designated for addressing the recovery of costs associated with purchased capacity and purchased energy?

POSITION: No position at this time.

e. Pending Motions

Staff has no pending motions.

f. Pending Confidentiality Claims or Requests

Staff has no pending confidentiality claims or requests.

g. Compliance with Order No. PSC-01-1532-PCO-EI

Staff has complied with all requirements of the Order Establishing Procedure entered in this docket.

STAFF'S PREHEARING STATEMENT
DOCKET NO. 010827-EI
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Respectfully submitted this 21st day of August, 2001.

Marlene K. Stern

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In re: Petition by Gulf Power Company for approval of purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased capacity and purchased energy.

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FILED: AUGUST 21, 2001

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that one true and correct copy of STAFF'S PREHEARING STATEMENT has been furnished by U.S. Mail this 21st day of August, 2001, to the following:

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