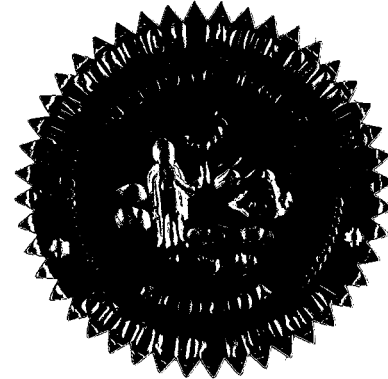


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060154-EI

In the Matter of:

PETITION FOR ISSUANCE OF STORM
RECOVERY FINANCING ORDER PURSUANT TO
SECTION 366.8260, F.S. (2005), BY
GULF POWER COMPANY.



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 9

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER J. TERRY DEASON
COMMISSIONER ISILIO ARRIAGA
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. TEW

DATE: Tuesday, June 20, 2006

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

REPORTED BY: JANE FAUROT, RPR
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DOCUMENT NUMBER DATE

FLORIDA PUBLIC SERVICE COMMISSION

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1 PARTICIPATING:

2 JEFF STONE, ESQUIRE, representing Gulf Power Company.

3 TIM PERRY, representing Florida Industrial Power
4 Users Group.

5 SCHEF WRIGHT, ESQUIRE, representing Florida Retail
6 Federation.

7 HAROLD McLEAN, ESQUIRE, and PATTY CHRISTENSEN,
8 ESQUIRE, representing the Citizens of the State of Florida.

9 JENNIFER BRUBAKER, ESQUIRE, JOHN SLEMKEWICZ, and
10 ANDREW MAUREY, representing the Florida Public Service
11 Commission Staff.

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P R O C E E D I N G S

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2 CHAIRMAN EDGAR: Okay. Thank you all for your
3 patience. And we are on Issue 9. I will look to our staff.

4 MR. SLEMKEWICZ: I'm John Slemkewicz with the staff.

5 Item 9 is Docket Number 060154-EI, which is Gulf
6 Power Company's petition for issuance of a storm recovery
7 financing order. This recommendation addresses the stipulation
8 that was filed as a settlement of the issues in this docket.

9 Staff recommends that the Commission approve the
10 stipulation with Paragraph 4 modified to eliminate the
11 automatic 80 percent interim surcharge and replace it with
12 Gulf's proposed alternative for a streamlined formal request
13 procedure as described in its June 1st, 2006 letter. None of
14 the parties object to this modification.

15 The parties are present, and staff is available to
16 address any questions that the Commissioners might have.

17 CHAIRMAN EDGAR: Commissioner Arriaga.

18 COMMISSIONER ARRIAGA: Ms. Brubaker, as discussed
19 during the several briefings we had on issue, I want to make
20 sure that the issue of delegation of authority for interim rate
21 setting, the 80 percent, that we are not delegating our
22 authority as per the proposal filed by Gulf Power.

23 MS. BRUBAKER: Absolutely not, Commissioner. With
24 the modification that was just alluded to by Mr. Slemkewicz,
25 that satisfies any concerns that staff has of any improper

1 delegation. It tracks a procedure that has, in fact, been used
2 in a prior docket. And Staff is comfortable that with that
3 modification the staff retains its proper authority.

4 COMMISSIONER ARRIAGA: Another issue that I had, and
5 I'm glad Public Counsel is here, the issue of approval of a
6 settlement versus authorization of a settlement. And I know
7 you told me this doesn't make a difference, but I just want to
8 make sure here today that we are not in any way putting a
9 barrier in our capacity to intervene in the future, if
10 necessary, in any issue regarding the settlement.

11 I once was quoted, and I had a misinformation
12 regarding our possibilities to review a settlement, to
13 intervene in a settlement at any point in time. I confess I
14 had doubts. And because of that issue I'm making this
15 statement now. I want to make sure that legally we will be
16 able at any point in time and for any reason that this
17 Commission seems to think it is appropriate that we can
18 intervene in the settlement.

19 MS. BRUBAKER: Absolutely. You're correct,
20 Commissioner. There are plenty of cases out there that
21 reiterate that the Commission does give weight and deference to
22 settlements and stipulations. However, there is ultimately
23 this Commission's obligation to make determinations in the
24 public interest, and that is the penultimate authority of the
25 Commission. If the public interest requires looking at an

1 order, whether it was settled through an evidentiary process or
2 whether it was settled by a settlement or stipulation, we
3 always retain our jurisdiction and authority to make future
4 determinations in the public interest.

5 COMMISSIONER ARRIAGA: Can I follow up? I have a
6 question for Public Counsel. I was a little bit confused
7 during the FPL hearing that we had here a few weeks ago. As I
8 saw the Solicitor General practically or specifically asking
9 this Commission to intervene in that settlement, and the fact
10 that he was a signatory to that agreement. I also noticed your
11 silence, which I respect, and I understood.

12 But what is your opinion today about signatories to
13 an agreement and then come around later and tell the Commission
14 bale us out? I didn't understand that position. And this is
15 why I'm concerned about settlement agreements that may down the
16 line, six months later, a year later may not seem as good or as
17 appropriate as they seem today.

18 MR. McLEAN: Well, sir, I have no comment to offer on
19 any position that the Attorney General has taken. He has sided
20 with us time and time again. I appreciate that. But more
21 directly to the point, each of the signatories to this
22 agreement, each of the signatories to that agreement are duty
23 bound to support the agreement come what may.

24 And we opted to honor that agreement that we entered
25 into with Florida Power and Light. I might add that sometimes

1 it was painful to do so, but it was a concession for which we
2 received value when we made it, and we stood by it, and will do
3 so any time at least that I put my signature to a document.
4 Neither myself nor any member of my office will do anything
5 inimical to the tenor or the spirit of a settlement into which
6 we enter.

7 COMMISSIONER ARRIAGA: I then assume that that same
8 behavior will conform to this specific agreement that we are
9 looking into?

10 MR. McLEAN: Of course. And to your earlier question
11 about whether if a future Commission doesn't like this
12 particular settlement, and I hope that is not the case, but if
13 it is I believe everyone at this table who signed the agreement
14 is duty bound to support this agreement as it appears before
15 you today.

16 COMMISSIONER ARRIAGA: Thank you, sir.

17 MR. McLEAN: Yes, sir.

18 CHAIRMAN EDGAR: Commissioner Carter.

19 COMMISSIONER CARTER: Thank you, Madam Chairman. Mr.
20 McLean, good to see you again. You're comfortable with the
21 terms and conditions of this settlement as presented? I mean,
22 you don't have any --

23 MR. McLEAN: No, sir. I believe it serves the public
24 interest as it is presented to you, else I wouldn't have signed
25 it. I recommend that you accept it as serving the public

1 interest, which I think is the appropriate standard. I'm
2 mindful that there has been a slight change in it, and I'm okay
3 with that change.

4 COMMISSIONER CARTER: You are okay with the change,
5 too?

6 MR. McLEAN: Yes, sir. That is a concession mostly
7 made by Gulf. Our interests were pretty much unaffected by
8 that particular aspect, so we're fine with that. There are
9 other settlements which you may see in the future in which that
10 provision may be maintained, and we will support those
11 settlements as they appear before you. But with this
12 concession, minor as we think it is, I'm entirely comfortable
13 with it, yes.

14 COMMISSIONER CARTER: Thank you, Madam Chair. I know
15 we may not be there, but at the appropriate time I'd like to
16 move the agreement.

17 CHAIRMAN EDGAR: Hold on. I'd like to go ahead and
18 hear from the parties, and then we can jump in and have further
19 discussion and questions. And I have made arrangements, I can
20 be here a very long time, so I will make sure that everybody is
21 recognized.

22 Mr. Stone.

23 MR. STONE: Thank you, Chairman Edgar and
24 Commissioners. And I hope through my comments that I do not
25 cause you to be here a very long time. For the record, I am

1 Jeff Stone of Beggs and Lane, and I am here appearing today on
2 behalf of Gulf Power Company. And while we are here primarily
3 to answer Commissioners' question, I do have what I hope will
4 be considered to be brief comments.

5 First, on behalf of all the signatories to the
6 stipulation and settlement agreement, specifically the Office
7 of Public Counsel, the Florida Industrial Power Users Group,
8 the Florida Retail Federation, the AARP, and, of course, Gulf
9 Power Company, I want to express our appreciation and support
10 for the staff's recommendation that the stipulation that is
11 before you today be approved. It is subject to the
12 clarifications of the parties' intent that were expressed in
13 our letter to the staff of June 1st, 2006.

14 As noted by the staff on Page 10 of its
15 recommendation, the stipulation taken as a whole with those
16 clarifications, and I quote, "Presents a reasonable resolution
17 of the issues regarding the impacts of Hurricane Dennis and
18 Hurricane Katrina on Gulf's storm reserve."

19 The second point I wish to make is that I want to
20 assure the Commission that none of the parties to the
21 stipulation, not the company, not any of the consumers' counsel
22 before you today sought to impair or deprive the Commission of
23 its statutory authority in any way by entering into this
24 stipulation. The clarifications we offered in our June 1st
25 letter were offered collectively by the parties as a means of

1 implementing the fundamentals of the parties' original intent
2 while at the same time addressing staff's concerns that were
3 expressed to us in a meeting on May 26th. We are pleased that
4 the staff has accepted the clarifications presented in our
5 June 1 letter, and as having resolved their concerns. In that
6 regard we join the staff in recommending that the stipulation
7 and settlement agreement before you today, as so clarified, be
8 approved in its entirety.

9 Finally, I would be greatly remiss if I did not take
10 this opportunity to express our appreciation to Harold McLean,
11 Mike Twomey, John McWhirter, and Schef Wright, along with Patty
12 Christensen and Tim Perry for their spirit of collaboration and
13 cooperation that was so important in reaching this settlement
14 and bringing it before you today. It's a settlement agreement
15 that we jointly maintain fairly and reasonably balances the
16 various positions of the parties and serves the best interests
17 of the customers we all represent and serve.

18 It is the Commission's longstanding policy of
19 encouraging settlement of contested proceedings that set the
20 stage for what turned out to be successful negotiations. It is
21 the willingness of the parties to meet and have frank and
22 professional discussions with each other in a collaborative
23 effort to reach a consensus that has allowed us to reach the
24 agreement that is brought before you today.

25 We urge the Commission to reaffirm its policy to

1 encourage settlements and set the stage for similar corporation
2 and agreements in the future by approving the settlement that
3 is before you today in its entirety as recommended by your
4 staff. I thank you for the opportunity to make these brief
5 opening comments, and we will be here to answer any questions
6 you may have.

7 CHAIRMAN EDGAR: Thank you, Mr. Stone.

8 Mr. Perry. Mr. Wright. Mr. McLean.

9 MR. McLEAN: I'm going to be next. Good afternoon,
10 Commissioners. It's always a pleasure to appear before you.
11 Harold McLean on behalf of the Citizens of the State of
12 Florida. With me this afternoon is Patty Christensen to whom
13 any of your difficult questions should be exclusively directed.

14 My first thanks goes to staff. Their questions help
15 us rethink and think of ambiguities in our settlements is very
16 helpful. They are very easy to work with and we appreciate
17 that effort. I think it is a good stipulation. As I said, I
18 believe it serves the public interest.

19 I, too, would like to extend some thanks around the
20 table. Gulf Power, under the direction of Susan Story and the
21 good advice and counsel of Jeff Stone, is very easy to work
22 with. All of our discussions are substantive. No one is
23 gaming the system or posturing, anything like that. Very easy
24 to work with. And the same is true of our fellow intervenors,
25 Florida Power Industrial Users Group, Florida Retail

1 Federation, Florida AARP. I think I got everybody. I did
2 indeed.

3 Thank you very much. I hope you will favorably
4 consider the settlement. It was not easily done. When I say
5 that folks are easy to work with, that doesn't mean that they
6 give away the farm easily. But I believe that this is a
7 settlement which correctly resolves the issues that were in
8 contention. And thank you.

9 CHAIRMAN EDGAR: Thank you, Mr. McLean. Mr. Wright.

10 MR. WRIGHT: Thank you, Madam Chairman,
11 Commissioners. Schef Wright appearing on behalf of the Florida
12 Retail Federation. I would just like to echo what Mr. Stone
13 and Mr. McLean have said. We support the staff recommendation.
14 This is a good settlement. It is a very good settlement. It
15 is in the public interest. And I, too, would like to thank
16 everybody who participated. Harold, Patty, Mike Twomey, Tim
17 Perry, John McWhirter, and the folks from Gulf; Jeff Stone,
18 Ronnie Labrato, Gary Livingston, and Susan Ritenour. Working
19 with these folks to get this settlement done really fairly
20 quickly, straightforwardly, professionally, and cooperatively
21 was a real pleasure and we are glad to be here. We hope you
22 will approve the settlement. Thank you.

23 CHAIRMAN EDGAR: Mr. Perry.

24 MR. PERRY: Timothy Perry on behalf of the Florida
25 Industrial Power Users Group. I'd like to echo the comments

1 that came before me from Gulf, from the Public Counsel, and
2 also from Retail Federation. We'd like to also thank Gulf and
3 the other intervenors for their very hard work on this
4 settlement, and also staff for their very careful consideration
5 and review of the settlement after it was brought to the
6 Commission. And as representatives of Gulf's customers, we
7 think that this is a very good settlement and that it is also
8 in the public interest, and we very strongly urge you to
9 approve it. Thank you.

10 CHAIRMAN EDGAR: Thank you. Did I get everybody?
11 Commissioners, any questions, discussion?
12 Commissioner Tew.

13 COMMISSIONER TEW: I have something to throw out, I
14 think, to our legal staff. So, Ms. Brubaker. The
15 recommendation paragraph in Issue 1 expresses concerns
16 regarding the interest rate specified in the stipulation, and I
17 don't know how the other Commissioners feel, but I for one
18 don't care to have that language in the order. I believe that
19 negotiations like this are a matter of give and take, and the
20 parties negotiated on that interest rate, and I don't feel like
21 I'm in the posture to second-guess that interest rate just
22 because we usually use a different interest rate.

23 So I will throw that out and just ask does that -- in
24 moving staff's recommendation, does that have to be a part of
25 that, or should we modify it, or is there just no need to have

1 that in the order?

2 MS. BRUBAKER: If it the Commissioner's pleasure to
3 delete that language, we certainly can do so. Again, staff
4 simply raised that as an outstanding concern, and we express in
5 the recommendation why we have that concern. If in light of
6 the totality of the settlement you think it is more prudent not
7 to have that language present, we can certainly have that
8 omitted from the order.

9 CHAIRMAN EDGAR: Commissioner Arriaga.

10 COMMISSIONER ARRIAGA: Isn't it a fact, Ms. Brubaker,
11 that Gulf's rating, I think, is AA or AAA? Doesn't that
12 benefit the consumer, because the interest rate is lower, if we
13 used that rating?

14 MS. BRUBAKER: I would prefer to refer that to Mr.
15 Maurey, if I may.

16 MR. MAUREY: Andrew Maurey, Commission staff. Gulf's
17 rating is single A. And at point in time the interest rate
18 prescribed in the stipulation and the interest rate specified
19 in the refund rule are almost identical. There's not a one or
20 two basis point incremental difference at this point in time.
21 But if it were a lower-rated company, if it were a BBB-rated
22 company, for example, the interest rate -- this provision in
23 the stipulation would call for a higher interest rate than the
24 interest rate specified in the refund rule.

25 CHAIRMAN EDGAR: Commissioner Arriaga.

1 COMMISSIONER ARRIAGA: So then Commissioner Tew's
2 recommendation makes sense, in the fact that we will have to
3 evaluate these on a case-by-case basis.

4 COMMISSIONER TEW: Of course it does.

5 COMMISSIONER ARRIAGA: Oh, boy. You owe me one. So
6 it does make sense, like she says, right?

7 MR. MAUREY: Absolutely.

8 CHAIRMAN EDGAR: Commissioners, other comments or
9 questions?

10 One brief comment before, Commissioner Carter, I look
11 to you. An old friend of all of ours used to say if everybody
12 is a little unhappy, it must be pretty good. And I'm not
13 hearing much unhappiness, but it's kind of nice.

14 Commissioner Carter.

15 COMMISSIONER CARTER: Madam Chair, if I'm recognized,
16 I would move staff's recommendation on Issue 1.

17 CHAIRMAN EDGAR: Commissioners, we have a motion in
18 favor of the staff recommendation on Issue 1.

19 MS. BRUBAKER: Madam Chairman, may I ask for
20 clarification?

21 CHAIRMAN EDGAR: You may.

22 MS. BRUBAKER: Does that motion incorporate the
23 deletion of language per Commissioner Tew's suggestion?

24 CHAIRMAN EDGAR: My thinking is probably yes. But,
25 Commissioner Carter, it's your motion.

1 COMMISSIONER CARTER: It was a brilliant idea.

2 CHAIRMAN EDGAR: I believe it does. Thank you.

3 COMMISSIONER CARTER: You guys just nod by the head
4 or whatever. Does that give anybody heartburn, the signatories
5 to the agreement? This means yes, this means no.

6 MR. STONE: It does not bother us to remove the
7 language.

8 COMMISSIONER CARTER: All right, it doesn't bother
9 you. As I said, it's a brilliant idea, Madam Chair, and so
10 modify my motion to incorporate it.

11 CHAIRMAN EDGAR: Commissioners, we have a motion.

12 COMMISSIONER DEASON: Second.

13 CHAIRMAN EDGAR: We have a motion and a second. Is
14 there further discussion? Okay. All in favor of the motion on
15 Issue 1 say aye.

16 (Unanimous affirmative vote.)

17 CHAIRMAN EDGAR: Opposed? Show the motion adopted.

18 Commissioners, that brings us to Issue 2. Other
19 questions or discussion? Seeing none. Commissioner Carter.

20 COMMISSIONER CARTER: I move the staff recommendation
21 on Issue 2.

22 COMMISSIONER DEASON: Second.

23 CHAIRMAN EDGAR: We have a motion and a second. Any
24 discussion? Seeing none. All in favor of the motion say aye.

25 (Unanimous affirmative vote.)

1 CHAIRMAN EDGAR: Opposed? Show the motion adopted.

2 And I need a motion on Issue 3.

3 COMMISSIONER CARTER: So moved.

4 COMMISSIONER DEASON: Second.

5 CHAIRMAN EDGAR: All in favor of the motion say aye.

6 (Unanimous affirmative vote.)

7 CHAIRMAN EDGAR: Opposed? Show the motion adopted.

8 Commissioners, I believe that concludes our business
9 items for today.

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

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

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

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

DATED THIS 30th day of June, 2006.



JANE FAUROT, RPR
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