

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010949-EI

In the Matter of

REQUEST FOR RATE INCREASE BY
GULF POWER COMPANY.

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VOLUME 10

Pages 1043 through 1122

PROCEEDINGS:

HEARING

BEFORE:

CHAIRMAN LILA A. JABER
COMMISSIONER J. TERRY DEASON
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI
COMMISSIONER RUDOLPH "RUDY" BRADLEY

DATE:

Tuesday, February 26, 2002

TIME:

Commenced at 9:00 a.m.
Concluded at 3:10 p.m.

PLACE:

Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY:

JANE FAUROT, RPR
Official Commission Reporter

APPEARANCES:

(As heretofore noted.)

FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER-DATE

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CERTIFICATE OF REPORTER

P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 10.)

4 CHAIRMAN JABER: Let's go ahead and get back on the
5 record.

6 Mr. Fisher, we were in the process of staff cross
7 examination. They asked you a question about one of the
8 schedules, and you wanted a little bit more time to look at it.

9 THE WITNESS: Yes, ma'am, that is correct.

10 (Pause.)

11 MR. HARRIS: Excuse me, Madam Chairman.

12 CHAIRMAN JABER: That's okay.

13 MR. HARRIS: I believe we had taken a break to allow
14 Mr. Fisher to look --

15 CHAIRMAN JABER: Yes, I did all of that. Just ask
16 your question, we are ready for the question now.

17 - - - - -

18 F.M. FISHER

19 resumed the stand and testified as follows:

20 CONTINUED CROSS EXAMINATION

21 BY MR. HARRIS:

22 Q We were discussing the group relamping, I believe, is
23 that correct?

24 A Yes.

25 Q And, Mr. Fisher, have you consulted and found an

1 answer to my question?

2 A Yes, I have, Mr. Harris. In retrospect, it may be
3 that the wording in my prefiled rebuttal testimony is maybe
4 confusing. The \$38 per unit is not a comparable comparison to
5 the \$7.86. The \$7.86 as calculated by Mr. Schultz represents
6 five years in which group relamping was only incurred during
7 one of those years. The average cost for the total street
8 light maintenance program for that year in 1998 as calculated
9 by Mr. Schultz on his Exhibit HWS-1, Schedule C-9, was \$9.59,
10 and that did include some group relamping in that year.

11 The primary reason there was no more group relamping
12 during this five-year period is the previous year to the
13 beginning of the five-year period, 1995, as you recall we had
14 two hurricanes. Those hurricanes forced us to do considerable
15 relamping in Fort Walton, Panama City, and parts of Pensacola.
16 And so we are in the process now of going back, and we will
17 begin group relamping Fort Walton and Panama City beginning the
18 summer of this year, and then in 2003 we will group relamp
19 Pensacola in the last half of 2003.

20 Q So what does the \$7.86 number which you are now
21 correcting to a \$9 number refer to?

22 A I was not correcting the \$7.86. The \$7.86 was the
23 average calculated by Mr. Schultz for the period of time 1996
24 through 2000. It only included one year of relamping, and that
25 was in 1998. And the average cost for that one year was \$9.59.

1 And what I'm saying is that is much more representative of
2 going forward than the 7.86.

3 Q The \$9?

4 A That is correct.

5 Q Then why in your rate case are you asking for \$38?

6 A I think that's where the confusion is. The \$38 is
7 for only one portion of the total street light maintenance
8 program. That is the municipal group relamping program, which
9 would be added to the whole mix of all the lights which would
10 bring the total average down to around \$10 going forward.

11 Q Thank you. That does explain my confusion. Thank
12 you.

13 A Thank you.

14 Q I wanted to discuss the underground cable injection
15 with you briefly. And I know you have already gone over some
16 of this with counsel for the Office of Public Counsel. My
17 first question is are the test year expenses that you are
18 proposing for the cable injection due to the actual injection
19 process, or are they only the inspection expenses?

20 A It would be a combination of both the inspection and
21 also beginning the cable injection process.

22 Q That would include the cost of identifying which
23 cable would benefit from that injection process?

24 A Yes, sir, that is correct.

25 Q Does Gulf perform the injection work itself or does

1 it contract out?

2 A We contract that out.

3 Q Is the amount that Gulf has requested in its test
4 year then the entire amount associated with that injection
5 process or are there other portions of the actual costs in
6 other accounts?

7 A I believe that is the total cost.

8 Q I'm a little unclear, I think, about the actual
9 injection. Once the cable is injected, is that cable going to
10 last for 20 years from the date it is injected?

11 A Yes, that is correct. That is what -- the warranty
12 is for 20 years after the cable is injected.

13 Q So if you took a cable that is, say, 20 years old and
14 injected it with this silicone compound, it would last for an
15 additional 20 years, is that correct?

16 A That is correct.

17 Q And if the cable is five years old, it would last for
18 the same 20 years, more or less?

19 A The cable won't be five years old, because the cable
20 that is involved in this particular process we stopped
21 installing it in 1985.

22 Q So it would be a minimum of 16 years old that you are
23 looking at at this point?

24 A Yes.

25 Q And what exactly does the unconditional 20-year

1 guarantee cover?

2 A Basically, it covers -- it covers the costs that we
3 incur to install that particular span of cable. They would
4 reimburse us the cost that we paid them.

5 Q Would they reimburse you for replacement costs?

6 A No, they would not.

7 Q So it's only a guarantee of the price paid for the
8 injection itself?

9 A That is correct.

10 Q And once the silicone is injected, it becomes a part
11 of the cable, is that correct?

12 A That is correct.

13 Q So that the silicone could not be removed without
14 removing the entire cable?

15 A Yes, that is correct.

16 Q And it is your testimony that -- your rebuttal
17 testimony that the expense or the cost associated with this
18 injection process should be expensed and not capitalized, is
19 that correct?

20 A Yes, that is the position that we have taken up until
21 now.

22 Q Could you explain to me why Gulf Power believes the
23 costs associated with this injection process should be expensed
24 as opposed to capitalized?

25 A I would prefer to defer that to Mr. Labrato.

1 Q Okay. So you would defer the reasons for that to Mr.
2 Labrato?

3 A Say that again, please.

4 Q So you would prefer not to explain the reason for the
5 expense versus the capitalization, you would prefer that Mr.
6 Labrato answer those questions?

7 A That is correct, because it is more of an accounting
8 question.

9 Q More of an accounting question. Would you agree that
10 the life of the cable that you are injecting is extended by 20
11 years, though?

12 A Yes, sir, I would.

13 Q And would you agree that you are, in effect,
14 converting an asset that is 16 years old with a fixed life into
15 an asset that has an additional 20 years of life to it?

16 A Yes, sir, that is correct.

17 Q I would like to ask you a bit about your substation
18 maintenance. My understanding is that from your testimony that
19 for two years there were no substation technicians assigned to
20 those substations, is that correct?

21 A No, sir, that is not correct. We had six reassigned
22 to plant construction.

23 Q Okay. You had six reassigned to plant construction?

24 A That is correct.

25 Q But they are now back to substation maintenance?

1 A That is correct, effective January 1st of this year.

2 Q Why were they reassigned from substation maintenance
3 to plant construction?

4 A They were reassigned because we had a tremendous
5 amount of construction going on at that point in time. With
6 the addition of Smith Unit 3 there is a lot of work that has to
7 be done in the Smith switchyard and substations. We have
8 constructed a number of substations during that period of time.
9 One called Alligator Swamp, which is associated with another
10 generator that is owned by another company. We have
11 constructed in Destin, Miramar, Highland City, and Panama City.
12 I mean, there has been a number of construction projects that
13 they have been assigned to.

14 Q In the years going forward from the test year are the
15 construction, the budgeted construction expenditures that Gulf
16 is planning on at this point comparable to the years in which
17 the substation maintenance technicians were reassigned?

18 A I'm not sure.

19 Q Is it possible that the same level of construction
20 activities could take place in years from the test year forward
21 as took place in the two years in which those technicians were
22 reassigned from substation maintenance?

23 A That is correct. And we are in the process now of
24 contracting that work.

25 MR. HARRIS: I believe that is all the questions I

1 have.

2 Thank you, Madam Chairman, for your patience.

3 CHAIRMAN JABER: Thank you, Mr. Harris.

4 Redirect.

5 Commissioners, go ahead.

6 COMMISSIONER DEASON: Mr. Fisher, I have a question,
7 a few questions about Mr. Breman's proposal, I think you
8 addressed that to some extent in your rebuttal.

9 THE WITNESS: Yes, Commissioner.

10 COMMISSIONER DEASON: First of all, I want to
11 understand your position. Is it that you have a problem with
12 any kind of a proposal addressing distribution reliability in
13 the context of some type of a reward or penalty, or is it that
14 you just don't like the specific proposal that Mr. Breman
15 proposed?

16 THE WITNESS: I believe that the CEMI5 that Mr.
17 Breman proposed is very narrow in scope. It just addresses a
18 very small segment of the customers, particularly if you set
19 the threshold at 2 percent. At Gulf Power Company that would
20 be less than 8,000 customers at this point in time. So my main
21 concern is that that particular indicator is too narrow and
22 doesn't take into account the broader aspects of system
23 reliability. And, you know, one of the concerns that I have --

24 COMMISSIONER DEASON: Let me interrupt you, and I
25 apologize for that --

1 THE WITNESS: Not a problem.

2 COMMISSIONER DEASON: -- but there is some merit in
3 that measure in that it gives information as to perhaps
4 isolated area, and when I say isolated I don't necessarily mean
5 rural, I'm talking about just specific areas that there may be
6 some service problems which need to be addressed. There is
7 some merit in the measurement, you would agree with that, is
8 that correct?

9 THE WITNESS: Yes, sir, I do agree with that.

10 COMMISSIONER DEASON: Okay. But it's just not broad
11 enough to be used in this type of mechanism?

12 THE WITNESS: That is correct. That is my belief.

13 COMMISSIONER DEASON: Is that the only problem that
14 you have?

15 THE WITNESS: I don't like the asymmetrical aspects
16 of it, and I would prefer to see an incentives program that
17 looked at the broad company as was discussed at length
18 yesterday that involved more than just one narrow reliability
19 indicator.

20 COMMISSIONER DEASON: So you think that the general
21 concept is something that could be explored more fully?

22 THE WITNESS: Yes, sir, I do.

23 COMMISSIONER PALECKI: You stated that you believe
24 the CEMI5 indicator is too narrow. What would you suggest as
25 an indicator? And I'm specifically referring to either a

1 penalty or a -- I guess you would call it either a stick or a
2 carrot type approach. But what indicators would you look
3 towards rather than the CEMI5 as an indicator?

4 THE WITNESS: If you were just going to look at
5 reliability by itself and not take into consideration the
6 things that were discussed yesterday, like low cost and
7 customer satisfaction, I would prefer to see a measure like
8 SAIDI, or a measure like SAIDI in combination with CAIDI, which
9 Mr. Breman talked about this morning, also, which is basically
10 the average duration index that a customer is out.

11 COMMISSIONER PALECKI: And why do you believe that
12 those are superior measurement indicators for reliability?

13 THE WITNESS: I believe it is a better indication of
14 overall reliability, and it is not narrowing down just on one
15 very narrow indicator. For a number of years we have also been
16 reporting to the Commission what we call our worst feeder,
17 worst feeders, the lowest performing 3 percent of the feeders
18 which kind of gets at CEMI5 also. And that is an on-going
19 process. And then by reporting it to you all and reviewing it
20 ourselves, we go back and make the necessary maintenance on
21 those feeders to improve them.

22 COMMISSIONER PALECKI: And what does that mean when
23 you say worst feeder?

24 THE WITNESS: Basically, it's the lowest performing 3
25 percent of the feeders on your system.

1 COMMISSIONER PALECKI: And that was one of the seven
2 or eight charts, I believe, that Mr. Breman had attached to his
3 testimony, correct?

4 THE WITNESS: I believe that is correct.

5 COMMISSIONER PALECKI: But it wasn't the one that he
6 would have chosen as an indicator?

7 THE WITNESS: That is correct.

8 COMMISSIONER PALECKI: Thank you.

9 THE WITNESS: Thank you.

10 CHAIRMAN JABER: Commissioners, any other questions?

11 COMMISSIONER DEASON: One follow-up. In your summary
12 I think you also mentioned that one of your concerns with Mr.
13 Breman's proposal was the fact that there would be additional
14 administrative costs in doing so. Do you have any estimate of
15 what those costs would be at this point?

16 THE WITNESS: We have made an estimate as the other
17 utilities involved in going through this rulemaking process on
18 reliability with the staff. I would be hesitant to throw the
19 number out. I will be happy to, but I would be hesitant
20 because it was a little unclear exactly at that point in time
21 what was going to be required.

22 COMMISSIONER DEASON: Well, let me kind of maybe
23 qualify my question a little bit. These different measurements
24 that you have been talking about, SAIDI and CAIDI, is that
25 correct?

1 THE WITNESS: Yes, sir.

2 COMMISSIONER DEASON: And the CEMI5, or however you
3 say that, these are measurements that you were already making
4 currently, correct? These measurements are part of your
5 on-going management system, is that correct?

6 THE WITNESS: That is correct. But the additional
7 administrative costs would come in terms of identifying the
8 specific customers that were effected by that. If you were to
9 refund only to those customers --

10 COMMISSIONER DEASON: I think Mr. Breman's proposal
11 was more general.

12 THE WITNESS: At the time we did that estimate we did
13 not know that.

14 COMMISSIONER DEASON: Are you at all familiar with
15 the GPIF, generating performance incentive factor?

16 THE WITNESS: Nothing other than knowing it exists.

17 COMMISSIONER DEASON: It's a symmetrical proposal and
18 it is done routinely, and I'm sure there are probably
19 administrative costs associated with it, but apparently it has
20 just become embedded in the normal processes that take place.
21 Do you foresee that there could be a time if we had some type
22 of a reliability-based performance incentive mechanism that the
23 administrative costs might not be that significant, or you just
24 don't have any idea?

25 THE WITNESS: It would really depend on how it was

1 structured. And my definition of administrative costs would
2 include the process to make the refunds to the customer. It
3 would include all of those costs, and not just gathering the
4 data and reporting the data.

5 COMMISSIONER DEASON: Would it alleviate some of your
6 concerns if there was a refund, a penalty, or a reward that was
7 somehow included in yearly fuel adjustment pass-throughs or
8 something of that character, a mechanism that already existed?

9 THE WITNESS: I would feel more comfortable with that
10 than what I know about the process thus far.

11 CHAIRMAN JABER: Mr. Fisher, are you participating in
12 the rulemaking proceeding that you reference in your testimony?

13 THE WITNESS: No, I'm not. Mr. Ed Battaglia, who Mr.
14 Breman mentioned, is our lead on that.

15 CHAIRMAN JABER: Okay. If I understood your
16 testimony correctly, you actually think it would be more
17 appropriate for the PSC to pursue Mr. Breman's proposal on an
18 incentive program for distribution reliability or any program
19 that the utilities would come up with in that rulemaking, is
20 that correct?

21 THE WITNESS: Yes, that was my testimony.

22 CHAIRMAN JABER: Do you know -- and it's okay if you
23 don't, we can look this up later. But do you know what the
24 time line is for the rulemaking?

25 THE WITNESS: No, I do not. I know that they met as

1 of last, on the 21st, I believe. And at that point in time the
2 incentive portion of it, my understanding is, was not even
3 discussed and is not in the rule at this point in time.

4 CHAIRMAN JABER: So there really hasn't been a
5 collaborative process or a dialogue on the proposal that is
6 presented by Mr. Breman as far as you can tell.

7 THE WITNESS: They have talked about it through the
8 course of this. But as of my last discussion with
9 Mr. Battaglia, it was not a subject of discussion at the
10 meeting on the 21st and was not in the rule.

11 CHAIRMAN JABER: Okay. And are you aware of any
12 other proposals that might have been discussed in the
13 rulemaking that aren't part of this case?

14 THE WITNESS: No, I'm not.

15 CHAIRMAN JABER: Okay. Thank you.

16 Commissioners, any other questions?

17 COMMISSIONER PALECKI: I have just one further
18 question. If this Commission was to adopt Mr. Breman's
19 proposal, and immediately after this case concluded looked at a
20 proposal that was more like that that the president of your
21 company suggested, and looked at that across the board for all
22 of the investor-owned utilities, do you see any reason why we
23 could not implement a more broad reward and penalty approach at
24 that time and simply substitute that for what we would adopt,
25 Mr. Breman's proposal, what we might adopt in this case that we

1 have a record to adopt here?

2 THE WITNESS: Well, I certainly agree that it is
3 under the Commission's purview to do that. It still doesn't
4 change my personal opinion about that one particular measure
5 being much too narrow to focus in on for award or penalty.

6 COMMISSIONER PALECKI: Thank you.

7 CHAIRMAN JABER: Redirect.

8 MR. STONE: Yes, Commissioner, very briefly.

9 REDIRECT EXAMINATION

10 BY MR. STONE:

11 Q Mr. Fisher, you were asked a couple of questions
12 about the history, the historical levels of spending in the
13 1996 to 2000 time frame. The historical level of spending on
14 distribution programs in the 1996 to 2000 time frame, is that
15 representative of what you expect to spend on those programs in
16 the future going forward, beginning with the test year in this
17 case?

18 A No, it is not, Counselor. I believe that the
19 expenses requested in the test year are much more
20 representative of the future years.

21 MR. STONE: Thank you. I have no further questions.

22 CHAIRMAN JABER: We have Exhibit 52?

23 MR. STONE: Yes. We would move Exhibit 52 into the
24 record.

25 CHAIRMAN JABER: Admitted without objection.

1 (Exhibit 52 admitted into the record.)

2 CHAIRMAN JABER: The next witness, Mr. Stone, is Mr.
3 Howell, and I believe --

4 MR. MELSON: He was excused, Chairman Jaber. Gulf
5 would move the prefiled rebuttal testimony of M.W. Howell, ask
6 that it be inserted into the record as though read.

7 CHAIRMAN JABER: The prefiled rebuttal testimony of
8 M.W. Howell shall be inserted into the record as though read.

9 MR. MELSON: And he had one exhibit attached to that,
10 MWH-2. We would ask that that be admitted into the record.

11 CHAIRMAN JABER: MWH-2 is Exhibit 53. And that will
12 be admitted into the record without objection.

13 (Exhibit 53 marked for identification and admitted
14 into the record.)

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1 GULF POWER COMPANY

2 Before the Florida Public Service Commission
3 Rebuttal Testimony and Exhibit of
4 M. W. Howell
5 Docket No. 010949-EI
6 In Support of Rate Relief
7 Date of Filing: January 22, 2002

8 Q. Please state your name, business address and occupation.

9 A. My name is M. W. Howell, and my business address is One Energy Place,
10 Pensacola, Florida 32520. I am Transmission and System Control
11 Manager for Gulf Power Company.

12 Q. Are you the same M. W. Howell who has previously filed direct testimony
13 on Gulf Power Company's (Gulf) behalf in this docket?

14 A. Yes.

15 Q. What is the purpose of your rebuttal testimony in this proceeding?

16 A. I will respond to portions of the testimony of Helmuth W. Schultz, III, that
17 address Gulf's transmission construction costs in this case.

18 Q. Have you prepared an exhibit that contains information to which you will
19 refer in your testimony?

20 A. Yes. I have one exhibit to which I will refer. This exhibit was prepared
21 under my supervision and direction.

22 Counsel: We ask that Mr. Howell's Exhibit (MWH-2),
23 consisting of one schedule, be marked for
24 identification as Exhibit No. ____.

1 Q. What is your major concern with the testimony of Mr. Schultz?

2 A. His testimony attempts to portray Gulf's justification for the \$56,035,000 in
3 transmission capital additions that are projected to occur during the period
4 January 2001 through May 2003 as minimal, even though my direct
5 testimony, pages 20 through 22, names specific major transmission
6 projects that have either been completed or will be completed during this
7 time frame. My direct testimony states that the purpose of these projects
8 is "to serve new customers; to strengthen the transmission system to
9 meet additional demand resulting from load growth; and to replace
10 damaged, worn out, or obsolete facilities." Mr. Schultz appears to
11 conclude that Gulf's support of its transmission construction budget is "not
12 adequate" merely because Gulf filed "approximately two pages of
13 testimony..." concerning the construction budget.

14
15 Q. Which projects were discussed in your direct testimony and what details
16 were given regarding those projects?

17 A. The projects discussed in my direct testimony include the South
18 Crestview-Glen Tap 115 kV line, the Farley-Sinai Cemetery 230 kV line
19 and substation, the Laguna Beach-Santa Rosa No. 2 115 kV line, the
20 Smith Unit 3 step-up substation and interconnection facilities, the Smith-
21 Highland City 115 kV line, the Callaway-Highland City 115 kV line, the
22 Smith-Greenwood 115 kV line, and the Smith existing 230 kV switchyard
23 improvements. As stated in my direct testimony, a total cost of
24 approximately \$31 million is budgeted just for the Farley-Sinai Cemetery
25 230 kV line and substation, the Smith Unit 3 step-up substation and

1 interconnection facilities, and the Laguna Beach-Santa Rosa No. 2
2 115 kV line during the period January 2001 through May 2002. The total
3 budgeted cost for all the above projects for the period January 2001
4 through May 2003 is over \$41 million. This represents a major portion of
5 Gulf's total \$56 million transmission construction budget for the period. I
6 have indicated in my direct testimony that the projects to rebuild the South
7 Crestview-Glen Tap 115 kV line and improve the existing Smith 230 kV
8 switchyard were completed in 2001. Also, I state that the projects for the
9 Farley-Sinai Cemetery 230 kV Power Supply, the Laguna Beach-Santa
10 Rosa No. 2 115 kV line, the Smith-Highland City 115 kV line, the
11 Callaway-Highland City 115 kV line, and the Smith-Greenwood 115 kV
12 line will be completed by June 2002.

13

14 Q. Does Gulf's Minimum Filing Requirements (MFRs) filing contain sufficient
15 information related to its transmission construction projects?

16 A. Yes. The MFR schedules established the level of detail that Gulf is
17 required to supply to support its transmission expenditures. Gulf provided
18 all the required information on MFR Schedule B-10, Schedule B-13a,
19 Schedule B-13b and Schedule F-17.

20

21 Q. Do you have other concerns about Mr. Schulz's testimony as it addresses
22 the transmission construction budget?

23 A. Yes. Because my direct testimony clearly identifies these major
24 transmission capital additions and discusses the need for these projects,
25 Mr. Schultz's statement that "[t]he Company's failure to provide a

1 description of ...transmission...plant additions is an attempt to shift the
2 burden of proof" is completely misleading and incorrect. As previously
3 stated on page 20 of my direct testimony, all of the capital projects that
4 have been initiated during the January 2001 through May 2003 time frame
5 are needed to "ensure the continued reliability of Gulf's transmission
6 system, as well as to meet the growing energy needs of the company's
7 customers."

8

9 Q. Mr. Schultz implies that Gulf's transmission construction budget is
10 overstated from what the Company needs or will actually be spent. Would
11 you please comment?

12 A. The transmission construction budget we have relied upon in preparing
13 the test year in this case contains only transmission projects that are
14 needed to serve Gulf's customers. A complete listing of budgeted
15 transmission construction projects and the status of each project for the
16 January 2001 through May 2003 time frame is included as Schedule 1 of
17 my rebuttal exhibit. All of these projects are necessary to continue to
18 meet the needs of Gulf's customers.

19

20 Q. Does this conclude your testimony?

21 A. Yes.

22

23

24

25

1 MR. MELSON: Thank you, Commissioner.

2 CHAIRMAN JABER: That brings us to Ms. Neyman. Mr.
3 Stone, I know that you were going to -- you and staff and the
4 parties were going to discuss stipulations with respect to
5 other issues. Were you able to reach any additional
6 agreements?

7 MR. STONE: Yes, Commissioner. It is my
8 understanding that with regard to Issue 53, the only party that
9 had taken a position adverse to the company was the Federal
10 Executive Agencies. And they have informed me that they would
11 change their position to -- I believe they changed their
12 position to no position, and that would allow us, I believe, to
13 show that as what was previously characterized as a Category 5
14 stipulation.

15 CHAIRMAN JABER: Major, are you willing to take no
16 position on Issue 53?

17 MR. ERICKSON: Yes, ma'am, we are.

18 CHAIRMAN JABER: So, C.

19 MR. ERICKSON: Commissioners, if I could have a
20 motion to accept the stipulation on Issue 53, we could vote
21 that out right now.

22 COMMISSIONER BAEZ: I move it.

23 CHAIRMAN JABER: There has been a motion.

24 COMMISSIONER DEASON: Second.

25 CHAIRMAN JABER: A motion and a second to resolve

1 Issue 53 by accepting the stipulation that uses your language,
2 Mr. Stone?

3 MR. STONE: I believe that is correct.

4 CHAIRMAN JABER: Staff, you're okay with that?

5 MS. STERN: Yes.

6 CHAIRMAN JABER: Okay. A motion and a second. All
7 of those in favor say aye.

8 (Simultaneous affirmative vote.)

9 CHAIRMAN JABER: Opposed nay? Show Issue 53
10 resolved.

11 Okay. Ms. Neyman, Mr. Stone.

12 MR. BADDERS: Out next witness, Ms. Neyman has taken
13 the stand. She was previously sworn and she testified earlier
14 yesterday.

15 - - - - -

16 MARGARET D. NEYMAN

17 was called as a rebuttal witness on behalf of Gulf Power and,
18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BADDERS:

21 Q Ms. Neyman, please state your name for the record?

22 A It's Margaret D. Neyman.

23 Q And did you prefile rebuttal testimony consisting of
24 four pages?

25 A Yes, I did.

1 Q Do you have any changes or corrections to that
2 testimony?

3 A Yes, I do. On Page 1, Line 3, it says my middle
4 initial is E. It is, in fact, D. Line 7, again, substitute D
5 for E.

6 Q If I were to ask you those same questions with that
7 change, would your answers be the same?

8 A Yes.

9 MR. BADDERS: We ask that the prefiled testimony of
10 Ms. Neyman be inserted into the record as though read.

11 CHAIRMAN JABER: The prefiled testimony of Margaret
12 D. Neyman shall be inserted into the record as though read.

13 And Ms. Neyman has no exhibits?

14 MR. BADDERS: That is correct.

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1 GULF POWER COMPANY

2 Before the Florida Public Service Commission

3 Rebuttal Testimony of

4 Margaret E. Neyman

5 Docket No. 010949-EI

6 In Support of Rate Relief

7 Date of Filing: January 22, 2002

8

9 Q. Please state your name, address, and occupation.

10 A. My name is Margaret E. Neyman, and my business address is One
11 Energy Place, Pensacola, Florida 32520. I am Gulf Power Company's
12 General Manager of Marketing.

13

14 Q. Are you the same Margaret E. Neyman that provided direct testimony on
15 Gulf Power's behalf in this docket?

16 A. Yes.

17

18 Q. What is the purpose of your testimony?

19 A. The purpose of my testimony is to address the testimony provided by
20 Kimberly H. Dismukes and Edward D. Bass, II, as it relates to advertising
21 expenses.

22

23 Q. What is your reaction to Ms. Dismukes' testimony?

24 A. Ms. Dismukes quotes a very narrow passage of my testimony to assert
25 that certain advertising expenses should be disallowed. Her testimony
seems to miss or ignore the entire point of my testimony, which was that
Gulf Power uses all advertising to establish credibility and loyalty with
customers in order to enable us to effectively market our products and

1 programs. Establishing credibility and loyalty are critical elements in
2 encouraging customers to participate in our products and programs such
3 as energy efficiency and power quality. Customers will not participate if
4 they do not believe in the program or the provider.

5
6 Q. What type of advertising did Ms. Dismukes say should be disallowed?

7 A. Ms. Dismukes restates the Commission's position in previous rate
8 proceedings disallowing advertising regarded as "image building".
9 I recognize that the Commission has taken this position in the past, but
10 Gulf believes that such advertising is important to the overall success of
11 its programs. No matter what you are selling or offering in the
12 marketplace, customers must trust you before they are willing to accept
13 your offer. This includes encouraging customer participation in energy
14 conservation programs. Gulf Power has long recognized this basic fact
15 and has used its advertising program to establish the Company as a
16 reliable, professional entity worthy of the customer's trust. Indeed, the
17 very ads Ms. Dismukes quotes in her testimony said "our proven reliability
18 creates dependable relationships" and "with some of the lowest rates in
19 the country, it's what we call a valuable relationship." These messages
20 are critical to establishing the Company as worthy of a relationship with
21 the customer based on value and dependability. And, again, this is critical
22 to gaining acceptance and participation in our programs. The
23 Commission stated in Order No. PSC-96-1320-FOF-WS:

24
25

1 However, we also recognize that the utility's conservation
2 efforts need to gain support and trust from its customers
3 in order to be successful. [emphasis added]

4 Although these ads do not mention a particular conservation program,
5 they are still critical to the success of Gulf's conservation programs.

6
7 Q. Do you have any other comments based on Ms. Dismukes' testimony?

8 A. Yes. Mass market advertising is Gulf Power's most valuable tool in
9 affecting customer beliefs and actions on an ongoing basis. Customers
10 are influenced by the totality of your advertising program over time, not
11 just the content of a single ad here or there. You cannot, as
12 Ms. Dismukes suggests, select just one or two ads and say the entire
13 campaign is ineffective in promoting acceptance of Gulf Power's energy
14 conservation programs. To the customer, all ads impact their decision on
15 whether or not to act on the services or products provided. The customer
16 views all of our advertising as representative of Gulf Power. All of Gulf's
17 advertising serves to promote the acceptance of the Company and all of
18 its products and services, whether the specific products or services are
19 mentioned in a single ad. Building this acceptance and trust is extremely
20 important when trying to convince customers to sign up for energy
21 conservation programs such as **GoodCents Select**. Energy conservation
22 programs are difficult to promote, because they do not represent a
23 product or service people perceive they need to buy on an ongoing basis
24 such as food, clothes, soap, automobiles or other everyday items. The
25 trust factor in the service provider has to be higher when convincing

1 customers to buy something they do not perceive as a "must have" - such
2 as energy conservation programs. This is why Gulf Power believes all of
3 its advertising should be allowed. All of Gulf Power's advertising is aimed
4 at one goal - building acceptance and trust in the Company so that
5 customers will respond to Company offerings, most specifically the
6 Company's energy conservation programs.

7

8 Q. Are there other benefits beyond energy conservation where this type of
9 advertising helps the Company?

10 A. Yes. The Company's advertising ensures the customer has the right
11 information to make a decision that is in their best interest. This type of
12 advertisement builds trust and confidence in the services and products
13 provided. Products and services such as power quality and reliability
14 initiatives are then viewed as positive programs and customers are
15 receptive to participation.

16

17 Q. Does this conclude your testimony?

18 A. Yes.

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1 BY MR. BADDERS:

2 Q Ms. Neyman, please summarize your testimony.

3 A Thank you.

4 Good afternoon, Commissioners. Establishing
5 credibility and loyalty are critical elements in encouraging
6 customers to participate in our products and programs, such as
7 energy efficiency, power quality, and reliability initiatives.
8 Customers will not participate if they do not believe in the
9 program or in the provider.

10 Ms. Dismukes' testimony asserted that unless an
11 advertisement is a direct sales ad or mentions a particular
12 conservation program, it should be disallowed. We disagree
13 with this. The first tenet of persuasive communications is
14 trust. Gulf Power has long recognized this basic fact and has
15 targeted its advertising programs to customers to establish the
16 company as a reliable professional entity. The result is
17 trust, confidence, and program participation that aids to
18 reduce complaints and associated customer resolution costs to
19 the company.

20 Commission Order Number PSC-96-1320-FOF-WS, which
21 Ms. Dismukes references, also states the value of the
22 customers' trust as follows, "However, we also recognize that
23 the utility's conservation efforts need to gain support and
24 trust from its customers in order to be successful." Customers
25 are influenced by the totality of our advertising program over

1 time, not just the content of a few ads. One cannot, as Ms.
2 Dismukes suggests, select just a few ads and say the entire
3 campaign is ineffective in promoting the acceptance of Gulf's
4 energy conservation programs. To the customer all ads impact
5 their decisions on whether or not to act on the services or
6 products provided.

7 The customer views all advertising of Gulf Power.
8 And all of Gulf Power's advertising is aimed at one goal,
9 building acceptance and trust in the company so that customers
10 will respond to the company offerings and act on the company's
11 advice.

12 This is why Gulf Power is asking the Commission to
13 reconsider its position in previous rate proceedings. We
14 believe that all of our advertising should be allowed.

15 Thank you.

16 MR. BADDERS: We tender Ms. Neyman for cross
17 examination.

18 MR. ERICKSON: No questions.

19 MR. GROSS: No questions.

20 MR. PERRY: No questions.

21 MR. BURGESS: No questions.

22 CHAIRMAN JABER: Staff.

23 MS. ESPINOZA: We have a few questions.

24 CROSS EXAMINATION

25 BY MS. ESPINOZA:

1 Q Ms. Neyman, on Page 2, Line 23 of your rebuttal
2 testimony, that Commission order that you referenced?

3 A Yes.

4 Q Would you agree that that is the final order issued
5 by this Commission in Docket Number 950495, which was a rate
6 case involving Southern States Utilities, Inc.?

7 A Yes.

8 Q And on Page 3, Lines 1 through 3 of your rebuttal,
9 you go on to quote that passage from that order?

10 A Yes.

11 Q Would you agree, subject to check, that the line from
12 that order that directly precedes the quote that you have is,
13 quote, we agree with OPC that advertising expense only for
14 image enhancing purposes should not be borne by ratepayers
15 because it only benefits stockholders, end quote?

16 A Yes. What I would like to do is read that entire
17 paragraph, starting with that sentence from that order. "We
18 agree with OPC that advertising expense only for image
19 enhancement purposes should not be borne by ratepayers because
20 it only benefits stockholders. However, we also recognize the
21 utility's conservation efforts need to gain support and trust
22 from its customers in order to be successful. Based on the
23 review of the budget and the foregoing discussion, we do not
24 believe that advertising expense for statewide communication
25 can be separated between cost for informing customers and

1 gaining public support for conservation and cost for image
2 enhancement."

3 The Commission then goes on to actually approve the
4 statewide advertising in that order. So it actually, we feel,
5 supports the same position we are taking here.

6 Q Okay. And would you agree that that same order in
7 that same case, the Commission went on to specifically disallow
8 certain advertising expenses that the company was seeking
9 because they could not be directly tied to conservation
10 programs?

11 A They did disallow some advertising, but they did not
12 disallow the statewide advertising of 14,783. They actually
13 approved that advertising.

14 Q Right. But would you agree that the statewide
15 advertising was only a part of the entire advertising expenses
16 that this particular utility was seeking?

17 A It was part of the advertising expenses, but --

18 Q And portions of those advertising expenses were
19 disallowed because they could not be tied directly to
20 conservation expenses?

21 A That was not my understanding from reading the order,
22 no.

23 CHAIRMAN JABER: Mr. Stone, were you just going to
24 ask that she be allowed it finish her --

25 MR. STONE: Yes, Commissioner.

1 CHAIRMAN JABER: But, Mr. Stone, I would ask Ms.
2 Neyman to remember that some of these questions call for a yes
3 or no answer. And I would suggest you start with a yes or no,
4 elaborate where you absolutely need to, and allow your attorney
5 to redirect.

6 THE WITNESS: Okay. I'm sorry.

7 CHAIRMAN JABER: Go ahead, staff.

8 BY MS. ESPINOZA:

9 Q Ms. Neyman, I guess my final question is the
10 advertising costs that Gulf is seeking to recover for these
11 types of ads that we have been talking about, the Part C of
12 Staff's Exhibit 22, why isn't Gulf seeking to recover these
13 costs through the ECCR?

14 A ECCR advertising is based upon the programs that the
15 Commission has approved for conservation cost-recovery. We
16 present those programs and their costs to the Commission. And
17 if the program is approved by the Commission, we ask for the
18 advertising for those conservation programs to be recovered
19 through ECCR.

20 We do not, and there is not a mechanism really in
21 ECCR for us to recover advertising that is not directly tied to
22 a program. However, we feel these programs have value and have
23 had value not only for our ECCR programs, but for our programs
24 that are in base rates. So we have asked for recovery in base
25 rates. But right now what we recover in ECCR, typically the

1 Commission has required that it be specific program costs;
2 advertising, labor, whatever.

3 Q Okay. So then these ads are not directly related to
4 conservation programs?

5 A They are not directly related to advertising
6 conservation programs. They are indirectly related.

7 Q And for that reason they would not be appropriate to
8 be recovered through ECCR?

9 A Yes, I agree with that, they would not be
10 appropriate.

11 MS. ESPINOZA: Thank you. We have no further
12 questions.

13 CHAIRMAN JABER: Thank you, staff.
14 Commissioners.

15 COMMISSIONER PALECKI: I have just a few questions.
16 Has this Commission ever approved that Gulf Power place any
17 conservation programs in base rates and any part of the payment
18 for those programs in base rates?

19 THE WITNESS: Yes, our GoodCents home program is a
20 conservation program that was approved in our last case for
21 recovery in base rates.

22 COMMISSIONER PALECKI: And that was in the case that
23 was settled?

24 THE WITNESS: That was in the 1990 case.

25 COMMISSIONER PALECKI: In the 1990 case.

1 THE WITNESS: Yes. That program was approved for
2 cost-recovery in base rates. And I would classify that as a
3 conservation program. We count it toward our conservation
4 goals, the results of that program.

5 COMMISSIONER PALECKI: And it is part of your
6 conservation goals package that was approved by this
7 Commission?

8 THE WITNESS: Our DSM plan. If you reference our
9 last DSM plan, that program is in there, it is recovered in
10 base rates. We have some programs that are base rate programs
11 that are conservation programs, and then we have some that are
12 approved for recovery through conservation cost-recovery.

13 COMMISSIONER PALECKI: Yes, I was confused by that
14 yesterday, as well.

15 Moving on to another issue. You would agree that
16 your customers don't have a choice of electric providers. If
17 they live in Gulf's territory, Gulf is the only electric
18 provider they can choose?

19 THE WITNESS: Yes, that is correct.

20 COMMISSIONER PALECKI: And you would also agree that
21 it is up to this Commission to balance the interests of those
22 ratepayers against the interests of the utility company?

23 THE WITNESS: Yes.

24 COMMISSIONER PALECKI: And I guess I will ask you, I
25 think sometimes customers resent the amount of money they see

1 their electric company paying for advertising when they really
2 don't have a choice. You know, you watch TV and you say, why
3 are they advertising to me? I don't get to choose my electric
4 company. So do you think it is in the public interest for this
5 Commission to place very close and strict limits on that
6 advertising?

7 CHAIRMAN JABER: Commissioner Palecki, you have to
8 speak up over the rain.

9 THE WITNESS: I heard your question, Commissioner. I
10 would agree with you if the point and the message in the
11 advertising was choose us; if we were advertising to choose us,
12 then it would be inappropriate. And, in fact, most of the time
13 customers question our advertising because a lot of it is
14 directed on how they can save money. And they often say why
15 would you want to tell me how I can save money on my electric
16 bill and pay you less.

17 The purpose of the advertising, of both the
18 advertising that we get recovery of, and the advertising that
19 we are asking to get recovery of is not to promote choice, it
20 is to promote the programs. The trust and the relationship
21 that we have with the customers, to build that so that when we
22 come back to them and say, if we said, and we realize over the
23 years our customers did not realize we had low rates. And if
24 you have a high bill complaint, and you go to the home to deal
25 with the high bill complaint to do a residential energy survey,

1 an audit, we don't call them audits, we call them surveys. If
2 the customer thinks you have high rates, the residential energy
3 consultants are going to have to deal with that first. If the
4 customer's perception is you are ripping me off, so I'm not
5 going to listen to what you tell me on how I can reduce my
6 power bill. We feel those things are all interrelated and we
7 can't really separate them.

8 COMMISSIONER PALECKI: I guess the problem I'm having
9 is that on the one hand I don't want to micromanage the
10 company. On the other hand I think it is very necessary to
11 protect the ratepayers on this issue of advertising, because I
12 think utilities can have a tendency to advertise a great deal,
13 and they are very expensive, the advertisements.

14 Would you prefer to see this Commission place a cap
15 on the dollars that the utility can spend in advertising
16 through customer rates, and anything over that amount would
17 have to be paid for by your stockholders so that we didn't look
18 at every ad and determine whether it is in the public interest.
19 We allowed Gulf to go ahead and decide what ads they would like
20 to place, but at the same time we are able to protect the
21 ratepayers.

22 THE WITNESS: One area where I have trouble with a
23 cap is like we do the cost-effectiveness evaluation in ECCR.
24 We also do similar evaluations for our programs in base rates
25 that are directed at reducing demand or energy, and we do the

1 RIM analysis using the Commission's FIRE model. And we
2 might -- if that cap meant that we wouldn't do a program that
3 was in the best interest of the ratepayers and it was in the
4 best interest of the participating customers because we had hit
5 the cap, I would have concern about a cap if it included
6 conservation cost-recovery advertising.

7 And we also have similar advertising in base rates;
8 the GoodCents home program, for example. But if you separate
9 out the ECCR advertising, it really would depend on how the cap
10 was set as to whether or not we felt like that that would be a
11 reasonable way to approach the problem here.

12 COMMISSIONER PALECKI: Well, let's go through the
13 advertising that you are permitted to run through rates right
14 now. I think that would be conservation messages, safety
15 messages --

16 THE WITNESS: That is correct.

17 COMMISSIONER PALECKI: Were there any other
18 categories?

19 THE WITNESS: Our power quality, we have advertising
20 talking about our meter treater program.

21 COMMISSIONER PALECKI: Power quality. It sounds to
22 me that if you take out conservation, you leave power quality
23 and power safety, you're taking out probably 80 percent of the
24 allowed advertising under our current standards.

25 THE WITNESS: Of the allowed advertising, that is

1 approximately about right. I don't know that exact number, but
2 I know that ECCR advertising is about a third. Well, half of
3 the allowed advertising is about ECCR and half is in base
4 rates. And then we are asking for an additional amount.

5 COMMISSIONER PALECKI: And the half that is in base
6 rates, what are the messages -- what are the allowed messages
7 that are --

8 THE WITNESS: We advertise our GoodCents home
9 program, our GoodCents existing program.

10 COMMISSIONER PALECKI: So they are conservation
11 programs, approved conservation programs, but you're running
12 the advertisements through base rates.

13 THE WITNESS: Well, they are not approved -- you mean
14 like they are approved in our plan?

15 COMMISSIONER PALECKI: Yes.

16 THE WITNESS: That is correct. We also have
17 advertising we do to talk about customer service that we
18 provide. Energy analysis, helping you -- I wouldn't say that
19 they are specifically a program, but we provide a service.
20 Manual J, we advertise the fact that we are the energy experts.
21 If you need help -- it's not really a program, it's more
22 advice. We do advertise that, as well.

23 COMMISSIONER PALECKI: And that can be recommended to
24 safety, or reliability, or don't dig if you, you know --

25 THE WITNESS: Helping a customer solve an energy

1 problem. And it could be they have an environmental problem
2 and they are looking at electro technology and they want help.
3 So we advertise that we are the energy experts and to come to
4 us and we will help you.

5 CHAIRMAN JABER: Didn't you also testify yesterday
6 that you advertised your on-line billing and your website?

7 THE WITNESS: Right, that is correct. We advertise
8 that, how to get ahold of us. I don't have the specifics right
9 here with me of how that breaks down. The Commission has
10 allowed recovery of that type of advertising. It is not,
11 per se, though, in a -- it's not a program that is in our DSM
12 plan, but it ultimately results in customers making better
13 decisions about their particular needs and we help them.
14 Seminars, training, things like that.

15 COMMISSIONER PALECKI: Well, my problem is that I
16 would like to stop micromanaging. At the same time I don't see
17 any way I can protect the ratepayers unless there is either a
18 cap or we keep the present standards that we have in place.
19 Can you give me a third alternative that will still allow us to
20 protect the ratepayers to make sure we don't have just too much
21 money spent on advertising and customers who cannot choose
22 their electric provider are stuck paying for it?

23 THE WITNESS: Well, let me back up and say one thing
24 about the -- I would rather the Commission to judge the value
25 of the advertising that we are requesting the reconsideration

1 of and the value that it brings to the ratepayers and to the
2 participating customers.

3 COMMISSIONER PALECKI: So you would like for us to
4 continue to look at each one of your ads and determine whether
5 they are purely image enhancing or if they have an important
6 public message?

7 THE WITNESS: Yes. What we are asking for recovery
8 in this case is not, in our opinion, image enhancing. The
9 reason we are asking for recovery of this type of ads, which
10 Mr. Bass -- we agree with Exhibit 22 is representative of the
11 time of advertising we are asking for. It has value to the
12 general body of ratepayers. Our advertising in ECCR is
13 reviewed. It is reviewed annually through that mechanism, and
14 that is not really a problem for us that the Commission reviews
15 that advertising and that we have to basically every year
16 present the value of that advertising to the ratepayers. So,
17 that would be my preference.

18 If the Commission would like to set a cap on this
19 type of advertising that is new, that we currently don't have
20 recovery on, you know, it is similar to economic development
21 area advertising. We do now have the ability to recover area
22 development advertising through economic development. We
23 recover 95 percent of the cost of that. So, in essence, there
24 is a cap in that category that could be similarly applied to
25 this type of advertising that we are asking for reconsideration

1 of. That is the closest I can think of to --

2 COMMISSIONER PALECKI: Well, would you agree that
3 there is some dollar level of advertising that -- and I don't
4 know where to draw that line, but there is some level where you
5 are just asking the ratepayers to swallow too much?

6 THE WITNESS: Well, we carefully consider where --

7 COMMISSIONER PALECKI: I'm not asking about Gulf
8 Power. I'm just asking is there some level above which you
9 just should not ask the ratepayers to have to pay for that
10 advertising?

11 THE WITNESS: I don't believe that in my opinion you
12 can just set a level. I think you have to look at the --

13 COMMISSIONER DEASON: I'm not asking you what the
14 level is. I'm just saying is there some point where it is just
15 too much to ask the ratepayers to swallow.

16 THE WITNESS: I do not know that there is such a
17 point. As the general manager of marketing, I look at each
18 program, each campaign and the results and decide has that
19 advertising campaign benefitted --

20 COMMISSIONER PALECKI: Let me just arbitrarily set a
21 level. If your advertising was as much as your generation,
22 your advertising costs, would that be too high? Would that be
23 too much for the ratepayers to have to pay?

24 THE WITNESS: Yes, sir.

25 COMMISSIONER PALECKI: So there is some level?

1 THE WITNESS: Yes, there is.

2 COMMISSIONER PALECKI: The answer to my question is
3 yes.

4 THE WITNESS: Yes.

5 COMMISSIONER PALECKI: And it is determining what
6 that level is?

7 THE WITNESS: That is the challenge, right. And the
8 way I would do that is similar to the way we do conservation
9 goal setting. We look program by program. We look at some
10 sort of merits and decide do we feel like -- we don't have
11 quantitative data, but we have qualitative input from our field
12 reps who say this is helping. And we are significantly under
13 the benchmark in CS&I, so the recovery that we do get of
14 advertising we carefully consider where to put those dollars.
15 This is the area the Commission has allowed us to have
16 recovery. We have been good stewards of that money, and we
17 would continue to do that if you allowed us recovery of this
18 advertising.

19 COMMISSIONER PALECKI: I hear what you are asking us
20 to do and you are asking us to continue micromanaging your
21 advertising. And what I'm trying to figure out is some way we
22 can avoid doing that and still protect the ratepayers, but I
23 don't think we are --

24 CHAIRMAN JABER: May I throw in a couple of
25 questions? Let's see if we can flesh this out some more. What

1 you do right now is you take a risk in your advertisement that
2 that you are not going to get recovery for it via the clause or
3 through rates?

4 THE WITNESS: Right.

5 CHAIRMAN JABER: Is that correct?

6 THE WITNESS: We do not get recovery of this type of
7 advertising, that is correct.

8 CHAIRMAN JABER: Okay. So in making those management
9 decisions with respect to advertising, you know that you run
10 the risk of not having recovery?

11 THE WITNESS: Yes, Commissioner. The last ten years
12 we have not gotten recovery. It's not really a risk; we know
13 we are not going to get recovery.

14 CHAIRMAN JABER: All right. So what drives the
15 management decision to go forward with the ad?

16 THE WITNESS: It is our opinion that this ad has
17 value. That is going to help in supplementing the advertising
18 of the programs and, therefore, help participation because it
19 is building trust, building a relationship. We also look at
20 the most cost-effective way to get the message out that we have
21 low rates, for example, so that when we have a customer contact
22 transaction we are not having to deal with that issue.

23 CHAIRMAN JABER: Now, how do you make the decision or
24 evaluate the decision on the value that ad will bring to the
25 company?

1 THE WITNESS: There is two ways we have looked at
2 that. One is somewhat quantifiable. We look to see if our
3 customer survey results have indicated our customers believe
4 that we have low rates, for example. Originally in the early
5 '90s they did not, and now the majority of them do feel like we
6 have low rates, which is the truth.

7 The other way is really more qualitative input from
8 field personnel that it has been effective. That they are
9 getting -- having the kind of dialogue with the customers that
10 they feel like that message is there, they trust us, they
11 listen to us.

12 CHAIRMAN JABER: Okay. I was going to ask you about
13 the surveys. And I recognize some of the measurements are
14 confidential, but in terms of the questions on the surveys, are
15 you able to link or find the nexus between the advertisements
16 that you have made and the good customer perception?

17 THE WITNESS: We have seen trends. The best one I
18 can name is the low rates question. In the early '90s, not
19 through our customer value surveying, but through our public
20 confidence surveying we saw that 40 percent of -- only 40
21 percent of customers thought we had low rates. Today 70
22 percent of our customers believe we have low rates. So we have
23 that example where we can -- once we started to advertise that
24 we had the lowest rates in Florida and the lowest rates in the
25 nation, we saw those numbers start moving.

1 CHAIRMAN JABER: Now, hypothetically, let's say the
2 PSC imposes a cap on your advertising expense. Walk me through
3 what you anticipate management would do in finding or
4 determining what value to put on the advertisements and then in
5 determining which advertisements to make?

6 THE WITNESS: Whether or not the Commission put a cap
7 on this type of advertising or not, we would continue the way
8 we currently do. And when we set our plans for the year, we
9 would continue to advertise what we have been advertising, low
10 rates, reliability. If we hit the cap, we would not be able to
11 recover anything in excess of the cap, but we have many years
12 of where we have not had recovery, we have spent this money
13 because we believe it had value.

14 CHAIRMAN JABER: So are you representing to me here
15 today that if we impose a cap you wouldn't change a thing as it
16 relates to advertising your GoodCents select program, or
17 advertising on-line billing, or advertising energy audits?

18 THE WITNESS: No, Commissioner, we would not. Now, I
19 wouldn't --

20 CHAIRMAN JABER: You wouldn't change anything?

21 THE WITNESS: We wouldn't change the way we go about
22 doing it. Now, I will say that I am not in favor of a cap on
23 the ECCR, and I am not proposing that the Commission change the
24 scrutiny that they have traditionally employed in reviewing
25 conservation cost-recovery costs. The audits that are done

1 there, the auditors review those invoices, they review the
2 costs. We do cost-effectiveness evaluations. I would put the
3 conservation cost-recovery clause advertising in a separate
4 category, have GoodCents Select, for example, in audits. It
5 would not.

6 CHAIRMAN JABER: Thank you, Ms. Neyman.

7 Commissioners, do you have any other questions?

8 Redirect.

9 MR. BADDERS: Just briefly.

10 REDIRECT EXAMINATION

11 BY MR. BADDERS:

12 Q Ms. Neyman, earlier you were discussing the GoodCents
13 home program and the advertising related to that?

14 A Yes.

15 Q That was approved back in Docket 891345, correct?
16 That was our last rate case?

17 A Yes. Subject to check, I would agree that is the
18 number. I don't have it memorized.

19 Q With regard to the Category C, or those ads that are
20 shown in Part C of that exhibit, do you know -- or actually are
21 those excluded from surveillance reports?

22 A We adjust those out, if that is your question, right.
23 Yes, we do. For surveillance reporting purposes, the cost
24 associated with -- in this Exhibit 22, Section Exhibit C, we
25 adjust the costs associated with those ads out for surveillance

1 reporting purposes.

2 MR. BADDERS: Thank you. Nothing further.

3 CHAIRMAN JABER: Thank you, Ms. Neyman. Okay.

4 Gulf, your last witness is Mr. Labrato?

5 MR. STONE: That is correct.

6

7

RONNIE R. LABRATO

8 was called as a rebuttal witness on behalf of Gulf Power and,

9 having been duly sworn, testified as follows:

10

DIRECT EXAMINATION

11 BY MR. STONE:

12 Q Mr. Labrato, I remind you, you are under oath from
13 yesterday.

14 A Yes.

15 Q Would you please state your name for the record,
16 please?

17 A Ronnie Labrato.

18 Q And you are the same individual who testified
19 yesterday on direct, is that correct?

20 A That is correct.

21 Q Have you prefilled rebuttal testimony consisting of
22 seven pages?

23 A I have.

24 Q Do you have any changes or corrections to your
25 prefilled rebuttal testimony?

1 A No, I do not.

2 Q If I were to ask you the same questions today, would
3 your answers be the same?

4 A Yes, they would.

5 MR. STONE: I would ask that Mr. Labrato's prefiled
6 rebuttal testimony be inserted into the record as though read.

7 CHAIRMAN JABER: The prefiled rebuttal testimony of
8 Ronnie R. Labrato will be inserted into the record as though
9 read.

10 BY MR. STONE:

11 Q Mr. Labrato, you have one exhibit attached to your
12 testimony consisting of three schedules, is that correct?

13 A That is correct.

14 Q Do you have any changes to your exhibits?

15 A No, I do not.

16 MR. STONE: We ask that Mr. Labrato's Rebuttal
17 Exhibit RRL-2 be identified for the record.

18 CHAIRMAN JABER: It will be identified as Exhibit 54.
19 (Exhibit 54 marked for identification.)

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1 GULF POWER COMPANY

2 Before the Florida Public Service Commission
3 Rebuttal Testimony and Exhibit of
4 Ronnie R. Labrato
5 Docket No. 010949-EI
6 In Support of Rate Relief
7 Date of Filing: January 22, 2002

8 Q. Please state your name, business address, and occupation.

9 A. My name is Ronnie R. Labrato. My business address is One Energy
10 Place, Pensacola, Florida, 32520. I am Vice President, Chief Financial
11 Officer and Comptroller of Gulf Power Company.

12 Q. Are you the same Ronnie R. Labrato who provided direct testimony on
13 Gulf Power's behalf in this docket?

14 A. Yes.

15 Q. What is the purpose of your rebuttal testimony?

16 A. The purpose of my testimony is to respond to the testimony of Helmuth
17 W. Schultz, III, and James E. Breman on certain issues raised in this
18 proceeding. I will also quantify some adjustments to depreciation and
19 dismantlement as a result of Mr. Roff's rebuttal to witnesses Majoros and
20 Zaetz.

21
22 Q. Have you prepared an exhibit that contains information to which you will
23 refer in your testimony?

24 A. Yes. Exhibit (RRL-2) was prepared under my supervision and direction.
25

1 Counsel: We ask that Mr. Labrato's Exhibit (RRL-2), comprised of
2 three schedules, be marked as Exhibit No. ____.

3
4 Q. On Mr. Schultz's Schedule A-1, he calculates that the Company's revenue
5 deficiency is \$15,014,000. Please comment on his recommendation.

6 A. A major driver in this case is the construction of Smith Unit 3, for which
7 the Florida Public Service Commission (FPSC) certified the need in
8 Docket No. 990325-EI. The projected capital expenditures for the project
9 total \$220.5 million. The total annual revenue requirement for the new
10 unit is approximately \$48 million. Clearly the \$15 million suggested by
11 Mr. Schultz does not come close to covering the revenue requirements of
12 Smith Unit 3, much less the other increases in operation and maintenance
13 expenses and capital additions that are anticipated for the test year.
14 Obviously, if Mr. Schultz's recommendations were adopted, the
15 Company's financial position would be severely weakened. A weakened
16 financial position would prevent the Company from being able to attract
17 capital on reasonable terms and make it difficult for the Company to
18 maintain an adequate level of financial integrity in order to continue to
19 provide reliable service at reasonable costs to our customers.

20
21 Q. On page 10 of Mr. Schultz's testimony related to the amortization of the
22 deferred return on the third floor of the corporate office, he states that
23 "Gulf did not make such an election in the time frame established by the
24 stipulated revenue sharing, or as part of the revenue sharing." Is this
25 true?

1 A. No, Mr. Schultz's statement is not true. Gulf did record amortization of the
2 accumulated balance of the deferred return of \$1 million in each of the
3 years 2000 and 2001 as provided for in the stipulation approved by Order
4 No. PSC-99-2131-S-EI. Our requested amortization of the remaining
5 balance over a period of three years is consistent with the approved
6 stipulation.

7

8 Q. Should there be an adjustment to the amortization requested?

9 A. Yes. In developing the Company's forecast for the test year, the
10 amortization booked in the year 2000 was taken into account. However,
11 the 2001 amortization had not yet been booked at the time of the filing
12 and the third floor investment was still not in rate base; therefore, the
13 Company continued to defer a return and no additional amortization was
14 assumed in the periods prior to the test year. To take into account the
15 2001 amortization, the Company is revising its request related to the
16 amortization of the deferred return in the test year from \$1,157,000 to
17 \$815,000. An adjustment should also be made to reduce total company
18 rate base in the amount of \$855,000 to take into account the change in
19 the accumulated balance of the deferred return. Schedule 1 of my
20 rebuttal exhibit provides a detailed calculation of these adjustments.

21

22 Q. Mr. Schultz is recommending the removal of the third floor investment and
23 accumulated depreciation reserve from rate base. Please comment on
24 his recommendation.

25

- 1 A. The third floor investment should be included as part of the rate base and
2 should begin to be depreciated. This space is extensively used for
3 records retention, spare office furniture, miscellaneous supplies, and other
4 storage for the print shop, safety and health, and power delivery functions.
5 It also contains a workshop for building maintenance. The investment
6 made in the third floor was a prudent investment decision, which has
7 allowed for convenient, secure, and humidity-controlled storage space for
8 items that are used in the corporate office. Also, the Commission has
9 allowed the Company to earn a deferred return on the third floor
10 investment in anticipation of future recovery. The conclusion reached by
11 an FPSC auditor in 1999 that over 90 percent of the square feet of space
12 is being utilized was reaffirmed by the audit staff conducting the rate case
13 audit in this proceeding. As described in the rate case audit report
14 Disclosure No. 2, which is attached as Exhibit EDB-1 to the direct
15 testimony of Edward Bass, after the audit staff toured the third floor of the
16 corporate office, they concurred with the Company's statement made in
17 1999 that over 90 percent of the 52,000 square feet of office space is
18 utilized. The Company currently utilizes 100 percent of the square feet of
19 space. If this space were not available for storage, the Company would
20 be required to build or lease additional space for storage. Gulf's
21 ratepayers receive a benefit from the Company's use of the third floor for
22 storage and maintenance.
- 23
- 24 Q. Please discuss Mr. Schultz's proposed adjustment to legal expenses
25 related to Gulf's rate case.

1 A. Mr. Schultz used data from MFR C-24 related to Gulf's last rate case to
2 calculate a revised estimate for legal expenses related to the current rate
3 case. In reviewing MFR C-24, an error was discovered in the breakdown
4 of costs for Gulf's last rate case by category. Gulf's actual legal fees
5 associated with its last rate case in Docket No. 891345-EI were \$448,054
6 instead of the \$188,953 shown on MFR C-24. I have prepared a revision
7 to MFR C-24 to correct the information regarding Gulf's last rate case,
8 which I have attached as Schedule 2 of my rebuttal exhibit. To estimate
9 legal fees for the current rate case, Gulf escalated the actual amount of
10 legal fees from the last rate case of \$448,054 by a CPI inflation factor to
11 derive the projected legal fees of \$603,000 shown on MFR C-24. The
12 escalation factor used by Mr. Schultz in his calculation includes both
13 inflation and customer growth. Using the correct amount for actual legal
14 fees in Gulf's last rate case, Mr. Schultz's recommended methodology
15 would yield an estimate of \$820,409 for legal fees in Gulf's current rate
16 case. Gulf's estimate is much lower than this, and no reduction in the
17 estimate for legal fees is appropriate.

18
19 Q. What is the appropriate amortization period for rate case expense?

20 A. Gulf's filing reflects the Company's position that the appropriate
21 amortization period for rate case expense is four years. This is consistent
22 with the amortization period approved by the Commission in Gulf's last
23 rate case.

24
25

1 Q. Have you quantified the adjustment to depreciation and dismantlement
2 discussed in Mr. Roff's rebuttal testimony?

3 A. Yes. While Gulf made adjustments to net operating income and rate base
4 in its MFR filing to reflect the proposed rates in its 2001 Depreciation
5 Study, the FPSC Staff Report on Gulf's Study as discussed in Mr. Roff's
6 rebuttal testimony require that additional adjustments be made.

7

8 Q. What are the additional adjustments that should be made as a result of
9 the Staff Report on Gulf's Depreciation Study as discussed in Mr. Roff's
10 rebuttal testimony?

11 A. An additional adjustment to expense in the amount of \$1,257,000 is
12 required to reflect an increase in depreciation expense and dismantlement
13 costs based on the Staff Report. An adjustment should also be made to
14 reduce total company rate base in the amount of \$1,122,000 to take into
15 account the change in the 13-month average accumulated depreciation
16 balance. Schedule 3 of my rebuttal exhibit shows the calculation of these
17 adjustments.

18

19 Q. Please comment on Mr. Breman's proposal to provide an incentive to Gulf
20 Power Company to maintain reliable service.

21 A. I agree that the Company should be rewarded if it provides superior
22 service. However, as Mr. Fisher discusses in his rebuttal testimony,
23 Mr. Breman's proposal actually penalizes the Company for not meeting
24 one particular standard with no opportunity for reward.

25

1 Q. What would be a more appropriate way to establish an incentive?

2 A. If the Commission were to adopt an incentive program, it should look at
3 the overall quality of service instead of looking only at one particular
4 standard.

5

6 Q. How should the Commission address this issue in this case?

7 A. Gulf Power Company has demonstrated that it has provided high quality
8 service to its customers at low rates with excellent customer satisfaction
9 ratings through the testimony of several witnesses in this case, including
10 customer testimony at Gulf's service hearings. I believe it would be
11 appropriate for the Commission to reward the Company for its high level
12 of service by increasing the return on equity for purposes of setting rates
13 and/or expanding the allowed return on equity range.

14

15 Q. Does this conclude your testimony?

16 A. Yes.

17

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25

1 BY MR. STONE:

2 Q Mr. Labrato, would you please summarize your rebuttal
3 testimony? I'm sorry. Go ahead, please summarize your
4 rebuttal testimony.

5 A Okay. The purpose of my rebuttal testimony is to
6 respond to the testimony of Mr. Schultz regarding overall
7 revenue requirements, amortization of the third floor of the
8 corporate office building, and rate case expense. I will also
9 respond to testimony of Mr. Breman on the issue of incentives.

10 In the testimony of Mr. Schultz, he calculates that
11 the company revenue deficiency is some \$15 million. The total
12 annual revenue requirements of Smith Unit 3 alone is \$48
13 million. The \$15 million suggested by Mr. Schultz does not
14 come close to covering the revenue requirements of Smith Unit
15 3, much less the other increases in operation and maintenance
16 expenses and capital additions that were anticipated in the
17 test year. Obviously, if Mr. Schultz' recommendations were
18 adopted, the company's financial position would be severely
19 weakened.

20 Mr. Schultz also states that Gulf did not make an
21 election to amortize the accumulated balance of the deferred
22 return of the third floor in the time frame established by
23 Gulf's stipulated revenue sharing. Mr. Schultz' statement is
24 incorrect. Gulf did record amortization of the accumulated
25 balance of the deferred return of one million dollars in each

1 of the years 2000 and 2001 as provided for in the stipulation
2 approved by the Commission order.

3 In addition, Mr. Schultz proposed an adjustment to
4 legal expenses related to Gulf's rate case. Gulf's estimate of
5 rate case expenses is appropriate and no reduction is
6 necessary. The company's total rate case expense should be
7 amortized over four years, which is consistent with the
8 amortization period approved by the Commission in Gulf's last
9 rate case.

10 The proposal -- now I'm switching over to Mr.
11 Breman's testimony. The proposal made by Mr. Breman to provide
12 an incentive to Gulf to maintain reliable service, as Mr.
13 Fisher has spoken to, actually penalizes the company for not
14 meeting one particular standard with no opportunity for reward.
15 An incentive program should look at overall quality of service
16 instead of looking at one particular standard.

17 Gulf Power has demonstrated through high quality
18 service at low rates with excellent customer satisfaction
19 ratings that it is committed to meeting the needs of its
20 customers. Gulf Power's residential rates are among the lowest
21 in Florida and the nation. I believe it would be appropriate
22 for the Commission to reward the company for its high level of
23 performance by increasing the return on equity for purposes of
24 setting rates by 50 to 100 basis points and expanding the
25 allowed return on equity range up to 300 basis points. This

1 will allow the company an incentive for maintaining its high
2 level of performance in such matters as customer satisfaction,
3 history of customer complaints, transmission and distribution
4 reliability, and generation unit availability.

5 This concludes my summary.

6 MR. STONE: Commissioners, it may be appropriate -- I
7 know, Commissioner Deason, you had a question earlier that was
8 referred to Mr. Labrato. If it is appropriate, I would suggest
9 that it may be appropriate to deal with that now.

10 CHAIRMAN JABER: Actually, I think there were a
11 couple of Commissioner questions, and that would allow the
12 parties to follow-up so we are not dealing with that at the
13 tail end.

14 Commissioner Deason, do you remember what question
15 that was?

16 COMMISSIONER DEASON: Yes, I remember the question.
17 Mr. Labrato, I guess the question that I have has to do with
18 the amounts expended for distribution reliability, primarily
19 tree trimming, and if there is anything else that fits into
20 that category that you are aware of, please address that, as
21 well. But there is the appearance that there was a decision
22 made to defer certain maintenance items as tree trimming during
23 a revenue sharing plan when ROE was not the main criteria in
24 the sharing, it was revenue based. And that there is the
25 appearance that there was an attempt to increase earnings by

1 deferring maintenance. And I guess the question is was that
2 the decision, or was that the result, or is it just an
3 appearance? What was the company's management decision as it
4 pertains to the deferral of the maintenance?

5 THE WITNESS: First, I would say no, that wasn't the
6 case. Obviously, our company does attempt to control its
7 operation and maintenance and capital expenditures every year,
8 and I think that is the reason that we have the low rates that
9 we do, because we do that, and we have to make decisions
10 regarding those.

11 As far as the period of time where we entered into
12 the revenue sharing plan, the first full calendar year of that
13 was the year 2000, we were under that in 2000 and 2001. As
14 part of that, before that went in our allowed range was 11 to
15 13 percent was the allowed range. Part of that stipulation we
16 entered into, we agreed to lower our range from -- to the top
17 end of the range being 12-1/2 percent return on equity.

18 In the calendar year 2000, which I believe is what
19 was being spoke to earlier today, the revenue sharing, number
20 one, where we kept a third and two-thirds went to the customer,
21 in that year we had a hot summer and the revenues subject to
22 sharing were some \$10.5 million, of which about 7 million went
23 to the customers, about 2.6 million went to the stockholders.
24 Our return on equity for that year reported to the Commission
25 in the surveillance report was 12.76 percent. So it was 26

1 basis points above the 12-1/2 percent cap that we had agreed
2 to. The revenue sharing --

3 COMMISSIONER DEASON: I'm sorry, what year was that?

4 THE WITNESS: The year 2000. If you just looked at
5 the revenue sharing amount, the 2.6 million that was kept by
6 the company, that alone would have been 60 basis points. So,
7 theoretically we could have gone up to 13.10 just on the
8 revenue sharing alone if you were looking at that. So I guess
9 just to point out, we did not earn an excessive return on
10 equity because we were in the sharing plan. And our O&M
11 expenses did not go down for that year.

12 If you look at this past year, 2001, we had more mild
13 weather, we still shared some revenue, \$1.5 million went to the
14 customer. The return on equity that we reported to the
15 Commission for that period of time was 12.07 percent. So we
16 were well within the range of allowed return during that period
17 of time. So I think that is evidence that we did not attempt
18 to just arbitrarily cut expenses to exceed the cap, because we
19 didn't have one. That wasn't the case.

20 CHAIRMAN JABER: Commissioner Palecki, I think you
21 also asked a question of Witness Moore that was referred to
22 Witness Labrato about the philosophy of taking the fuel through
23 the clause and not through the rates, I think. Something like
24 that.

25 COMMISSIONER PALECKI: Yes. I guess I have been a

1 little bit confused in two respects. One, you have the fuel --
2 I can't remember what it's called, but it's like on-site fuel
3 fund. What is the buzzword I'm looking for?

4 THE WITNESS: I mean, we have in-transit fuel, and we
5 have fuel that is in inventory at the plant.

6 COMMISSIONER PALECKI: Inventory, the fuel inventory.
7 Why are those inventory expenses run through base rates rather
8 than through the fuel clause?

9 THE WITNESS: Traditionally, the way -- it has been
10 handled that way as long as I can remember, is that the
11 inventory is considered a part of working capital. And we are
12 allowed a return on that inventory because you have to maintain
13 a certain inventory in your working capital. At the time that
14 fuel is burned to produce energy then it runs through the fuel
15 adjustment clause. And so that is traditionally how it has
16 been handled.

17 COMMISSIONER PALECKI: So you are allowed a return on
18 that level of inventory that you need to keep on hand?

19 THE WITNESS: That is correct, Commissioner.

20 COMMISSIONER PALECKI: And then all other fuel runs
21 through the clause, and that is a straight pass-through that
22 the company does not earn a return on?

23 THE WITNESS: At the time the fuel is consumed and it
24 goes through the fuel adjustment clause.

25 COMMISSIONER PALECKI: And the same question with

1 regard to conservation, approved conservation plans that are
2 run through base rates rather than the ECCR, what is the theory
3 behind that?

4 THE WITNESS: I'm not as familiar with that. I mean,
5 if something obviously goes through the conservation clause,
6 then we do not include it in base rates, but I'm not as
7 familiar with the distinction that the Commission has made
8 between conservation programs that are in base rates versus
9 items that are in the clause.

10 COMMISSIONER PALECKI: Well, the ECCR expenditures,
11 like the fuel expenditures, are dollars that the company does
12 not earn a return on, and its dollars are pretty much passed
13 through directly to the customers. When you run a conservation
14 program and run those expenses through rates, does that mean
15 that you are earning a return on those dollars?

16 THE WITNESS: No, Commissioner, we do not earn a
17 return. We just have rates to cover the expenditure itself,
18 the expense. There is no return on it.

19 COMMISSIONER PALECKI: Do you know the theory why
20 there are some programs that are run through rates? I was very
21 surprised when I saw that.

22 THE WITNESS: For conservation, I do not. I do not
23 know. But there is no difference, I mean, it's still
24 dollar-for-dollar recovery whether it is in base rates or it's
25 in the clause. There is not an additional return on it because

1 it is in base rates. It has to be a capital type item or an
2 inventory item for it to get a return, like I mentioned with
3 the fuel inventory.

4 COMMISSIONER PALECKI: So there are no capital
5 expenditures made on any of the conservation?

6 THE WITNESS: No. If there are capital expenditures
7 made then -- and I'm not sure if there are. I know some of our
8 clauses, we do have capital items in the clauses, and then a
9 return is allowed through the clause. But the way I
10 interpreted your question a minute ago was whether something
11 went dollar-for-dollar in expense through the clause, then it
12 would just be the same exact revenue requirements going through
13 base rates. And if it is a capital item, base rates or the
14 clause, that the revenue requirements are going to be exactly
15 the same, it's just a manner of which mechanism of recovery.

16 COMMISSIONER PALECKI: Thank you.

17 CHAIRMAN JABER: Major, do you have any questions?
18 You tender the witness for cross, Mr. Stone?

19 MR. STONE: Yes.

20 MR. ERICKSON: No questions.

21 MR. PERRY: No questions.

22 CHAIRMAN JABER: Mr. Burgess.

23 MR. BURGESS: Yes.

24 CROSS EXAMINATION

25 BY MR. BURGESS:

1 Q Mr. Labrato, let me see if I understand about the
2 issue of the refunds. If Gulf had encountered greater expense
3 on any items, would that have increased the refunds that were
4 available to the customers?

5 A No, it would not.

6 Q Let me make sure I asked that right.

7 A Okay.

8 Q If Gulf had spent more money on any particular items,
9 would that have decreased the amount that was available for
10 refunds to the customer?

11 A No, it would not.

12 Q Would it have decreased the achieved NOI of the
13 company?

14 A Yes, it would.

15 MR. BURGESS: That's all I have. Thank you.

16 CHAIRMAN JABER: Thank you, Mr. Burgess. Staff.

17 MR. HARRIS: Yes, Chairman. Thank you.

18 CROSS EXAMINATION

19 BY MR. HARRIS:

20 Q My first question, Mr. Labrato, is -- I'm going make
21 my good friends Mr. Stone and Mr. Melson pretty upset, and that
22 is should rate case expense be reduced as a result of a two-day
23 hearing instead of a five-day hearing?

24 CHAIRMAN JABER: Thank you, Mr. Harris, for stealing
25 my thunder.

1 MR. HARRIS: I'm sorry, Chairman. I withdraw the
2 question.

3 CHAIRMAN JABER: Gosh, I was really saving that. But
4 you know what that means? Great minds think alike.

5 THE WITNESS: Hopefully so. Hopefully that will be
6 the case.

7 BY MR. HARRIS:

8 Q Mr. Labrato, as to Issue 58, rate case expense, would
9 you agree that an adjustment should be made to account for the
10 fact that this hearing took two days as opposed to the
11 projected five days?

12 A I certainly think that will reduce the overall rate
13 case expenses, the fact that the hearings are only two days. I
14 don't know how significantly it would move the numbers, and we
15 would be glad, if you would like us to, to do that, to update
16 the numbers to what impact that would be.

17 COMMISSIONER DEASON: Madam Chairman, maybe we need
18 to come up with an incentive plan for minimizing hearing time.

19 In fact, during one of the breaks -- I'm glad that
20 Mr. Melson is here because, you know, he is a very noted and
21 respected telecommunications attorney, as well. And I
22 suggested that he go back to his telecommunications colleagues
23 and tout the example that the electric industry has put forth
24 in this case with having a full rate case heard in two days,
25 because we spend much, much more time in the telecommunications

1 industry, in my opinion, on a relative basis.

2 CHAIRMAN JABER: And, of course, now that we have set
3 the standard for our expectations, we will be expecting all of
4 the telecom cases to be done in one day.

5 MR. MELSON: I still have children in college,
6 Commissioner.

7 BY MR. HARRIS:

8 Q Mr. Labrato, would it be possible to get a late-filed
9 exhibit from Gulf detailing the changes, if any, to your rate
10 case expense you are requesting?

11 A Yes, it would.

12 Q Thank you. The second group of questions I have --

13 CHAIRMAN JABER: Mr. Harris, before we leave that
14 point, all kidding aside, do we need an updated late-filed
15 exhibit?

16 MR. HARRIS: Yes, we do.

17 CHAIRMAN JABER: Okay. Because I think that's what
18 Mr. Labrato was offering. So let's go ahead and identify that
19 as Late-filed Exhibit 55. And what should that be, staff,
20 updated rate case expense through hearing?

21 MR. HARRIS: I think updated rate case expense would
22 be fine, Commissioner.

23 CHAIRMAN JABER: Through conclusion of the hearing?
24 Mr. Labrato, what is it you think you will be updating?

25 THE WITNESS: Our overall rate case expenses that we

1 have proposed to be amortized over four years in this
2 proceeding. Our estimate is 1.4 million, so we will be
3 updating the \$1.4 million. We will take the actual
4 expenditures that we know of plus what we anticipate.

5 MR. HARRIS: And staff would prefer if that came
6 basically in the same format as the MFRs did, if that is
7 possible.

8 THE WITNESS: Yes.

9 CHAIRMAN JABER: All right. That be Late-filed
10 Exhibit 55.

11 (Late-filed Exhibit 55 marked for identification.)

12 MR. HARRIS: Thank you.

13 BY MR. HARRIS:

14 Q The second group of questions I have was one deferred
15 from Mr. Fisher, and it involves our favorite subject, the
16 underground cable injection expense. And I'm not an accountant
17 and I still do not understand clearly the reason why Gulf is
18 requesting that the amount for underground cable injection be
19 expensed as opposed to capitalized, and I was wondering if you
20 can explain that to me.

21 A Okay. My understanding of that is that it does not
22 require -- we have a retirement unit code book, and that that
23 expenditure did not qualify as a retirement unit code. In
24 order to capitalize something it has to meet that criteria.
25 So, therefore, if it doesn't meet that you expense it. There

1 is some gray area there, but my understanding is what we are
2 doing is consistent with what other utilities have done on
3 those type of items.

4 Q So your understanding is this is consistent with what
5 other utilities have done?

6 A That is my understanding.

7 Q Are you aware of any other cases where utilities have
8 done this underground cable injection?

9 A No, I'm not.

10 MR. HARRIS: I suppose the easiest way to do this,
11 I'm going to hand out a case from the Commission, and I will
12 hand it to the parties, and I would like for it to be
13 identified as an exhibit if that is possible, Chairman.

14 CHAIRMAN JABER: Is it an order?

15 MR. HARRIS: It's an order from the Commission, yes.

16 CHAIRMAN JABER: We can if you want, but I don't
17 think we have to if it's a PSC order.

18 MS. STERN: I think the idea was to get certain facts
19 on the record. We don't want this as a precedent, but we are
20 introducing it for the facts in it, certain facts in it.

21 CHAIRMAN JABER: Okay. If you want to give me an
22 order number, that will be Exhibit 56.

23 MR. HARRIS: And it is Order Number PSC
24 94-1199-FOF-EI, issued September 30th, 1994, in Docket Number
25 931231-EI. And this is, in re: Request for a change in

1 depreciation rates by Florida Power and Light Company.

2 (Exhibit 56 marked for identification.)

3 BY MR. HARRIS:

4 Q And specifically, once copies are handed out, I would
5 direct your attention to pages -- the last paragraph of Page 6
6 and the beginning of Page 7. Have you had a chance to review
7 that order, Mr. Labrato, or the portion I pointed you to?

8 A Yes, I have.

9 Q The last sentence of the first paragraph of Page 7
10 is, "The 20-year guaranteed cable injection shall be
11 depreciated over the life of the cable." Would you agree or
12 disagree that that would be applicable in this case?

13 A To the best of my knowledge it would be. I don't
14 know that this is exactly the same thing, but it certainly
15 appears that it is.

16 Q Were the facts to be similar, would this fit into the
17 gray area you mentioned as regards to retirement units?

18 A Yes, it probably does.

19 Q And I wanted to ask you with regard to retirement
20 units, my understanding of a retirement unit is a significant
21 expense that will have a benefit in future years beyond the
22 year the price is paid for it, is that essentially correct?

23 A That's right.

24 Q In this case, would you agree that the underground
25 cables are going to receive a benefit in future years beyond

1 that in which the cost is paid for the injection?

2 A Yes.

3 Q How does that not fit into the definition of a
4 retirement unit?

5 A Well, the retirement unit codes sometimes, you can
6 have something that may extend the life, but if it doesn't fit
7 like a component part of something, you can replace certain
8 parts, but if it is not a certain component of a retirement
9 unit it still has to be expensed. I mean, just extending the
10 life is not always the criteria. But based on what you have
11 shown me here, obviously this particular item has been
12 capitalized. And I'm not opposed to that if that is the
13 direction the Commission wants us to go. We will definitely
14 follow the Commission guide on how to capitalize our expense
15 items.

16 MR. HARRIS: I believe that's all I have. Thank you,
17 Mr. Labrato.

18 Thank you, Madam Chairman.

19 MR. STONE: No redirect.

20 MR. HARRIS: I'm sorry, I would like to try to move
21 the exhibit into evidence.

22 CHAIRMAN JABER: Commissioners, did you have any
23 additional questions? The exhibits, we have got Exhibit 54,
24 Gulf.

25 MR. STONE: We would move 54 into evidence.

1 CHAIRMAN JABER: Without objection, Exhibit 54 is
2 admitted into the record.

3 And, Staff, you have Exhibit 56. Admitted into the
4 record without objection.

5 (Exhibit 54 and 56 admitted into the record.)

6 CHAIRMAN JABER: I do believe that brings us to the
7 end of this hearing, but we need to talk about dates. There
8 are several late-filed exhibits, staff. There is a Late-filed
9 Exhibit 25. I think that was asked of Mr. Bowden. And if I
10 recall correctly he said that could be completed within two
11 weeks.

12 And Mr. Labrato has Late-filed Exhibit 55 that we
13 just identified. Mr. Stone, do you think that could be done in
14 two weeks?

15 MR. STONE: Yes. And I think given the fact that the
16 brief is due March 15th, we will try to be earlier than two
17 weeks if at all possible.

18 CHAIRMAN JABER: Thank you. Let me see if the
19 parties have any objection to that. In light of the fact that
20 the briefs are due March 15th, do you have any --

21 MR. ERICKSON: No objection.

22 CHAIRMAN JABER: Go ahead, Mr. Gross.

23 MR. GROSS: No objection.

24 MR. PERRY: No objection.

25 MR. BURGESS: As I understand it with regard to

1 Late-filed 25 there was opportunity to file additional
2 late-filed responses after that, that is the complication.

3 CHAIRMAN JABER: Right. How much time, Staff, do we
4 have on the briefs? Give me an idea of the time lines for the
5 entire rest of the case.

6 MS. STERN: Well, we have a special agenda for the
7 revenue requirements part of this on the 26th.

8 CHAIRMAN JABER: 26th of --

9 MS. STERN: April. So the recommendations would now
10 be due the 15th. I don't believe we have changed the briefs,
11 the briefs are still due March 15th.

12 CHAIRMAN JABER: If we made the briefs due March
13 20th, staff --

14 MS. STERN: I think that would be fine.

15 CHAIRMAN JABER: Okay. Let's go ahead and make the
16 briefs due March 20th. Mr. Burgess, that satisfies some of
17 your concern.

18 And then, Mr. Stone, I will just count on you all to
19 file the late-filed exhibits earlier than two weeks if that is
20 possible.

21 MR. STONE: Absolutely.

22 CHAIRMAN JABER: Mr. Burgess, any other concerns?

23 MR. BURGESS: None.

24 CHAIRMAN JABER: And, Staff, I will leave it up to
25 you all to tell me if you need additional filing time for your

1 recommendations.

2 MS. STERN: Okay.

3 MR. BURGESS: Commissioner, I feel I probably should
4 say this none other than perhaps to renew our concern with the
5 exhibit and the possibility of the Commission relying on it,
6 our concern that it definitely has due process considerations
7 with regard to the administrative process.

8 CHAIRMAN JABER: Okay. But that concern may be
9 alleviated once you see what the exhibit is.

10 MR. BURGESS: It certainly may be.

11 CHAIRMAN JABER: All right. Great. Page numbers for
12 the briefs, we were going to revisit that. Currently the page
13 limit is set at 50 pages.

14 MR. STONE: Yes, Commissioner. I have done a quick
15 count, and it appears as though there are 53 issues that are
16 not stipulated. In our last case we had a brief -- I don't
17 know what the page limit was on the brief, but I do know that
18 our actual brief was 426 pages.

19 CHAIRMAN JABER: How much?

20 MR. STONE: 426 pages. And there were, I believe,
21 approximately --

22 COMMISSIONER DEASON: There goes all the rate case
23 expense savings.

24 CHAIRMAN JABER: We are not making up time at the
25 tail end.

1 (Laughter and conversation.)

2 MR. STONE: I was really hoping I would be able get
3 this sentence out before somebody said that.

4 CHAIRMAN JABER: No, no, no. Keep up with us, we are
5 going fast here.

6 MR. STONE: I was going to propose based on the ratio
7 of issues contested in that case to pages of the brief that we
8 have a 200-page limit in this case.

9 CHAIRMAN JABER: No. No. 53 issues left. All
10 right. Let me talk to the other parties first. Hang on. We
11 will come back to you.

12 Major.

13 MR. ERICKSON: I would suggest something like maybe
14 100 pages.

15 CHAIRMAN JABER: Public Counsel.

16 MR. ERICKSON: We wouldn't have a real problem if it
17 was 200, either.

18 MR. BURGESS: We certainly would have. We do not
19 need even 100 pages. But in all fairness, I would point out
20 there are issues that have to be addressed by Gulf that we
21 don't need to address. And I think that applies to other
22 parties, as well.

23 CHAIRMAN JABER: Mr. Stone, just because I don't want
24 to agree with you, you get 150 pages.

25 MR. STONE: Could I ask for 250?

1 CHAIRMAN JABER: No, you get 150 pages. And as you
2 all start writing your brief and you just absolutely feel like
3 you need more, you can file a very short motion that says that.
4 But, you know, I have to tell you, we have all been through
5 rate cases and I think 150 pages is more than adequate to
6 start.

7 MR. STONE: We will do our best.

8 CHAIRMAN JABER: There are no legal issues. Okay.
9 150 pages for the brief.

10 Anything else that we need to take up, staff?

11 MS. STERN: No, I don't think so.

12 CHAIRMAN JABER: And I would point out if the parties
13 continue to negotiate and there are issues that are resolved
14 between now and the brief filing date and between now and when
15 staff files their recommendation, please let staff know.

16 And all kidding aside, I want to stop and commend the
17 parties for their professionalism, for the fact that you were
18 able to take a five-day hearing and finish it in less than two
19 days. I really appreciate it.

20 But, more important, I don't want you to think we do
21 this because we want to be gone the next three days, because
22 the truth is we are not gone the next three days. But I think
23 the reason limiting discussion in the fashion that we have done
24 is you were able to focus your discussion and your dialogue on
25 issues that are critical to you, which means we focus our

1 energies -- pardon the pun -- and our focus on issues that we
2 need to pay attention. So that makes for a better hearing, a
3 better record, and hopefully a better decision.

4 So I really thank you for listening to our request
5 and I commend your efforts. Staff, you have done an
6 outstanding job in this case. I am very proud of you.

7 Thank you, Commissioners.

8 (The hearing concluded at 3:10 p.m.)

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1 STATE OF FLORIDA)

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CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

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5 I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter
6 Services, FPSC Division of Commission Clerk and Administrative
7 Services, do hereby certify that the foregoing proceeding was
8 heard at the time and place herein stated.

7

8 IT IS FURTHER CERTIFIED that I stenographically
9 reported the said proceedings; that the same has been
10 transcribed under my direct supervision; and that this
11 transcript constitutes a true transcription of my notes of said
12 proceedings.

10

11 I FURTHER CERTIFY that I am not a relative, employee,
12 attorney or counsel of any of the parties, nor am I a relative
13 or employee of any of the parties' attorney or counsel
14 connected with the action, nor am I financially interested in
15 the action.

13

DATED THIS 27th day of February, 2002.

14

15



16

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Administrative Services
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