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November 28, 2016

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

Re: Docket No. 160186-EI

Dear Ms. Stauffer:

Attached herein is Gulf Power Company's Objections to Staff's First Set of Interrogatories (Nos. 1-14) submitted by electronic mail in the above-referenced docket.

Sincerely,

A handwritten signature in blue ink that reads "Robert L. McGee, Jr.".

Robert L. McGee, Jr.
Regulatory and Pricing Manager

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Attachments

cc: Beggs & Lane
Jeffrey A. Stone, Esq.
Gunster Law Firm
Charles A. Guyton, Esq.
Richard A. Melson, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for rate increase by Gulf
Power Company.

Docket No. 160186-EI
Dated: November 28, 2016

**GULF POWER COMPANY'S OBJECTIONS TO STAFF'S
FIRST SET OF INTERROGATORIES (NOS. 1-14)**

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.340 of the Florida Rules of Civil Procedure, and the Order Establishing Procedure in this matter, Gulf Power Company ("Gulf Power," "Gulf," or the "Company") hereby serves its objections to the Staff of the Florida Public Service Commission's ("Staff") First Set of Interrogatories (Nos. 1-14) (collectively "the Interrogatories") and states as follows:

GENERAL OBJECTIONS

With respect to any "Definitions" and "Instructions" in Staff's Interrogatories, Gulf objects to any definitions or instructions that are inconsistent with Gulf's discovery obligations under applicable rules. If some question arises as to Gulf's discovery obligations, Gulf will comply with applicable rules and not with any of Staff's definitions that are inconsistent with those rules. Gulf also objects to any request that calls for information that is not within the scope of discovery under the applicable rules and law. Furthermore, Gulf objects to any definition or request that seeks to encompass persons or entities other than Gulf who are not parties to this action and thus are not subject to discovery. Information of affiliated companies, including the Southern Company, that is directly relevant to Gulf's rate request, including information regarding transactions or cost allocations among Gulf and its affiliated companies may be provided, upon request. Otherwise, no responses to the requests will be made on behalf of persons or entities other than Gulf. Gulf objects to any request that calls for Gulf to perform analyses that it has not otherwise performed in support of its case and would not normally

perform in the ordinary course of its business because there is no such requirement under the applicable rules and law.

Additionally, Gulf generally objects to Staff's requests to the extent that they call for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law. Gulf will provide a privilege log in accordance with the applicable law or as may be agreed to by the parties to the extent, if at all, that any request calls for the production of privileged or protected information.

Further, in certain circumstances, Gulf may determine upon investigation and analysis that information responsive to certain requests to which objections are not otherwise asserted is confidential and proprietary and should be produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to provide such information in response to such a request, Gulf is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement, protective order, or the procedures otherwise provided by law or in the Order Establishing Procedure. Gulf hereby asserts its right to require such protection of any and all information that may qualify for protection under the Florida Rules of Civil Procedure, the Order Establishing Procedure, and all other applicable statutes, rules and legal principles.

Gulf generally objects to Staff's interrogatories to the extent that they call for the production of documents on the ground that such a request is beyond the scope of Rule 1.340 of the Florida Rules of Civil Procedure.

SPECIFIC OBJECTIONS

Interrogatories 12-14: Gulf objects to Commission Staff's Interrogatory Numbers 12, 13 and 14 – on the grounds that they are inconsistent with the Commission's O&M benchmark policy, not relevant to the subject matter of this case or reasonably calculated to lead to the discovery of admissible evidence, and unduly burdensome.

Inconsistency With Commission O&M Benchmark Policy

MFRs C-37, C-39, and C-41 all relate to the Commission's O&M benchmark policy of requiring a utility to explain any instance in which the current test year O&M expenses in a particular functional category have increased over the amount in a benchmark year by more than would be expected as a result of either inflation alone (Production) or customer growth and inflation (all other functions). An overage in any functional category does not preclude the recovery of the requested expense; instead, the benchmark calculation is designed to provide the Commission with additional information to evaluate the reasonableness of the test year request.

To implement this policy, an electric utility is required to provide information that begins on MFR C-39 with the operating and maintenance expenses, by function, for the test year from the utility's most recent rate case (the "benchmark year"). The benchmark year O&M expenses are escalated to the current test year by customer growth (for all functions other than production) and inflation. These escalated O&M expenses from the prior test year are then compared on MFR C-37 to the comparable requested expenses for the current test year. To the extent the requested expenses in a particular functional category exceed the benchmark amount, MFR C-41 provides an explanation for the variance.

In completing these MFRs, the utility is required by Rule 25-6.043(1)(b) to “follow the policies, procedures and guidelines prescribed by the Commission in relevant rules and in the company’s last rate case or in a more recent case involving a comparable utility.” Gulf’s benchmark calculation has fully complied with this rule. In the company’s four most recent rate cases (beginning in 1989), Gulf has provided a benchmark calculation that begins with the Commission-approved level of O&M expenses from the company’s last rate case. To the best of Gulf’s knowledge, other electric utilities have also used their prior test year Commission-approved expenses as the starting point for the benchmark calculation.

The MFRs filed in the current case therefore meet the requirement that its filing “follow the policies, procedures and guidelines . . . in the company’s last rate case. . . .” Gulf’s compliance with this rule is further evidenced by the Commission’s determination – in this case and each of the prior four cases – that Gulf’s MFRs as filed met the filing requirements of the rule. For example, in this case the Commission’s Director of Accounting and Finance advised Gulf by letter dated October 28, 2016 [DN 08536-16] of the staff’s determination that Gulf’s October 12, 2016 filing met the filing requirements imposed by Rule 25-6.043.

In contrast, these interrogatories ask the company to submit “recalculated” or “revised” MFRs which start with actual 2012 O&M expenses, rather than the approved 2012 test year O&M expenses required by Commission policy.

If it is the staff’s intention to advocate a change in Commission benchmark policy, that change should not take place through discovery in the rate case for a single utility. If it is not the staff’s

intention to advocate a change in benchmark policy then, for the reasons stated below, these interrogatories are irrelevant and are not reasonably calculated to lead to the discovery of admissible evidence.

Not Relevant or Designed to Lead to Discovery of Admissible Evidence

The well-established benchmark calculation reflects a fair and logical basis for comparing projected test year O&M expenses to approved expenses from a previous test year. In both halves of the comparison, the O&M expenses are part of a larger picture in which test year revenues are matched with test year expenses, and rates are designed to provide the opportunity to earn a fair rate of return.

Staff's request departs from this logical basis. It creates a mismatch by asking the company to compare projected test year expenses to actual prior year expenses without taking into account the actual prior year revenues or the actual achieved rate of return.

This magnitude of this mismatch is significant. The rates approved in the benchmark year rate case were designed to produce revenues of \$521 million, to cover \$271 million (jurisdictional) of O&M expenses, and to produce a 10.25% return on equity. Due to a number of factors – including the fact that rates did not go into effect until mid-April of the benchmark year and that annual sales were below forecasted levels – the actual 2012 results produced a \$45 million revenue shortfall and, with actual expenses of \$15 million below the approved amount, resulted in a return on equity of only 8.63 percent, well below the bottom of the range of reasonableness.

On an aggregate basis, this demonstrates that facing a \$45 million revenue shortfall, Gulf prudently managed its business so as to reduce its O&M expenses by \$15 million from their originally projected level in order to avoid having its return drop even further below the bottom of its authorized range. In this situation, requiring the company to compare actual 2012 O&M expenses by function to expenses in a 2017 test year in which projected revenues and expenses are part of a consistent framework would be utterly meaningless and is not reasonably calculated to lead to the discovery of relevant, admissible evidence.

Unduly Burdensome

The request to produce recalculated and revised MFRs is unduly burdensome. Gulf does not perform this type of calculation in the ordinary course of business and has never previously performed such a calculation. Even when performing the Commission-prescribed benchmark comparison, MFR C-41 is one of the most time-consuming MFRs to complete because it requires detailed input and analysis by each functional area within the company. This burden would be magnified if the company were required to attempt to identify the extent to which the revenue/expense/return mismatch described above impacts the benchmark comparison for each function.

Respectfully submitted this 28th day of November, 2016.

A handwritten signature in blue ink, appearing to read "Russell A. Badders", is written over a horizontal line.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for Increase in Rates)
By Gulf Power Company)
)


Docket No.: 160186-EI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by electronic mail this 28th day of November, 2016 to the following:

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