

ORIGINAL

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

RECEIVED-FPSC

DEC 28 PM 3:42

-M-E-M-O-R-A-N-D-U-M- COMMISSION CLERK

DATE: December 29, 2004

TO: Kay B. Flynn, Chief of Records, Division of the Commission Clerk & Administrative Services

FROM: Martha C. Brown, Senior Attorney, Office of the General Counsel

RE: Docket No. 041307-EI

Attached please find a letter to me from Jeffrey A. Stone, Gulf Power Company's attorney, dated December 28, 2004. Please place this letter in the docket file. Thanks.

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- RCA _____
- SCR _____
- SEC 1
- OTH _____

DOCUMENT NUMBER-DATE

13611 DEC 29 3

FPSC-COMMISSION CLERK

BEGGS & LANE

A REGISTERED LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AND COUNSELLORS AT LAW
POST OFFICE BOX 12950
PENSACOLA, FLORIDA 32591-2950

501 COMMENDENCIA STREET
PENSACOLA, FLORIDA 32502
TELEPHONE (850) 432-2451
TELECOPIER (850) 469-3330

W. SPENCER MITCHEM
OF COUNSEL

E. DIXIE BEGGS
1909 - 2001

BERT H. LANE
1917 - 1981

JAMES M. WEBER
JOHN F. WINDHAM
J. NIXON DANIEL, III
RALPH A. PETERSON
GARY B. LEUCHTMAN
JOHN P. DANIEL
JEFFREY A. STONE
JAMES S. CAMPBELL
RUSSELL F. VAN SICKLE
RUSSELL A. BADDERS
MARY JANE BASS
DAVID L. MCGEE
CHARLES T. WIGGINS
THOMAS F. GONZALEZ
DAVID E. HIGHTOWER
WILLIAM H. MITCHEM
PETER J. MOUGEY
ELIZABETH C. CALLAHAN
TERRIE L. DIDIER
JACK W. LURTON, III
MATTHEW D. VINSON
STEVEN R. GRIFFIN
R. ANDREW KENT

December 28, 2004

Martha Carter Brown
Office of General Counsel
Florida Public Service Commission
2450 Shumard Oak Boulevard
Tallahassee, FL 32397

Re: Docket No. 041307-EI; Petition for declaratory statement, or in the alternative, petition for waiver of Rule 25-6.100(2)(c), F.A.C., by Gulf Power Company.


Dear Martha,

This letter follows a series of telephone conversations over the past several weeks regarding Gulf Power Company's petition in this matter dated November 1, 2004. The purpose of this letter is to document Gulf's request that the Florida Public Service Commission hold the petition's request for a declaratory statement in abeyance until after the Commission rules on the petition's alternative request for a rule waiver.

In Gulf's petition filed November 1, we asked for alternative remedies. First, we asked for a declaratory statement that the specified portions of Rule 25-6.100 Florida Administrative Code are not applicable to billings submitted pursuant to Gulf Power Company's FlatBill[®] rate schedule. In the alternative, we asked 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. Since Staff apparently believes the more appropriate remedy is the requested rule waiver, and since either remedy is sufficient to allow Gulf to proceed with its proposed FlatBill[®] rate, Gulf is hereby asking that its request for a declaratory statement be held in abeyance until after the Commission rules on the rule waiver request. If the requested rule waiver is granted, then the request for declaratory statement would be rendered moot and no further action by the Commission would be needed on Gulf's petition in this regard.

If there are any questions regarding the request made by Gulf in this letter, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,


Jeffrey A. Stone
For the firm