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ORIGINAL



February 22, 2002

Blanca Bayo
Division of Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

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COMMISSION
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RE: Docket No. 010949-EI
Docket No. 010789-EI

Dear Ms. Bayo:

Enclosed for filing is an original and 15 copies of a Stipulation for Settlement of Depreciation Related Issues dated February 22, 2002.

Sincerely,

Robert G. Livingston
Manager, Regulatory Affairs

RGL/fg

Enclosures

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition of Gulf Power Company for
an increase in its retail rates and charges.

Docket No. 010949-EI

IN RE: 2001 Depreciation and Dismantling
Study by Gulf Power Company.

Docket No. 010789-EI
Date Filed: February 22, 2002

STIPULATION FOR SETTLEMENT OF DEPRECIATION RELATED ISSUES

The Office of Public Counsel (“OPC”), on behalf of the Citizens of Florida; the Federal Executive Agencies (“FEA”); the Florida Industrial Power Users Group (“FIPUG”), and Gulf Power Company (“Gulf” or the “Company”) (collectively the “Stipulating Parties”), pursuant to Order No. PSC-01-2035-PCO-EI and Section 120.57(4), Florida Statutes (2001), have entered into this Stipulation for Settlement of Depreciation Related Issues (“Stipulation”) to effect an informal disposition and a complete and binding resolution of the issues identified herein. In keeping with the Florida Public Service Commission’s long-standing policy and practice of encouraging parties in contested proceedings to settle issues whenever possible, this Stipulation, upon approval by the Florida Public Service Commission (“Commission”), will allow the Stipulating Parties, the other intervenors and the Commission to avoid the time, expense and uncertainty associated with adversarial litigation regarding the issues identified herein. Accordingly, without prejudice to any party’s position in any other proceeding before the Florida Public Service Commission or any other venue, present or future, the Stipulating Parties stipulate and agree as follows:

1. On May 29, 2001, as required by Rule 25-6.0436, Florida Administrative Code, Gulf filed its quadrennial comprehensive depreciation and dismantlement studies with a proposed effective date of January 1, 2002 for the new depreciation rates and dismantlement accruals

resulting from said studies. The matter has been assigned Docket No. 010789-EI by the Commission and was the subject of Commission action at the agenda conference held February 19, 2002. The Commission voted to issue a Proposed Agency Action order in Docket No. 010789-EI, details of which are described in paragraph 5 below.

2. On July 6, 2001, Gulf filed notice of its intent to request a rate increase. On September 10, 2001, Gulf filed its petition, minimum filing requirements and testimony in support of the Company's request for a rate increase. The matter has been assigned Docket No. 010949-EI by the Commission and set for hearing before the full Commission during the week of February 25, 2002 through March 1, 2002. Gulf's September 10, 2001 filing in Docket No. 010949-EI was in part based on the depreciation rates and dismantlement accrual proposed by the Company in Docket No. 010789-EI. In addition, as part of its September 10, 2001 filing in Docket No. 010949-EI, Gulf proposed depreciation rates and a dismantlement accrual for Smith Unit 3, a new investment of the Company that was not part of the studies filed in Docket No. 010789-EI. Gulf's proposed depreciation rate for Smith Unit 3 in Docket No. 010949-EI was based on a 20 year depreciable life for the new investment with a projected commercial in-service date on or about June 1, 2002.

3. OPC, FEA and FIPUG have intervened in Docket No. 010949-EI. The only other intervenor is the Florida Cable Telecommunications Association ("FCTA"). The Stipulating Parties have been authorized to represent to the Commission that FCTA, while not party to this Stipulation for Partial Settlement, does not oppose it.

4. On October 15, 2001, Chairman Lila A. Jaber, in her capacity as Commissioner and Prehearing Officer in Docket No. 010949-EI (“the Rate Case”) issued Order No. PSC-01-2035-PCO-EI (the “Order”) pursuant to Rule 25-106.211, Florida Administrative Code for the purpose of establishing a procedure to be followed in the Rate Case “. . . to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.”

At page 7 of the Order, Chairman Jaber set forth certain controlling dates and stated:

In addition to the above controlling dates, I note that staff has scheduled two meetings of the parties and staff to identify and clarify issues to be resolved in this proceeding. The first meeting has been scheduled for November 7, 2001, which is prior to the filing of intervenor and staff testimony. Staff has indicated that the Issue Statements of the parties will be filed on January 2, 2002, and a second issue identification meeting will be held January 14, 2002. These meetings should help clarify issues, eliminate duplicative issues and promote an efficient and effective hearing process. Parties are encouraged to participate fully and use these opportunities to seek resolution of issues where feasible. [Emphasis added]

In addition to the meetings described in the Order, the parties and staff met again on February 13, 2002 in a further effort to clarify and resolve issues where feasible in order to promote an efficient and effective hearing process in keeping with the spirit and intent of the Order. At the meeting on February 13, 2002, the parties’ discussions were guided by a Draft Prehearing Order prepared by the Commission Staff from the prehearing statements filed by each of the parties. The Draft Prehearing Order includes the following five issues related to depreciation:

- ISSUE 17:** What adjustments should be made to Accumulated Depreciation to reflect the Commission's decision in Docket No. 010789-EI?
- ISSUE 18:** Is Gulf's requested level of accumulated depreciation in the amount of \$854,099,000 (\$876,236,000 system) for the May 2003 projected test year appropriate?
- ISSUE 73:** What adjustments, if any, should be made to the depreciation expense and the fossil dismantlement accrual to reflect the Commission's decision in Docket No. 010789-EI?
- ISSUE 74:** What is the appropriate depreciation rate and dismantlement provision for Smith Unit 3?
- ISSUE 75:** Should an adjustment be made to Depreciation Expense for the May 2003 projected test year?

All five of the foregoing issues in Docket No. 010949-EI would be affected by the Commission's final decision determining the depreciation rates and dismantlement accrual that will be in effect beginning January 1, 2002.

5. On February 19, 2002, the Commission gave unanimous approval to the issuance of a Proposed Agency Action ("PAA") order in Docket No. 010789-EI. The approved PAA accepts Staff's recommendation regarding depreciation rates and dismantlement accrual to be effective January 1, 2002. The depreciation rates and dismantlement accrual to be set forth in the approved PAA are higher than the depreciation rates and dismantlement accrual proposed by Gulf in the studies filed in Docket No. 010789-EI which formed the basis for the Company's position on such matters in its September 10, 2001 filing in Docket No. 010949-EI. In addition, the approved PAA order is to set forth the depreciation rates and dismantlement accrual for Smith Unit 3 based on the Company's proposed depreciable life for Smith Unit 3 of 20 years. At

the agenda conference on February 19, 2002, both OPC and FIPUG asserted their intent to protest the PAA and request a hearing in Docket No. 010789-EI.

6. In order to fully resolve the five issues identified in the Draft Prehearing Order for Docket No. 010949-EI set forth in paragraph 4 above, thereby obviating any need for cross-examination of witnesses on these issues in the hearing that is to take place beginning February 25, 2002, and to further resolve all issues in Docket No. 010789-EI, and thereby obviating any need for the planned protest of the PAA order and the resulting hearing, the Stipulating Parties agree as follows. Due to the fact that depreciation rates and dismantlement accruals are at issue in Docket No. 010949-EI and the fact that the only way parties may be adversely affected by a change in depreciation rates and/or dismantlement accrual is when such changes are not appropriately reflected in the Company's base rates, the Commission's final decision as to the depreciation rates and dismantlement accruals that are to be applied by Gulf effective January 1, 2002 should be made exclusively within Docket No. 010949-EI and consequently should not be made in Docket No. 010789-EI. The Commission should approve the depreciation rates and dismantlement accrual proposed by the Company in Docket No. 010789-EI without any of the changes recommended by Staff in its memorandum to the Commission dated February 7, 2002 in lieu of, and as a complete substitute for, the depreciation rates and dismantlement accrual that are otherwise to be set forth in the approved PAA order. The Commission should further approve the depreciation rates and dismantlement accrual for Smith Unit 3 proposed by the Company in Docket No. 010949-EI as modified to reflect a depreciable life for this asset of 25 years. The resulting depreciation rate for Smith Unit 3 is 4 percent and the resulting change to depreciation

expense in the May 2003 test year is a reduction of \$2,041,000 (\$2,117,000 system). The level of accumulated depreciation for the May 2003 test year should be reduced by \$1,019,000 (\$1,057,000 system) due to the agreed upon change in depreciation rate for Smith Unit 3. The agreement to the foregoing depreciation rates and dismantlement accrual is the result of a compromise settlement between the parties hereto and shall not be construed as an admission by any party hereto that the depreciable lives on which such rates and accrual are based is appropriate in any other proceeding. Except for the depreciation rates and dismantlement provision related to Smith Unit 3, the depreciation rates and dismantlement accrual agreed to as part of this stipulation shall be effective January 1, 2002. The depreciation rates and dismantlement provision relating to Smith Unit 3 shall be effective on the commercial in-service date of the unit.

7. The Stipulating Parties agree that upon Commission approval of this Stipulation, Issue 17, Issue 73 and Issue 74 shall be fully stipulated for all purposes; Issue 18 and Issue 75 shall be fully stipulated with respect to the applicable depreciation rates and dismantlement accruals but shall remain open for the sole purpose of identifying changes to accumulated depreciation and depreciation expense that are a fallout of other issues identified in Docket No. 010949-EI; and the issues that would otherwise have been decided in Docket No. 010789-EI having been appropriately decided in Docket No. 010949-EI as a result of this Stipulation, Docket No. 010789-EI should be closed effective on the date of the Commission vote to accept this Stipulation without the issuance of the PAA order approved by vote of the Commission on February 19, 2002. The Stipulating Parties further agree that no party to this Stipulation will

request, support or seek to impose a change in the application of any provision hereof prior to the effective date of new depreciation rates and dismantlement accrual to result from the next quadrennial comprehensive depreciation and dismantlement studies that will be filed by Gulf pursuant to Rule 25-6.0436, Florida Administrative Code.

8. Upon approval of this Stipulation in its entirety and without modification, the Stipulating Parties hereby waive their right to cross-examine the witnesses testifying in Docket No. 010949-EI regarding the five issues set forth in paragraph 4 above. As a consequence of this waiver, witnesses Michael J. Majoros, William M. Zaetz and D. S. Roff can be excused from attendance at the hearing in Docket No. 010949-EI that is scheduled to be held February 25, 2002 through March 1, 2002 since their testimony does not relate to any other issues. As a further consequence of the Commission's approval of this stipulation, the five issues set forth in paragraph 4 above can be shown as stipulated with respect to the applicable depreciation rates and dismantlement accruals and there will be no need for any of the parties to file a post hearing brief on said issues.

9. Furthermore, subject to the approval of the Florida Public Service Commission set forth in paragraph 10 below, all Stipulating Parties waive any right to request further administrative or judicial proceedings in regard to the establishment or implementation of this Stipulation. Such requests for further administrative or judicial proceedings shall include (but not be limited to): a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, Florida Administrative Code; or a notice of appeal to initiate

judicial review by the Florida Supreme Court pursuant to Rule 9.110, Florida Rules of Appellate Procedure, in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

10. This Stipulation is contingent upon approval by the Commission in its entirety and without modification prior to the taking of any testimony at the hearing scheduled for February 25, 2002 through March 1, 2002. Upon approval by the Commission, this Stipulation will resolve all depreciation related matters in Docket No. 010949-EI and all matters in Docket No. 010789-EI. This resolution is pursuant to and in accordance with Section 120.57(4), Florida Statutes (2001). If this Stipulation is not accepted and approved by the Commission in its entirety without modification prior to the taking of any testimony at the hearing scheduled for February 25, 2002 through March 1, 2002, then this Stipulation shall be considered null and void and of no further force or effect.

11. This Stipulation, dated as of February 20, 2002, may be executed in counterpart originals and a facsimile of an original signature shall be deemed an original. One or more parties may execute the same counterpart signature page, and all executed counterpart signature pages shall be attached hereto and treated collectively as though each of the signatories had executed the same counterpart signature page.

The Stipulating Parties evidence their acceptance and agreement with the provisions of this Stipulation for Partial Settlement by the signatures of their respective counsel:

Citizens of the State of Florida

Office of Public Counsel
111 W. Madison Street, Room 812
Tallahassee, Florida 32399-1400

By: _____

Florida Industrial Power Users Group

John W. McWhirter, Jr., Esq.
Vicki Gordon Kaufman, Esq.
Timothy J. Perry, Esq.

McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman,
Arnold & Steen, P.A.
P. O. Box 3350
Tampa, Florida 33601-3350

By: _____

Federal Executive Agencies

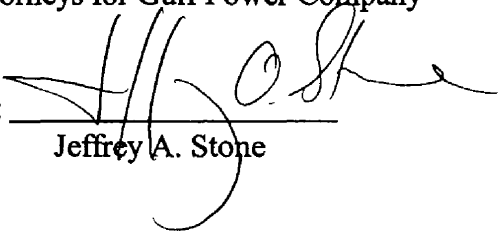
Douglas A. Shropshire, Lt. Col. USAFR.
Major A1 Erickson, USAF

c/o United States Air Force Utility Litigation
Team
AFCESA/Utility Litigation Team
139 Barnes Drive
Tyndall Air Force Base, Florida 32403

By: _____

Gulf Power Company

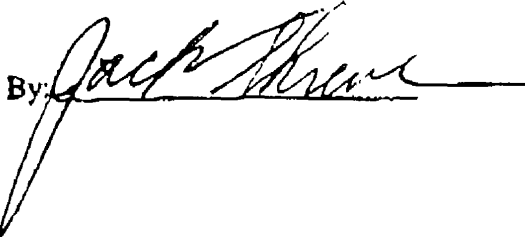
Beggs & Lane
P. O. Box 12950
(700 Blount Building)
Pensacola, FL 32576-2950
Attorneys for Gulf Power Company

By: 
Jeffrey A. Stone

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By: 

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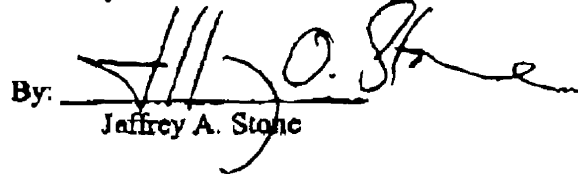
Douglas A. Shropshire, Lt. Col. USAFR.
Major Al Erickson, USAF

c/o United States Air Force Utility Litigation
Team
APCESA/Utility Litigation Team
139 Barnes Drive
Tyndall Air Force Base, Florida 32403

By: _____

Gulf Power Company

Beggs & Lane
P. O. Box 12950
(700 Blount Building)
Pensacola, FL 32576-2950
Attorneys for Gulf Power Company

By: 
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Docket No. 010949-JE
Docket No. 010789-JE
Stipulation for Settlement of

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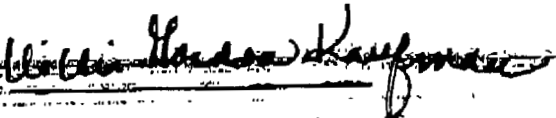
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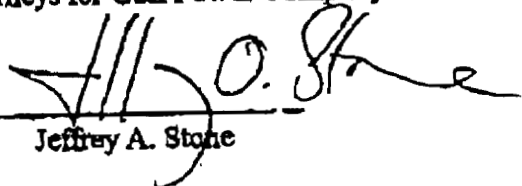
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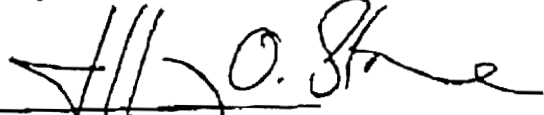
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By: 

Gulf Power Company

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P. O. Box 12950
(700 Blount Building)
Pensacola, FL 32576-2950
Attorneys for Gulf Power Company

By: 
Jeffrey A. Stone

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for rate increase by)
Gulf Power Company)
_____)

Docket No. 010949-EI

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been furnished
this 22^d day of February 2002 by U.S. Mail to the following:

Marlene Stern, Esquire
Staff Counsel
FL Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0863

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