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DATE: October 5, 2004
TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director
FROM: Martha C. Brown, Senior Attorney, Office of the General Counsel *NCB*
RE: Docket No. 040442-EI

Please place in the docket file the attached letter from Jeffrey Stone, attorney for Gulf Power Company, to staff, which letter memorializes the agreements reached regarding Gulf's FlatBill program.

Thanks.

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Martha Carter Brown
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Dear Martha,

This follows several telephone conversations since the filing of Staff's recommendation in Docket No. 040442-EI dated September 23, 2004. The intent of these conversations has been to clarify some of the statements in Staff's recommendation in an effort to determine the areas of agreement between Staff and the Company prior to the Commission's consideration of this matter at the agenda conference on October 5, 2004. The purpose of this letter is to document the agreements reached between the Staff and the Company through the course of these conversations. As a result of the agreements detailed in this letter, the Staff and the Company are in agreement on all issues to be presented to the Commission at the agenda conference regarding this docket. It is the intent of the Staff and the Company that a copy of this letter with its attachments be distributed to the Commissioners for the October 5, 2004 agenda conference to memorialize the agreements reached by the Staff and the Company as a condition of Commission approval of *FlatBill*[®] program.

There are a number of places in the Staff recommendation where it is indicated that Gulf has agreed to supply additional language for either the tariff or the marketing materials. There are three attachments to this letter. The first is a two page document that contains additional tariff language. The second attachment is also a two page document that contains additional disclosure language for Gulf's marketing materials. As a result of our conversations subsequent to September 23, 2004, the Staff and the Company have agreed that the additional language contained in the first two attachments satisfies all of the Staff's requests for additional language for either the tariff itself or the marketing

materials Gulf will use in conjunction with the *FlatBill*[®] program, if it is approved by the Commission in the form contemplated by this letter. The third attachment is a side-by-side listing of the language in Staff's recommendation requesting additional language with the corresponding language from one of the first two attachments that satisfies the Staff's request.

As noted above, Staff agrees that the additional language set forth in the attachments to this letter fully satisfies all of the requests for additional language set forth in the Staff recommendation. Those requests for additional language for the tariff are set forth at the end of each of the last four paragraphs of Section I of the Staff Analysis regarding Issue 1 found on pages 5 and 6 of the Staff recommendation. Those requests for additional language for the marketing materials are set forth at the end of the second, third and fifth paragraphs of Section II of the Staff Analysis regarding Issue 1 found on page 6 of the Staff recommendation.

There are two additional recommendations contained in Section II of the Staff Analysis regarding Issue 1 regarding which agreement has been reached between Staff and the Company. The first is set forth at the end of the fourth paragraph of this section found on page 6 of the Staff recommendation. This letter will serve to confirm the Company's agreement with Staff that Gulf will notify each existing *FlatBill*[®] customer of the new monthly amount of the Company's renewal *FlatBill*[®] offer for the following 12 month period at least 30 days before the new bill goes into effect. Additional language to this effect has been included in the second attachment to this letter. The second such recommendation is set forth in the last paragraph of this section found at the top of page 7 of the Staff recommendation. As a result of the agreements detailed above, Staff has agreed that Gulf has fully satisfied the intent of this paragraph and no further submission or approval is needed prior to finalizing customer marketing information for use with the *FlatBill*[®] program if approved by the Commission in the form contemplated by this letter. In lieu of any further pre-approval as implied by the paragraph at the top of page 7 or paragraph No. 3 in the Conclusion found on page 9, Gulf has agreed to provide Staff a copy of all marketing materials actually used by the Company after such materials are actually put into use. If Staff finds that any such marketing materials fail to comply with the disclosure requirements agreed to in this letter, Staff will notify the Company of the omission and Gulf will immediately cease using such material and instead use corrected material that contains the required disclosures. Gulf commits to the Commission that it fully intends to comply with the disclosure requirements agreed to in this letter and that any such failure to comply is not likely to occur except through accident or inadvertence which Gulf will undertake serious efforts to avoid.

In Section III of the Staff Analysis of Issue 1 found on page 7 of the Staff recommendation, Staff sets forth several specific items to be included in Gulf's quarterly report to be filed with the Commission regarding the *FlatBill*[®] program. Based on discussions during our telephone conversations, Staff has clarified its request by deleting

the following language from the paragraph (and also from paragraph No. 4 in the Conclusion found on page 9):

. . . identification of the actual billing cycle's weighted cooling degree days minus normal cooling degree days; identification of the actual billing cycle's weighted heating degree days minus normal heating degree days; . . .

In lieu of the deleted language, Staff and the Company have agreed that Gulf will provide the projected kWh consumption by the *FlatBill*[®] customers in aggregate for the quarter along with the actual kWh consumption by the *FlatBill*[®] customers in aggregate for the quarter. With regard to the projection of kWh consumption, Staff acknowledges that this amount will be the pro rata portion of the monthly levelized consumption which is determined by taking the annual projection of kWh consumption for each customer divided by 12. For some customers, there will be less than three full months of data (projected and actual) in any given quarter since some customers may enter or exit the program at some time other than the beginning of the quarter. Staff has also agreed to allow the Company some added flexibility regarding the timing of the quarterly reports. At page 9 of the Staff recommendation, Staff had originally recommended that the reports be filed no later than 30 days following the end of the quarter. Because of the volume of material to be provided in the report, and the fact that for the first few reporting cycles Gulf will be developing and refining its data collection and reporting processes, the Company believes that it may need 45 to 60 days to prepare and file the quarterly reports, at least initially. Staff and the Company have agreed that the reports would be considered timely if filed in this time frame, but that the long-term goal will be to have the reports filed approximately 30 days following the end of the quarter except in the case of what is hoped to be unusual circumstances such as the occurrence of hurricanes, etc.

Finally, as part of the overall agreement regarding the *FlatBill*[®] program reached between Staff and the Company through our telephone conversations, Gulf has agreed to accept Staff's recommendation on Issue 2 found at page 10 in exchange for Staff's agreement to increase its proposed cap on the consumption adder to 10% instead of the 8% cap set forth on page 8 and in paragraph No. 5 of the Conclusion found on page 9 of the Staff recommendation. As noted earlier, Gulf has also agreed to cap the risk adder at 5% as proposed by Staff.

On behalf of the Company, please accept our thanks for the efforts of all members of the Staff who have worked so hard to understand and reach agreement on the key elements of Gulf's *FlatBill*[®] program to be presented to the Commission for approval. As a result of the clarifications and agreements set forth in this letter, Staff and the Company are united in support of what Gulf believes to be an exciting new opportunity for its customers. As noted on page 4 of the Staff recommendation, a majority of customers participating in Gulf's pilot *FlatBill*[®] program expressed a high degree of satisfaction with the program. Both Staff and the Company agree that the *FlatBill*[®] program will meet the needs and

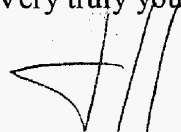
Martha Carter Brown

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expectations of a significant number of Gulf's residential and small business customers. We are pleased that through a productive dialogue, we have been able to satisfy Staff's concerns and as a consequence are able to join together in urging the Commission to approve the *FlatBill*[®] program as an optional service offering for Gulf's customers.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey A. Stone". The signature is written in a cursive style with a large, sweeping initial "J".

Jeffrey A. Stone
For the firm

Agreed upon additional language for Rate Schedule Flat-1 Residential/Commercial *FlatBill*[®] which Gulf will include in the final tariff if the proposed program is approved by the Commission

Following the "BILL FORMULA" section, add a section entitled "DEFINITIONS" to include the following:

Estimated Annual kWh – Customer's expected annual energy consumption is calculated based on the customer's historical metered usage adjusted for normal weather and consumption changes in customer behavior.

Risk Adder – The adder is used to compensate Gulf Power for the risk associated with weather-related consumption as well as the risk associated with the non-weather impacts. This adder will not exceed 5%.

Annual Customer Charge – The monthly customer charge under Rate Schedule RS or Rate Schedule GS, as applicable, multiplied by 12.

Energy-Demand cents/kWh – The base rate charge under Rate Schedule RS or Rate Schedule GS, as applicable.

Normal Weather – Based on Gulf's seasonal heating degree-days and cooling degree-days.

Under the section entitled "TERM OF CONTRACT" add the following language to what currently has been proposed:

All eligible *FlatBill*[®] offers will be updated with their previous year consumption, and contracts will automatically renew for the following year, unless the customer notifies the company otherwise.

A customer who withdraws from the program prior to the end of the 12 month contract period will be required to pay any difference between their actual usage billed on Rate Schedule RS or Rate Schedule GS, as applicable, and the amount collected under *FlatBill*[®].

Gulf Power shall have the discretion to waive any of the foregoing charges that would otherwise apply as a consequence of significant damage to a *FlatBill*[®] customer's premise caused by a natural disaster or other similar conditions for which an emergency has been declared by a governmental body authorized to make such a declaration.

Following the items already proposed in the "BILL FORMULA" section, add:

Gulf Power periodically reviews the routes by which customers' meters are read to ensure they are in line with traffic patterns and efficiency goals. If a customer's neighborhood is reviewed, the date on which the customer's meter is read may change. Should this happen, the customer may see an adjustment in the *FlatBill*[®] amount for the next billing period. This adjustment only reflects a change in the number of days in this billing period and the customer will continue to receive the customer's regular *FlatBill*[®] amount after this adjusted billing.

Disclosure Language on Offer Materials for *FlatBill*[®]

The following sample language is representative of the elements Gulf Power would include on all *FlatBill*[®] offer materials presented to customers (in locations as noted):

Within Body of Offer Letter

“Your *FlatBill*[®] offer includes a premium that protects you from unpredictable bills caused by summer’s heat or winter’s cold, or changes in fuel prices, as well as changes in your electric usage. Your customized *FlatBill*[®] offer takes into account your past electric usage, expected weather for the upcoming 12 months, and predicted changes in usage.”

Toll free number to call for more information.

Within Billing/Offer Details (the following is subject to a future determination whether it can be reasonably obtained through Gulf’s CSS customer billing system)

AVERAGE MONTHLY AMOUNT (Most recent 12 months)

HIGHEST BILL (Most recent 12 months)

LOWEST BILL (Most recent 12 months)

On Sign-Up/Mail-In Portion of Letter

“I understand I can withdraw from the *FlatBill*[®] plan at any time. If I choose to withdraw before the end of the one-year agreement, I will pay the difference between the amount of energy used and the amount I’ve paid.”

Toll free number to call for more information.

Terms and Conditions Section (currently planned for the back of the Offer Letter)

***FLATBILL*[®] RATE – IMPORTANT TERMS AND CONDITIONS**

By choosing to participate in the *FlatBill*[®] rate plan, you agree to pay the monthly *FlatBill*[®] amount for electric service to the designated residence/premise shown on the reverse side for the initial 12-month contract period, beginning with your next monthly electric service bill.

Subject to other applicable laws and regulations, your participation in the *FlatBill*[®] rate plan will continue automatically until you withdraw or cease to be eligible for the plan (for example, if your service is cut for non-payment). At least 30 days before the end of each 12-month period, Gulf Power will notify you of the new monthly *FlatBill*[®] amount for the next 12-month period. At the end of each 12-month period, you may notify Gulf

Power of your decision to withdraw from this plan, in which case you will not be required to pay any additional charges in connection with the plan. Unless notified otherwise, Gulf Power will continue to bill you on this plan, but at the new monthly *FlatBill*[®] amount.

If at any time before the end of a 12-month contract period, you cease receiving electric service at the designated residence/premise (for example, you move from the residence/premise or the service to this residence/premise is disconnected), or you otherwise withdraw or are withdrawn from the *FlatBill*[®] rate plan, you will be required to pay any additional charges. Specifically, if the amount of electricity actually used results in a billing amount under your previous rate that is greater than the amount for which you have been billed under this plan, you must pay the difference. Gulf Power shall have the discretion to waive any of the foregoing charges that would otherwise apply as a consequence of significant damage to your premise caused by a natural disaster or other similar conditions for which an emergency has been declared by a governmental body authorized to make such a declaration.

You will not receive any refund or credit for amounts paid under the *FlatBill*[®] rate plan: (1) if the amount of electricity actually used during the plan would have resulted in a billing amount under your previous rate that is less than the amount for which you have been billed, or (2) for any power outages or other unavailability of service for any reason whatsoever.

These *FlatBill*[®] terms apply only for electric service to the designated address. Under no circumstances can *FlatBill*[®] terms determined on the basis of one residence/premise be transferred to another residence/premise.

Your *FlatBill*[®] amount is based on the average electricity usage for the designated service address, as adjusted to reflect normal weather conditions and usage growth. The monthly *FlatBill*[®] amount also includes a charge to cover financial, weather and other risks.

Gulf Power periodically reviews the routes by which customers' meters are read to ensure they are in line with traffic patterns and efficiency goals. If your neighborhood is reviewed, the date on which your meter is read may change. Should this happen, you may see an adjustment in your *FlatBill*[®] amount for the next billing period. This adjustment only reflects a change in the number of days in this billing period and you will continue to receive your *FlatBill*[®] amount after this adjusted billing.

The *FlatBill*[®] rate plan is offered as an option by Gulf Power and is on file with the Florida Public Service Commission.

ATTACHMENT 3

Excerpt from Staff Recommendation	Conforming language from Agreement regarding tariff
<p>Page 5, 2nd full paragraph:</p> <p>Staff believes that full disclosure of the details of this methodology in the tariff and marketing materials is not necessary, but recommends that Gulf define the risk adder in general terms in the tariff, similar to the definition provided by Georgia Power Co. in its FlatBill tariff. Staff feels that a definition and disclosure of this premium used in calculating the FlatBill is important. Gulf has agreed to add language to the tariff defining the risk adder.</p>	<p>From the new “DEFINTIONS” definitions section to follow the “BILL FORMULA” section in the tariff:</p> <p>Risk Adder – The adder is used to compensate Gulf Power for the risk associated with weather-related consumption as well as the risk associated with the non-weather impacts. This adder will not exceed 5%.</p>
<p>Page 5, 3rd full paragraph:</p> <p>Staff recommends that Gulf should define the consumption adder and the adjusted normal weather in the tariff. Gulf has agreed to add language to the tariff to do so.</p>	<p>From the new “DEFINTIONS” definitions section to follow the “BILL FORMULA” section in the tariff:</p> <p>Estimated Annual kWh – Customer’s expected annual energy consumption is calculated based on the customer’s historical metered usage adjusted for normal weather and consumption changes in customer behavior.</p>

ATTACHMENT 3

Excerpt from Staff Recommendation	Conforming language from Agreement regarding tariff
<p>Page 5, 4th full paragraph:</p> <p>Third, the offer letter that Gulf sent to pilot FlatBill participants stated that if participants left the program prior to the end of 12 months, the participants agreed to pay Gulf the difference between what they would have paid for their usage under standard rates and the amount they paid on the FlatBill program. If this difference is negative, no refund is made to the customer. This provision, while stated in the petition, is nowhere stated on the proposed tariff sheets that Gulf filed. Since this clearly is a condition for taking service under the tariff, pursuant to Rule 25-9.002, Florida Administrative Code, staff believes that this language should be included in the tariff. Gulf has agreed to add such language.</p>	<p>From the new language to be added to the tariff section entitled "TERM OF CONTRACT":</p> <p>A customer who withdraws from the program prior to the end of the 12 month contract period will be required to pay any difference between their actual usage billed on Rate Schedule RS or Rate Schedule GS, as applicable, and the amount collected under <i>FlatBill</i>[®].</p>
<p>Page 5, last paragraph (continuing to page 6):</p> <p>Fourth, in discussions with staff, Gulf indicated that if a customer's service was interrupted or their premises were destroyed due to a catastrophe or natural disaster, Gulf would remove the customer from the FlatBill program for the remainder of the applicable contract period, and all remaining bills would be calculated at the normal tariffed rate. The exit compensation clause discussed above would thus not be applicable in this case. Staff recommends that this provision be included in the tariff as well, and Gulf has agreed to add this language.</p>	<p>From the new language to be added to the tariff section entitled "TERM OF CONTRACT":</p> <p>Gulf Power shall have the discretion to waive any of the foregoing charges that would otherwise apply as a consequence of significant damage to a <i>FlatBill</i>[®] customer's premise caused by a natural disaster or other similar conditions for which an emergency has been declared by a governmental body authorized to make such a declaration.</p>

ATTACHMENT 3

Excerpt from Staff Recommendation	Conforming disclosure language for marketing materials
<p>Page 6, 2nd full paragraph:</p> <p>... customers should be made clearly aware that they will be paying for the privilege of having the FlatBill service. Gulf has agreed to add a statement on the offer letter notifying the customer they are paying a premium for the service.</p>	<p><u>Within Body of Offer Letter</u></p> <p>“Your <i>FlatBill</i>[®] offer includes a premium that protects you from unpredictable bills caused by summer’s heat or winter’s cold, or changes in fuel prices, as well as changes in your electric usage. Your customized <i>FlatBill</i>[®] offer takes into account your past electric usage, expected weather for the upcoming 12 months, and predicted changes in usage.”</p> <p><i>Toll free number to call for more information.</i></p> <p><u>Within the “Terms and Conditions” section of the Offer letter</u></p> <p>Your <i>FlatBill</i>[®] amount is based on the average electricity usage for the designated service address, as adjusted to reflect normal weather conditions and usage growth. The monthly <i>FlatBill</i>[®] amount also includes a charge to cover financial, weather and other risks.</p>
<p>Page 6, 3rd full paragraph:</p> <p>... customers should be aware that the estimated kWh usage used in the FlatBill offer is adjusted due to their participation in the program. Gulf has agreed to include a statement in its offer that the customer’s kWh consumption will be adjusted for usage growth.</p>	<p><u>Within the “Terms and Conditions” section of the Offer letter</u></p> <p>Your <i>FlatBill</i>[®] amount is based on the average electricity usage for the designated service address, as adjusted to reflect normal weather conditions and usage growth. The monthly <i>FlatBill</i>[®] amount also includes a charge to cover financial, weather and other risks.</p>

ATTACHMENT 3

Excerpt from Staff Recommendation	Conforming disclosure language for marketing materials
<p data-bbox="225 371 583 399">Page 6, 4th full paragraph:</p> <p data-bbox="225 438 932 611">Staff recommends that the customer be sent a notice prior to the FlatBill contract expiration. In discussions with staff, Gulf indicated that the customer will be notified of the new monthly FlatBill amount at least 30 days before the new bill goes into effect.</p>	<p data-bbox="1061 366 1868 394">Within the "Terms and Conditions" section of the Offer letter</p> <p data-bbox="1061 433 1868 853">Subject to other applicable laws and regulations, your participation in the <i>FlatBill</i>[®] rate plan will continue automatically until you withdraw or cease to be eligible for the plan (for example, if your service is cut for non-payment): At least 30 days before the end of each 12-month period, Gulf Power will notify you of the new monthly <i>FlatBill</i>[®] amount for the next 12-month period. At the end of each 12-month period, you may notify Gulf Power of your decision to withdraw from this plan, in which case you will not be required to pay any additional charges in connection with the plan. Unless notified otherwise, Gulf Power will continue to bill you on this plan, but at the new monthly <i>FlatBill</i>[®] amount.</p>

ATTACHMENT 3

Excerpt from Staff Recommendation	Conforming disclosure language for marketing materials
<p>Page 6, 5th full paragraph:</p> <p>. . . [S]taff believes that all marketing materials for the permanent program must clearly state the potential payment required of customers who leave the program early, and that customers are not entitled to any refund due to early termination. Gulf has agreed to add this language to the offer letter.</p>	<p><u>Within the “Terms and Conditions” section of the Offer letter</u></p> <p>If at any time before the end of a 12-month contract period, you cease receiving electric service at the designated residence/premise (for example, you move from the residence/premise or the service to this residence/premise is disconnected), or you otherwise withdraw or are withdrawn from the <i>FlatBill</i>[®] rate plan, you will be required to pay any additional charges. Specifically, if the amount of electricity actually used results in a billing amount under your previous rate that is greater than the amount for which you have been billed under this plan, you must pay the difference. Gulf Power shall have the discretion to waive any of the foregoing charges that would otherwise apply as a consequence of significant damage to your premise caused by a natural disaster or other similar conditions for which an emergency has been declared by a governmental body authorized to make such a declaration.</p> <p>You will not receive any refund or credit for amounts paid under the <i>FlatBill</i>[®] rate plan: (1) if the amount of electricity actually used during the plan would have resulted in a billing amount under your previous rate that is less than the amount for which you have been billed, or (2) for any power outages or other unavailability of service for any reason whatsoever.</p>