Eric Fryson

From: Kim Hancock [khancock@kagmlaw.com]

Sent: Monday, January 09, 2012 4:10 PM

To: Filings@psc.state.fl.us

Cc: Caroline Klancke; Keino Young; Martha Barrera; kelly.jr@leg.state.fl.us; sayler.erik@leg.state.fl.us; mcglothlin.joseph@leg.state.fl.us; merchant.tricia@leg.state.fl.us; JAS@beggslane.com; RAB@beggslane.com; chris.thompson.2@tyndall.af.mil; schef@gbwlegal.com; Vicki Gordon Kaufman; Jon Moyle

Subject: Docket No. 110138-EI

Attachments: 1.9.12 FIPUG Post-Hearing Brief.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

a. The name, address, telephone number and email for the person responsible for the filing is:

Vicki Gordon Kaufman
Keefe Anchors Gordon & Moyle
118 North Gadsden Street
Tallahassee, FL 32301
(850) 681-3828
vkaufman@kagmlaw.com

b. This filing is made in Docket No. 110138-EI.

c. The document is filed on behalf of Florida Industrial Power Users Group.

d. The total pages in the document are 15 pages.

e. The attached document is THE FLORIDA INDUSTRIAL POWER USERS GROUP'S POST-HEARING STATEMENT OF ISSUES AND POSITIONS AND POST- HEARING BRIEF.

Kim Hancock
khancock@kagmlaw.com

KA GM Keefe, Anchors Gordon & Moyle

Keefe, Anchors, Gordon and Moyle, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301
(850) 681-3828 (Voice)
(850) 681-8788 (Fax)
www.kagmlaw.com

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in Rates by Gulf Power Company
_______________________________________/

DOCKET NO.: 110138-EI
FILED: January 9, 2012

THE FLORIDA INDUSTRIAL POWER USERS GROUP'S POST-HEARING STATEMENT OF ISSUES AND POSITIONS AND POST- HEARING BRIEF

The Florida Industrial Power Users Group (FIPUG), by and through its undersigned counsel, files this Post-Hearing Statement of Issues and Positions and Post-Hearing Brief.[1]

BASIC POSITION AND SUMMARY

At issue in this case is Gulf Power Company's (Gulf) requested rate increase of $101 million dollars beginning in 2012. Gulf makes these requests when the state, the nation, and particularly Northwest Florida continue to struggle to emerge from an economic recession that many, including Gulf's own witnesses, have called the Great Recession. Many Northwest Florida businesses affected by these bleak economic conditions have significantly cut costs, frozen salaries, laid off employees and taken other cost cutting steps as they struggled to survive. The local economy in Gulf's service territory suffered considerably, and continues to be economically depressed. The unemployment rate increased from 5.1% in 2002 to 8.5% in 2009. Despite the official end of the recession, the unemployment rate has risen, and it is now 9.4%. (Tr. Pollock at 9).

In contrast to the economic decisions made by many of Gulf's customers, Gulf asks this Commission to allow it to raise salaries, including incentive compensation, increase its operations and maintenance (O&M) budget, hire more employees, increase monies earmarked for its storm restoration fund, disregarding its reduced hurricane damage risk profile due to accelerated tree

[1] This Brief does not discuss Issue Nos. 11, 62, 63, 80, 106, 107 and 108. Those issues are the subject of a Stipulation among the parties that will be considered on January 10[th].

trimming and storm hardening efforts, and pay for a nuclear power plant site that may never be needed. Unabashedly, Gulf asks this Commission to award them an 11.7% return on equity (ROE), a request that, if granted, would permit Gulf one of the highest ROE rates in recent rate cases decided nationally.

Therefore, it is very important that the Commission closely review each increase sought by Gulf, including but not limited to O&M expense, salary and benefit compensation, and inclusion of questionable parcels in land in rate base. It should further view with great skepticism Gulf's request for a 11.7% ROE – such a request is far out of line with current economic conditions and would give Gulf one of the highest ROEs in the nation. As to Gulf's request for an increase in the storm accrual fund, such an increase is unnecessary. It is based on the inclusion of inappropriate storms and fails to recognize that Gulf is able to come to this Commission, who will act swiftly, in the event of a storm event. It is clear that customers prefer to retain as much money as they can, not "pay it ahead" to Gulf.

ISSUES AND POSITIONS

Legal

ISSUE 1: Does Section 366.93, Florida Statutes, support Gulf's proposal to calculate a deferred carrying charge for the 4,000 acre Escambia Site and the costs of associated evaluations as nuclear site selection costs?

FIPUG: *No. Section 366.93, Florida Statutes, explicitly provides for special treatment, including extraordinary advance cost recovery mechanism, for utilities that have applied for and received a determination of need for a nuclear unit. Section 366.93 does not authorize a utility that has not received a determination of need to apply a deferred charge to land that it claims is a potential future nuclear site many, many years later. This item should be removed from rate base.*

Rate Base

ISSUE 8: Should the capitalized items currently approved for recovery through the Environmental Cost Recovery Clause be included in rate base for Gulf?

FIPUG: *Yes. All capitalized items currently approved for recovery through the Environmental Cost Recovery Clause should be moved to rate base. Gulf should be required to clearly itemize such items so that they may be moved to rate base.*

ISSUE 9: Should the Plant Crist Units 6 and 7 Turbine Upgrade Project be included in rate base and recovered through base rates, rather than through the Environmental Cost Recovery Clause? If so, what is the appropriate amount, if any, be included in rate base and recovered through base rates?

FIPUG: *The Crist Units 6 and 7 Turbine Upgrade Project should be included in rate base and recovered through base rates rather than in the Environmental Cost Recovery Clause. Such recovery should be based on traditional ratemaking principles, including application of a $1/13^{th}$ average. However, if the Commission adopts Gulf's position on this issue, FIPUG prefers Gulf's alternative #1.*

ISSUE 10: Has Gulf made the appropriate adjustments to remove all non-utility activities from plant in service, accumulated depreciation and working capital?

FIPUG: *No. See Issues 16 and 17.*

ISSUE 12: How much, if any, of Gulf's Incentive Compensation expenses should be included as a capitalized item in rate base?

FIPUG: *Agree with OPC.*

ISSUE 14: What amount of Transmission Infrastructure Replacement Projects should be included in Transmission Plant in Service?

FIPUG: *Agree with OPC.*

ISSUE 16: Should the wireless systems that are the subject of Southern Company Services (SCS) work orders be included in rate base?

FIPUG: *No. Agree with OPC.*

ISSUE 17: Should the SouthernLINC charges that are the subjects of SCS work orders be included in rate base?

FIPUG: *No. Agree with OPC.*

ISSUE 18: Is Gulf's requested level of Plant in Service in the amount of $2,612,073,000 ($2,668,525,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

ISSUE 21: Is Gulf's requested level of Accumulated Depreciation in the amount of $1,179,823,000 ($1,207,513,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

ISSUE 22: Is Gulf's requested Construction Work in Progress in the amount of $60,912,000 ($62,617,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

ISSUE 23: Should an adjustment be made to Plant Held for Future Use for the Caryville plant site?

FIPUG: *Yes. The Caryville site has been in rate base and been paid for by ratepayers for many years. Gulf has yet to begin any construction for any sort of power plant on this site; thus, it should be removed from rate base as it is no longer prudent for Gulf to continue to hold this site.*

ISSUE 24: Should the North Escambia Nuclear County plant site and associated costs identified by Gulf be included in Plant Held for Future Use? If not, should Gulf be permitted to continue to accrue AFUDC on the site?

FIPUG: *No. Inclusion of this site to "preserve the nuclear option" for some time in the future that is not even specified is inappropriate. Even the Gulf witnesses did not know when, **if ever**, the site would be utilized. Gulf has not shown that the purchase of the site is a reasonable and prudent investment that will be used for utility purposes in the reasonably near future and should not be allowed to accrue any AFUDC carrying costs on the Escambia site.*

ISSUE 25: Is Gulf's requested level of Property Held for Future Use in the amount of $32,233,000 ($33,352,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

ISSUE 27: Should any adjustment be made to Gulf's requested storm damage reserve, annual accrual of $6,539,091 ($6,800,000 system), and target level range of $52,000,000 to $98,000,000?

FIPUG: *The Commission should not approve any increase in Gulf's annual storm accrual because Gulf's proposal is not based on historical charges to the storm reserve, fails to account for storm hardening measures, and fails to consider the Commission's prompt action on storm surcharge requests.*

Argument

The crux of this issue is whether already financially strapped ratepayers should be required to pay Gulf in advance for future storm damage which may occur or whether they should be able to retain their cash and pay only when necessary for storm damage. The answer to this question is obvious and easy: customers would prefer to keep any money they can in their pockets, rather than have Gulf hold it for them to address an event which has not even occurred. (Tr. 1338). Gulf claims that customers would rather pay now than later. Gulf's sole support for this proposition is a "survey" conducted by Witness Erickson of people she talked to at her children's schools and at church. (Tr. 1046).[2] Of course, this is no type of survey at all, especially when compared to the positions taken in this case of OPC, the military, retail consumers, and industrial consumers. Each of these groups represent a broad array of Gulf customers and each of these groups sponsored separate witnesses who testified that an increase in the accrual (almost doubling it) was excessive and unnecessary.

Several other factors demonstrate that Gulf's request to increase the storm accrual should be rejected. First, Gulf itself has used the surcharge mechanism two times to implement a surcharge, when it was needed. *See*, Order No. PSC-06-0601-S-EI; Order No. PSC-05-0250-PAA-EI. Interestingly, in both cases, all parties entered into stipulations which were promptly approved. Gulf presented no evidence to indicate that the Commission would not act promptly in the event another surcharge was needed. Thus, the Commission has a procedure in place to deal with any exigent circumstances. *See also*, Order No. PSC-09-0283-FOF-EI at 17; Order No. PSC- 06-0464-FOF-EI at 25.

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[2] See, Tr. 1588-1580 regarding why Ms. Erickson's discussion with a few customers is flawed.

Second, even if the Commission were to consider implementation of Gulf's proposal, Gulf has failed to support its request to increase its accrual by $3.3 million. Funds in the storm reserve are sufficient even if the accrual is stopped altogether. (Tr. 1334-1335).

Third, Gulf's method for assessing its need for an increase accrual is badly flawed. The Expected Annual Damage (EAD) presented by Gulf witness Erickson takes into account all manner and strength of storms. (Exhibit No. 115, Gulf Response to Citizens' Interrogatories, Set 4, No. 206). That is, Gulf assumes that the storm reserve should be adequate to cover damage from all storms, even the worst. The current $27.6 million reserve balance covers all Category 1 hurricanes and the majority of, but not the most destructive, Category 2 storms. Thus, it is sufficient to cover four consecutive years in which the expected annual loss chargeable to the storm reserve occurs. (Tr. 1335).

The EAD Gulf presents is overstated because it ignores the Commission's directive that the storm reserve should cover most but not all storms. (Tr. 1335-1336). Rather than following this directive, Gulf includes the damage of thousands of simulated hurricane seasons in the model run to calculate the accrual. (Tr. 1336). However, the storm reserve and associated accrual are only part of the framework for recovering storm restoration costs. (Tr. 1337). Thus, the needed accrual is greatly overstated and would place an unnecessary burden on ratepayers.

Finally, Gulf seeks to collect from ratepayers amounts for its storm hardening activities. Such activities are intended to "harden" Gulf's system and make restoration faster and more efficient if a storm hits. (Tr. 98). While attempting to include such money in rate base, Gulf gives consumers no credit for such payments against the storm accrual. This is because, in Gulf's view, no data has been collected as to the efficacy of activities. Gulf cannot have it both ways – if it wants customers to pay for these activities, it should give customers credit for them.

If Gulf is not sure that storm hardening will have any effect, it should remove the amounts from rate base until their efficacy can be proven.

ISSUE 28: Should unamortized rate case expense be included in Working Capital?

FIPUG: *No. Agree with OPC.*

ISSUE 29: Should the net over-recovery/under-recovery of fuel, capacity, conservation, and environmental cost recovery clause expenses be included in the calculation of the working capital allowance?

FIPUG: *Agree with OPC.*

ISSUE 30: Is Gulf's requested level of Working Capital in the amount of $150,609,000 ($155,044,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

ISSUE 31: Is Gulf's requested rate base in the amount of $1,676,004,000 ($1,712,025,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

Cost of Capital

ISSUE 32: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?

FIPUG: *Agree with OPC.*

ISSUE 33: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?

FIPUG: *Agree with OPC.*

ISSUE 37: What is the appropriate return on equity (ROE) to use in establishing Gulf's revenue requirement?

FIPUG: *No higher than 9.25%.*

Argument

FIPUG supports the position of its fellow consumer parties, the Office of Public Counsel and the Federal Executive Agencies regarding the appropriate ROE to be awarded to Gulf.

Gulf's request of an 11.7% ROE is inflated, and more than 100 basis points, or 1 percent higher than the average return on equity awarded during rate cases decided during 2011. 100 basis points represent approximately $13 million in additional rates that would be saddled on the backs of Gulf's ratepayers. While FIPUG supports an award of 9.25% as suggested by OPC, FIPUG would not object if Gulf's request was trimmed by at least 200 basis points, or approximately $26 million, to a 9.7% return on equity. A 200 basis point reduction (or more) is supported by the competent substantial evidence of expert witnesses sponsored by OPC and FEA. Furthermore, the dire economic conditions facing most of Gulf's customers argue strongly, when combined with the consumers' expert witness testimony, that Gulf's request should be significantly reduced.

ISSUE 38: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?

FIPUG: *5.89%.*

Net Operating Income

ISSUE 39: Is Gulf compensated adequately by the non-regulated affiliates for the benefits, if any, they derive from their association with Gulf Power? If not, what measures should the Commission implement?

FIPUG: *No. Agree with OPC.*

ISSUE 40: Should an adjustment be made to increase operating revenues by $1,500,000 for a 2 percent compensation payment from non-regulated companies?

FIPUG: *Yes. Agree with OPC.*

ISSUE 41: Should an adjustment be made to increase test year revenue for Gulf's non-utility activities?

FIPUG: *Yes. Agree with OPC.*

ISSUE 42: Is Gulf's projected level of Total Operating Revenues in the amount of $481,909,000 ($499,311,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

ISSUE 47: Has Gulf made the appropriate adjustments to remove all non-utility activities from net operating income?

FIPUG: *No. See Issues 39-41 and 48-68.*

ISSUE 48: Should adjustments be made to the expenses allocated or charged to Gulf as a result of transactions with affiliates?

FIPUG: *Yes. Agree with OPC.*

ISSUE 49: Should adjustments be made to expenses to allocate SCS costs to Southern Renewable Energy?

FIPUG: *Yes. Agree with OPC.*

ISSUE 51: Should adjustments be made to the allocation factors used to allocate SCS costs to Gulf ?

FIPUG: *Yes. Agree with OPC.*

ISSUE 52: Should the Commission remove costs from the 2012 test year for costs associated with SouthernLINC?

FIPUG: *Yes. Agree with OPC.*

ISSUE 55: Did Gulf adequately document and justify the costs associated with Work Orders 46EZBL, 46IDMU, 46LRBL, 47VSES, 47VSTB, 47VSTH, 47VSZ1, and 47VSZ5? If not, should the costs related to these work orders be removed from operating expenses?

FIPUG: *No. Agree with OPC.*

ISSUE 56: Should the costs related to Work Order 471701, associated with a Securities and Exchange Commission inquiry, be removed from operating expenses?

FIPUG: *Yes. Agree with OPC.*

ISSUE 57: Should the Commission adjust operating expenses for the costs related to Work Order 473401, related to a benefit's review that does not appear to occur annually?

FIPUG: *Yes. Agree with OPC.*

ISSUE 59: Should the costs related to Work Order 4Q51RC and a formerly CWIP classified Work Order 4QPA01, be removed from operating expenses?

FIPUG: *Yes. Agree with OPC.*

ISSUE 60: Should operating expenses be adjusted to remove public relations expenses charged by SCS?

FIPUG: *Yes. Agree with OPC.*

ISSUE 61: Should operating expenses be adjusted to remove legal expenses in Work Orders 473ECO and 473ECS charged by SCS?

FIPUG: *Yes. Agree with OPC.*

ISSUE 64: Should operating expenses be adjusted to remove investor relations expenses related to Work Order 471501 charged by SCS?

FIPUG: *Yes. Agree with OPC.*

ISSUE 66: Should interest on deferred compensation be included in operating expenses?

FIPUG: *No. Agree with OPC.*

ISSUE 67: Should SCS Early Retirement Costs be included in operating expenses?

FIPUG: *No. Agree with OPC.*

ISSUE 69: Are Gulf's proposed increases to average salaries for Gulf appropriate?

FIPUG: *No. In these difficult economic times, when many people in northwest Florida are out of work, these increases are out of step with economic reality. Agree with OPC that these expenses should be reduced by $3,195,627.*

ISSUE 70: Are Gulf's proposed increases in employee positions for Gulf appropriate?

FIPUG: *No. See Issue No. 69.*

ISSUE 71: How much, if any, of Gulf's proposed Incentive Compensation expenses should be included in operating expenses?

FIPUG: *All incentive compensation in the test year should be disallowed. If the payment of such extra compensation is important to Gulf, such payments should be funded by shareholders not ratepayers.*

ISSUE 72: What is the appropriate amount of allowance for employee benefit expense be adjusted?

FIPUG: *Agree with OPC.*

ISSUE 74: What is the appropriate amount of Gulf's requested level of Salaries and Employee Benefits for the 2012 projected test year?

FIPUG: *Agree with OPC.*

ISSUE 76: What is the appropriate amount of accrual for storm damage for the 2012 projected test year?

FIPUG: *The accrual should not be increased. See Issue No. 27.*

ISSUE 77: Should an adjustment be made to remove Gulf's requested Director's & Officer's Liability Insurance expense?

FIPUG: *Yes. Agree with OPC.*

ISSUE 79: What is the appropriate amount of Gulf's tree trimming expense for the 2012 projected test year?

FIPUG: *Agree with OPC.*

ISSUE 84: What is the appropriate amount of production plant O&M expense?

FIPUG: *Agree with OPC.*

ISSUE 86: What is the appropriate amount of Gulf's distribution O&M expense?

FIPUG: *Agree with OPC.*

ISSUE 89: What is the appropriate amount of uncollectible expense for the 2012 projected test year?

FIPUG: *Agree with OPC.*

ISSUE 90: Is Gulf's requested level of O&M Expense in the amount of $282,731,000 ($288,474,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

ISSUE 91: What is the appropriate amount of depreciation and fossil dismantlement expense for the 2012 projected test year?

FIPUG: *Agree with OPC.*

ISSUE 92: Is Gulf's requested level of Depreciation and Amortization Expense in the amount of $87,804,000 ($89,613,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

ISSUE 93: What is the appropriate amount of Taxes Other Than Income Taxes for the 2012 projected test year?

FIPUG: *Agree with OPC.*

ISSUE 94: Is it appropriate to make a parent debt adjustment per Rule 25-14.004, Florida Administrative Code?

FIPUG: *Yes. Agree with OPC. Gulf has failed to rebut the presumption in the rule.*

ISSUE 95: What is the appropriate amount of Income Tax expense for the 2012 projected test year?

FIPUG: *Agree with OPC.*

ISSUE 96: Is Gulf's requested level of Total Operating Expenses in the amount of $420,954,000 ($432,449,000 system) for the 2012 projected test year appropriate?

FIPUG: *Agree with OPC.*

ISSUE 97: Is Gulf's projected Net Operating Income in the amount of $60,955,000 ($66,862,000 system) for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

Revenue Requirements

ISSUE 98: What is the appropriate revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for Gulf?

FIPUG: *Agree with OPC.*

ISSUE 99: Is Gulf's requested annual operating revenue increase of $93,504,000 for the 2012 projected test year appropriate?

FIPUG: *No. Agree with OPC.*

Cost of Service and Rate Design

ISSUE 109: What are the appropriate customer charges and should Gulf's proposal to rename the customer charge "Base Charge" be approved?

FIPUG: *No position.*

ISSUE 110: What are the appropriate demand charges?

FIPUG: *No position.*

ISSUE 111: What are the appropriate energy charges?

FIPUG: *No position.*

ISSUE 112: What are the appropriate charges for the outdoor service (OS) lighting rate schedules?

FIPUG: *No position.*

ISSUE 113: Should Gulf's proposal to adjust annually existing lighting fixtures prices be approved?

FIPUG: *No position.*

ISSUE 114: What are the appropriate charges under the Standby and Supplementary Service (SBS) rate schedule?

FIPUG: *The Commission should follow prior policy in setting standby rates.*

ISSUE 115: What are the appropriate transformer ownership discounts?

FIPUG: *No position.*

Other Issues

ISSUE 117: Should any of the $38,549,000 interim rate increase granted by Order No. PSC-11-0382-PCO-EI be refunded to the ratepayers?

FIPUG: *Yes. Agree with OPC.*

ISSUE 119: Should this docket be closed?

FIPUG: *Yes, after Gulf has filed and received approval for any new rates approved by the Commission in this docket, and after all appeals have been completed or the time for filing an appeal has expired.*

s/ Vicki Gordon Kaufman

Vicki Gordon Kaufman
Jon C. Moyle, Jr.
Keefe, Anchors, Gordon & Moyle
118 North Gadsden Street
Tallahassee, FL 32301
(850) 681-3828 (Voice)
(850) 681-8788 (Facsimile)
jmoyle@kagmlaw.com
vkaufman@kagmlaw.com

Attorneys for the Florida Industrial Users Group

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Industrial Power Users Group's Post-Hearing Statement of Issues and Positions and Post-Hearing Brief has been furnished by Electronic Mail and United States Mail this 9th day of January, 2012, to the following:

Caroline Klancke
Keino Young
Martha Barrera
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

J. R. Kelly
Joseph McGlothlin
Erik L. Sayler
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399

Jeffrey A. Stone
Russell A. Badders
Beggs & Lane Law Firm
P.O. Box 12950
Pensacola, FL 32591-2950

Major Christopher C. Thompson
Federal Executive Agencies
AFLOA/JACL-ULFSC
139 Barnes Drive, Suite 1
Tyndall Air Force Base, Florida 32403

Robert Scheffel Wright/John T. La Via
Gardner, Bist, Wiener, Wadsworth,
Bowden, Bush, Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee FL 32308

s/ Vicki Gordon Kaufman

Vicki Gordon Kaufman