

Marguerite McLean

From: Keating, Beth [BKeating@gunster.com]
Sent: Thursday, January 05, 2012 1:29 PM
To: Filings@psc.state.fl.us
Cc: 'Schef Wright'; Robert Graves; 'Martin Cheryl'; fbondurant@embarqmail.com; 'christensen.patty@leg.state.fl.us'; Pauline Robinson
Subject: Docket No. 110041-EI
Attachments: 20120105131648587.pdf

Attached for electronic filing, please find a copy of a letter agreement between FPUC and Gulf Power Company further extending the date for regulatory approval set forth in the subject Amendment No. 1. Please do not hesitate to contact me if you have any questions.

Beth Keating
bkeating@gunster.com
 Direct Line: (850) 521-1706

a. Person responsible for this electronic filing:

Beth Keating
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b. Docket No. 110041-EI – Petition for Approval of Amendment No. 1 to Generation Services Agreement with Gulf Power Company, by Florida Public Utilities Company.

c. On behalf of: Florida Public Utilities Company

d. Total Number of Pages: 4

e. Description: Copy of Letter Agreement between Gulf Power Company and Florida Public Utilities Company, for informational purposes



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January 5, 2012

VIA ELECTRONIC FILING - FILINGS@PSC.STATE.FL.US

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

**Re: DOCKET NO. 110041-EI - Petition for Approval of Amendment No. 1 to
Generation Services Agreement with Gulf Power Company, by Florida Public
Utilities Company.**

Dear Ms. Cole:

Attached for electronic filing, please find an executed letter agreement between Florida Public Utilities Company ("FPUC") and Gulf Power Company ("Gulf") extending the "Approval Deadline" set forth in Section B.1 of Amendment No. 1 from December 31, 2011, to March 31, 2012, and addressing other related caveats and modifications. This letter agreement is submitted for informational purposes only, as the letter agreement does not modify any substantive portion of Amendment No. 1 that is pertinent to the Commission's review and approval of Amendment No. 1 for purposes of fuel cost recovery calculations.

Thank you for your assistance with this filing. As always, please do not hesitate to contact me if you have any questions.

Sincerely,

Beth Keating
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MEK

Cc: Parties of Record
Staff Counsel

DOCUMENT NUMBER DATE

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December 16, 2011

Mr. Jeff Householder
Florida Public Utilities Company
2825 Pennsylvania Avenue
Marianna, FL 32448

Re: Amendment No. 1 to the Agreement for Generation Services
between Gulf Power Company ("Gulf Power") and Florida Public
Utilities Company ("FPUC").

Dear Mr. Householder:

Gulf Power and FPUC have previously entered into Amendment No. 1 ("Amendment No. 1") to the Agreement for Generation Services dated as of December 28, 2006 ("Agreement"). Pursuant to a letter agreement between the Parties dated July 21, 2011, the amendments and modifications to the Agreement set forth in such amendment are expressly conditioned upon the receipt of a Final Order approving the amendment by no later than December 31, 2011. Under Amendment No. 1, a "Final Order" is an order of the FPSC that is no longer subject to appeal or further review by a court or other governmental authority.

As described in the July 21 letter agreement, the City of Marianna has filed a protest to the FPSC's Notice of Proposed Agency Action approving Amendment No. 1. This protest remains pending and, accordingly, it is anticipated that there will not be a Final Order approving Amendment No. 1 by December 31, 2011. The purpose of this letter is to extend the time period for obtaining a Final Order. Accordingly, the Parties agree that Amendment No. 1 shall remain effective after December 31, 2011, notwithstanding the absence of a Final Order by that date, but subject to the following terms and conditions:

Calculation of Capacity Payments

Notwithstanding Section C.1 of Amendment No. 1, commencing with the payment for capacity for January 2012 and for all subsequent Months until a Final Order is obtained (each such Month being referred to as a "Post 2011 Month"), Gulf Power shall calculate the Monthly Capacity Payment utilizing a Capacity Purchase determined in accordance with Section D of Appendix A of the Agreement as originally executed by

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the Parties and without taking into account the revisions to Section D of Appendix A that are contemplated by Amendment No. 1 ("Original Capacity Payment Calculation"). FPUC shall pay Gulf Power the Monthly Capacity Payments determined in this manner for each Post 2011 Month pursuant to the Agreement.

Deadline for FPSC Approval Order

If the FPSC does not issue an order granting the Requested Approval on or before March 31, 2012 ("FPSC Approval Order"), then Amendment No. 1 shall immediately terminate and be rendered null and void, ab initio, without further action of the Parties, and the Agreement shall continue in full force and effect as it existed prior to the execution by the Parties of Amendment No. 1; provided, however, that in such event, Gulf Power shall be entitled to invoice, and FPUC shall pay Gulf Power, an amount equal to the difference of: (i) the total of what the Monthly Capacity Payments would have been for all Months in calendar year 2011 by utilizing the Original Capacity Payment Calculation; less (ii) any amounts previously paid by FPUC as Monthly Capacity Payments for such Months in 2011, plus interest at the Interest Rate (such amount being referred to as the "2011 Payment Adjustment").

Appeal of FPSC Approval Order:

If the FPSC issues an FPSC Approval Order on or before March 31, 2012, the Parties recognize that such order may not become a Final Order because of the filing of a notice of appeal or other document seeking further review of the FPSC Approval Order by a court or other governmental authority (such circumstance being referred to as an "Order Appeal"). Therefore, provided that an FPSC Approval Order is issued on or before March 31, 2012, the Parties desire for Amendment No. 1 to continue in effect during the pendency of an Order Appeal subject to the following:

1. Gulf Power shall continue to invoice, and FPUC shall continue to pay to Gulf Power, Monthly Capacity Payments for each Post 2011 Month as determined utilizing the Original Capacity Payment Calculation. In addition, if there is no Final Order by May 31, 2012, then Gulf Power shall be entitled to invoice, and FPUC shall pay to Gulf Power, an additional amount equal to the 2011 Payment Adjustment.

2. If the FPSC Approval Order becomes a Final Order, then: (i) the condition set forth in the third sentence of Section B.1 of Amendment No. 1 shall be deemed satisfied; (ii) Monthly Capacity Payments shall thereafter be determined in accordance with Section D of Appendix A as modified by Amendment No. 1; and (iii) FPUC shall be entitled to invoice, and Gulf Power shall pay, an amount (with interest at the Interest Rate) equal to the 2011 Payment Adjustment actually paid by FPUC (if any), plus the difference of (A) the sum of the Monthly Capacity Payments paid by FPUC for each Post 2011 Month as

determined above, less (B) the sum of what the Monthly Capacity Payments would have been for each Post 2011 Month if they had been determined in accordance with Section D of Appendix A as modified by Amendment No. 1.

3. If the FPSC Approval Order is subsequently reversed, vacated, modified, or otherwise rendered ineffective (in whole or in part) by action of any court or governmental authority, then Amendment No. 1 shall immediately terminate and be rendered null and void, ab initio, without further action of the Parties, and the Agreement shall continue in full force and effect as it existed prior to the execution by the Parties of Amendment No. 1; provided, however, that in such event, Gulf Power shall be entitled to invoice to FPUC, and FPUC shall pay to Gulf Power, the 2011 Payment Adjustment if not already paid by FPUC.

Except as set forth above, this letter agreement does not modify any other provision of Amendment No. 1 or the Agreement. Unless otherwise specifically provided in this letter agreement, capitalized terms in this letter agreement shall have the meanings assigned to such terms in Amendment No. 1 and the Agreement.

Please confirm FPUC's agreement to the terms of this letter agreement by signing your name in the space provided below and returning an executed copy to me.

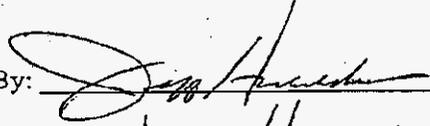
Sincerely,



Charles D. Long, IV
As agent for Gulf Power Company

AGREED AND ACCEPTED:

FLORIDA PUBLIC UTILITIES COMPANY

By: 
Name: JEFF HOUSEHOLDER
Title: PRESIDENT