

ORIGINAL

STATE OF FLORIDA



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04 NOV 16 AM 10:42

COMMISSION
CLERK

Public Service Commission

November 16, 2004

Mr. Carroll Webb
Joint Administrative Procedures Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

Re: PSC Docket No. 041307-EI – Petition for a Declaratory Statement or in the alternative, a rule waiver for portions of Rule 25-6.100, F.A.C.

Mr. Webb:

The Commission has received from Gulf Power Company a Petition for Declaratory Statement or, in the alternative, a rule waiver for portions of Rule 25-6.100, F.A.C. A copy of the petition is enclosed. A notice will be published in the Florida Administrative Weekly on November 24, 2004.

Sincerely,

Martha C. Brown

Martha C. Brown
Senior Attorney

- CMP _____
- COM _____
- CTR _____
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- MMS _____
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MCB
cc: Division of the Commission Clerk
and Administrative Services
Enclosure

DOCUMENT NUMBER - DATE
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PSC-COMMISSION CLERK

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Gulf Power Company's petition for authority to implement its proposed FlatBill® rate schedule.)
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Docket No.: 040442-EI
Date filed: November 1, 2004

GULF POWER COMPANY'S PETITION FOR DECLARATORY STATEMENT FROM THE FLORIDA PUBLIC SERVICE COMMISSION THAT PORTIONS OF RULE 25-6.100, F.A.C. ARE NOT APPLICABLE TO BILLINGS UNDER THE FlatBill® RATE SCHEDULE OR, IN THE ALTERNATIVE, PETITION FOR WAIVER OF PORTIONS OF RULE 25-6.100, F.A.C.

GULF POWER COMPANY ("Gulf Power", "Gulf", or "the Company"), by and through its undersigned counsel, and pursuant to Chapter 120.542, Florida Statutes (1999), hereby petitions the Florida Public Service Commission (Commission) for a declaration that subparts 1, 2 and 4 of Rule 25-6.100(2)(c), Florida Administrative Code are not applicable to billings submitted pursuant to the Company's FlatBill® rate schedule. In the alternative, the Company petitions the Commission for waiver of subparts 1, 2 and 4 of Rule 25-6.100(2)(c), Florida Administrative Code with regard to billings submitted pursuant to the Company's FlatBill® rate schedule. As grounds for the relief requested by this petition, the Company would respectfully show:

1. Notices and communications with respect to this petition and docket should be addressed to:

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Russell A. Badders
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Pensacola, FL 32591
(850) 432-2451
(850) 469-3330 (facsimile)

Susan D. Ritenour
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(850) 444-6231
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FPSC-COMMISSION CLERK

2. Gulf is a corporation with its headquarters located at 500 Bayfront Parkway, Pensacola, Florida 32501. The Company is an investor-owned utility operating under the jurisdiction of this Commission.

3. On October 5, 2004, the Commission voted to authorize implementation of the Company's FlatBill[®] rate schedule. One of the conditions of that authorization was that Gulf formally request a waiver of the requirement to include all the information required in paragraphs 1, 2, and 4 of Rule 25-6.100(2)(c), Florida Administrative Code (the "Rule") prior to implementing the tariff. As it relates to this petition, the Rule seeks to implement section 366.05(1) of the Florida Statutes which provides in pertinent part:

... the commission shall have power to prescribe ... service rules and regulations to be observed by each public utility; ...

4. Gulf's FlatBill[®] rate schedule is an optional pricing program under which the Company will offer eligible residential and small commercial customers an opportunity to enter into a contract to pay a fixed monthly electric bill regardless of kilowatt-hour (kWh) usage for 12 months. The FlatBill[®] program will allow a customer to receive electric service at the same monthly price for a year, regardless of actual usage. The bill presented to a customer electing to receive service pursuant to the FlatBill[®] rate schedule will contain a single line item charge (the FlatBill[®] amount) that is in lieu of all customer charges, energy charges, and cost recovery clause charges that would otherwise be applicable under either the RS or GS rate schedules.

5. Paragraphs 1, 2 and 4 of Rule 25-6.100(2)(c), Florida Administrative Code, call for a utility to provide certain information on the customer's monthly bill. Specifically, these

paragraphs require the separate statement of the customer charge, the energy (kWh) charge, exclusive of fuel in cents per kWh, and the fuel cost in cents per kWh. The underlying purpose behind the rule is to provide a customer taking service on a volumetric basis with information needed to verify the calculation of the bill on a volumetric basis by multiplying the customer's actual kWh usage by the energy and fuel charges (stated in cents per kWh) and adding that result to the customer charge. A customer on the FlatBill[®] rate schedule does not need such information to verify the calculation of the bill amount since the bill amount for a FlatBill[®] customer is not determined on a volumetric basis. The only information the customer needs to verify the correct billing amount is the monthly amount that was set forth in the Company's FlatBill[®] offer to that customer. The bill under the FlatBill[®] rate schedule does not change from month to month with differences in energy usage. As a result, the billing elements specified in paragraphs 1, 2 and 4 of Rule 25-6.100(2)(c), Florida Administrative Code, simply are not applicable to the FlatBill[®] customer.

6. Not only are the billing elements at issue in this petition not applicable to the FlatBill[®] customer, any attempt to provide such information on the bill would be misleading and highly confusing to the customer. For example, in order to provide the actual cents per kWh information for a particular month's bill to a FlatBill[®] customer, it would be necessary to take the customer's fixed monthly billing amount divided by the customer's actual kWh usage in the billing month. Due to the nature of the FlatBill[®] program, this calculated amount will be different for each FlatBill[®] customer and likely different for a particular FlatBill[®] customer in each month. No meaningful or useful purpose is served by providing this information to the customer. If, as an alternative means of meeting the "letter" of the Rule, the Company were to

include the cents per kWh information from the RS or GS rate schedule, the customer would be misled and potentially confused by the fact that the product of this charge times the FlatBill[®] customer's actual usage would NOT result in an amount equal to the FlatBill[®] customer's actual monthly bill. Since strict application of the Rule would not provide Gulf's FlatBill[®] customers with useful or pertinent information, it would violate principles of fairness to require Gulf to provide misleading and potentially confusing information to its customers through strict application of the Rule to this rate which was not contemplated at the time the Rule was adopted. Further, such misleading and potentially confusing information, if required, would likely result in an increased volume of customer inquiries and a corresponding increase in the need for Company resources to respond to such inquiries, all of which would present a substantial hardship to Gulf and its customers.

WHEREFORE, Gulf Power Company respectfully requests the Commission to declare that subparts 1, 2, and 4 of Rule 25-6.100(2)(c), Florida Administrative Code, are not applicable to billings submitted to customers pursuant to the Company's FlatBill[®] rate schedule, or in the alternative, approve a permanent waiver of 25-6.100 (2) (c) subparts 1, 2, 4 and (2) (f), Florida Administrative Code, with regard to billings submitted pursuant to the Company's FlatBill[®] rate

schedule, and further requests that the Commission grant such other relief as is just and reasonable under the circumstances of this petition.

Respectfully submitted the 1st day of November, 2004.

s/ Russell A. Badders

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Attorneys for Gulf Power Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Gulf Power Company's petition for)
authority to implement its proposed FlatBill®)
rate schedule)

Docket No. 040442-EI

Certificate of Service

I HEREBY CERTIFY that a true copy of the foregoing was furnished by hand delivery or
the U. S. Mail this 1st day of November 2004 on the following:

Martha Brown, Esquire
FL Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0863

s/ Russell A. Badders

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