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January 19, 2021

-VIA ELECTRONIC FILING-

Adam Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

**RE: Docket No. 20200242: Gulf Power Company's Petition for Approval of
Regulatory Assets Related to the Retirements of the Coal Generation Assets at
Plant Crist Units 4, 5, 6, and 7**

Docket No. 20200007-EI: Environmental Cost Recovery Clause

Dear Mr. Teitzman:

Enclosed for filing on behalf of Gulf Power Company ("Gulf") is a Petition for Waiver of Rule 25-6.0436(7)(a), F.A.C. A copy of this Petition has also been provided via overnight express mail to the Joint Administrative Procedures Committee.

Please contact me if you or your Staff has any questions regarding this filing at (561) 304-5662 or will.cox@fpl.com.

Sincerely,

/s/ William P. Cox
William P. Cox
Fla. Bar No. 0093531

Enclosure

cc: Shaw Stiller, Sr. Attorney
Russell Badders, Esq., VP and Associate General Counsel

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Gulf Power Company’s Petition for Approval of Regulatory Assets Related to the Retirements of the Coal Generation Assets at Plant Crist Units 4, 5, 6, and 7

Docket No: 202000242-EI

In re: Gulf Power Company’s for Waiver of Rule 25-6.0436(7)(a), F.A.C.

In re: Environmental Cost Recovery Clause

Docket No. 20200007-EI

Date: January 19, 2021

PETITION FOR WAIVER OF RULE 25-6.0436(7)(A), F.A.C.

Pursuant to Section 120.542, Fla. Stat, Gulf Power Company (“Gulf” or the “Company”), respectfully petitions the Florida Public Service Commission (“FPSC” or the “Commission”) for a waiver of Rule 25-6.0436(7)(a), F.A.C., so that the Commission can grant the relief requested by Gulf in its petition filed in these dockets on November 10, 2020 (“Crist Coal Retirement Petition”).

In the Crist Coal Retirement Petition, Gulf requested authority to establish two regulatory assets (base and Environmental Cost Recovery Clause (“ECRC”)) related to the unrecovered investments associated with the early retirement of the coal generation assets and capability at Plant Crist Units 4, 5, 6, and 7 (“Crist 4-7”) and the deferral of the recovery of such regulatory assets until base rates are next reset in a general base rate proceeding. In conjunction with this request, Gulf also sought Commission approval for a mid-course correction that reflects the impact of these retirements on Gulf’s 2021 ECRC factors.

As stated in the Crist Coal Retirement Petition, Gulf sought the Commission’s approval to establish regulatory assets for the Crist Units 4-7 capital recovery deficiencies as soon as practicable following an assessment of the damage from Hurricane Sally to the units’ coal

generation assets and capability and the cost to repair those units. Gulf has stated previously in its 2020 Ten Year Site Plan (pp. 86 and 90) that it planned to convert the Crist units 6-7 to natural gas-fired generation in the summer of 2020, which would naturally include the retirement of the Crist Units 6-7 coal assets and capability. However, the timing of those plans to complete the conversion for those units, as well as the retirement of the coal assets and capability for Units 4-7, was not final at the time of the filing of the 2020 Ten-Year Site Plan. It was subsequently determined that Gulf may not have been able to complete the conversion and coal retirements for the Crist units until sometime in Q1 or Q2 2021.

As such, prior to Hurricane Sally, Gulf had planned to file with the Commission for approval of regulatory assets and/or capital recovery schedules for the Crist units coal retirement in 2021 by separate petition or with its planned base rate case filing in compliance with Rule 25-6.0436(7)(a), F.A.C. However, the timing of the Crist units coal retirement was accelerated unforeseeably by the damage to the units from Hurricane Sally. Based on the analysis completed by Gulf following its assessment of the damage to the Crist units from Hurricane Sally, Gulf determined it was the prudent decision to retire the Crist coal assets and capability immediately (October 15, 2020), as opposed to repairing the units damaged by Hurricane Sally and, upon completion of the repairs by January 2021, retiring them six months later in June 2021. Gulf estimated that the early coal retirement would save Gulf and its customers an estimated \$3.6 million.

Gulf made a good faith effort to file the Crist Coal Retirement Petition as soon as practicable following the significant impact of Hurricane Sally in order to make a best effort to comply with the requirements of Rule 25-6.0436(7)(a), F.A.C. to seek Commission approval of these regulatory assets prior to the retirement of the Crist 4-7 coal generation assets and capability.

Given that it was impossible to seek and obtain Commission approval prior to retirement due to the unforeseen damage from Hurricane Sally, Gulf requests a waiver of this rule's requirement for prior Commission approval of the requested regulatory assets.¹

As discussed below, strict enforcement of the rule denying Gulf the requested relief to establish regulatory assets for future cost recovery would create substantial hardship on Gulf in light of the unforeseen impacts of Hurricane Sally on Crist 4-7 coal assets and capability. Granting the waiver would also achieve the purposes of the underlying statutes, Section 350.115, 366.04(2)(f), and 366.06(1), Fla. Stat., as well as the instant Commission rule for which a waiver is sought, to establish an appropriate capital recovery schedule for the retired assets. Importantly, granting the requested relief in the Crist Coal Retirement Petition in conjunction with this waiver request will benefit Gulf's customers by enabling a decrease of \$3.71/1,000 kWh on a monthly typical residential bill through the adjustment of the ECRC factors.

In support of this Petition for Waiver, Gulf states as follows:

I. Petitioner and Attorneys

1. The Petitioner's name and address are:

Gulf Power Company
One Energy Place
Pensacola, Florida 32520
(850) 444-6530
(850) 444-6026 (fax)

¹ Gulf stated in paragraph 6 of its original petition (Crist Coal Retirement Petition) that to the extent necessary to grant the relief requested in that petition, Gulf requests a limited waiver of Rule 25-6.0436(7)(a), F.A.C., and this Petition for Waiver is filed to formally meet the requirements of Sec. 120.542, Fla. Stat. and Rule 28-104.002, F.A.C. for that requested waiver.

Any pleading, motion, notice, order, or other document required to be served upon the petitioner or filed by any party to this proceeding should be served upon the following attorneys and individual:

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2. The Commission has jurisdiction for the relief requested in the Crist Coal Retirements Petition and the instant petition pursuant to Section 120.542, 366.04, 366.05, and 366.06, Fla. Stat. This Petition for Waiver complies with the requirements of Section 120.542, Fla. Stat. and Rule 28-104.002, F.A.C.

3. Effective January 1, 2021, Gulf was legally merged with and into Florida Power & Light Company (“FPL”), with FPL being the surviving legal entity. However, unless and until otherwise authorized by the Commission, FPL and Gulf will remain separate ratemaking entities. Gulf’s headquarters is located at One Energy Place, Pensacola, Florida 32520. Gulf is an electric utility as defined in Section 366.02(2), Florida Statutes.

4. The agency affected is the FPSC, located at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399. This case does not involve reversal or modification of an agency decision or an agency’s proposed action. Therefore, subparagraph (c) and portions of

subparagraphs (b), (e), (f), and (g) of subsection (2) of that rule are not applicable to this Petition. In compliance with subparagraph (d), Gulf states that it is not known which, if any, of the issues of material fact set forth in the body of this Petition may be disputed by any others who may plan to participate in this proceeding. The discussion below demonstrates how Petitioner's substantial interests will be affected by the agency determination.

II. Applicable Rule or Portion of the Rule

5. Gulf seeks a waiver of a portion of the Commission's Rule 25-6.0436(7)(a), F.A.C., as underlined below:

Prior to the date of retirement of major installations, the Commission shall approve capital recovery schedules to correct associated calculated deficiencies where a utility demonstrates that (1) replacement of an installation or group of installations is prudent and (2) the associated investment will not be recovered by the time of retirement through the normal depreciation process.

6. As stated above, Gulf retired the Crist coal assets and capability on October 15, 2020, prior to obtaining Commission approval due to the unforeseen damage caused by Hurricane Sally on September 16, 2020, and the economic benefit for Gulf's customers of immediate early retirement of the impacted Crist coal assets and capability. As a result, Gulf was not able to seek and obtain Commission approval of the base and ECRC regulatory assets for the unrecovered deficiencies for these generation units prior to retirement, as it has now requested through the Crist Coal Retirement Petition.

III. Citation to the Statutes that Rule 25-6.0436 Implements

7. Rule 25-6.0436, F.A.C. implements Section 350.115, 366.04(2)(f), and 366.06(1), Fla. Stat.

IV. Type of Relief Requested

8. Gulf seeks a waiver of the requirement in Rule 25-6.0436(7)(a), F.A.C. for prior approval of the regulatory assets so that the Commission can grant Gulf the requested relief in the Crist Coal Retirement Petition to approve the base and ECRC regulatory assets after the retirement of the Crist coal assets and capability.

V. Specific Facts Demonstrating Substantial Hardship or Violation of Principles of Fairness Justifying a Waiver for Petitioner

9. Gulf's early retirement of the Crist coal assets and capability is a direct result of damage to the Crist units 4-7 from Hurricane Sally, a natural disaster beyond Gulf's control. It would be impossible and patently unfair to require Gulf to seek prior approval for retirement of unit assets and capability that were significantly damaged due to an unforeseeable natural disaster and thereby effectively deny Gulf and its customers the cost savings benefits of that early retirement. A denial of this Petition for Waiver and thereby a rejection of the early retirement request would impose a substantial hardship on Gulf and its customers and violate principles of fairness by forcing Gulf in effect to not retire and instead engage in the uneconomic repair, restoration, and continuing operation of the coal assets and capability of these generation units.

VI. Reasons Why the Waiver Requested Would Serve the Purposes of the Underlying Statutes

10. Gulf's requested limited waiver for the Crist coal early retirement will comply with the purposes of the underlying statutes for Rule 25-6.0436(7)(a) (§§ 350.115, 366.04(2)(f), and 366.06(1), Fla. Stat.) by permitting the Commission to determine an appropriate capital recovery schedule that results in adequate, fair, and reasonable depreciation charges, overall fair and reasonable rates with cost savings for Gulf and its customers, and the reporting to the Commission

of reasonably available data from Gulf necessary for the Commission to exercise its jurisdiction over the utility. Each statutory provision is addressed specifically below.

A. 350.115 Uniform systems and classifications of accounts.—The commission may prescribe by rule uniform systems and classifications of accounts for each type of regulated company and approve or establish adequate, fair, and reasonable depreciation rates and charges.

11. Gulf’s request relief under the waiver permits and asks the Commission for approval to establish fair, adequate, and reasonable depreciation rates and charges associated with the capital recovery of the retired assets through regulatory assets that the Commission would address in Gulf’s next base rate proceeding.

B. 366.04(2)(f) Jurisdiction of commission.—

2) In the exercise of its jurisdiction, the commission shall have power over electric utilities for the following purposes:

...

(f) To prescribe and require the filing of periodic reports and other data as may be reasonably available and as necessary to exercise its jurisdiction hereunder.

12. With the requested limited waiver, Gulf has provided, is providing, and will continue to provide data and periodic reports to the Commission as requested and required by the Commission that it needs to exercise its jurisdiction over Gulf and its electric service rates, including information regarding the appropriate capital recovery schedule and depreciation rates and charges associated with the Crist Units 4-7 coal generation assets and capability.

C. §366.06(1) Rates; procedure for fixing and changing.—

(1) A public utility shall not, directly or indirectly, charge or receive any rate not on file with the commission for the particular class of service involved, and no change shall be made in any schedule. All applications for changes in rates shall be made to the commission in writing under rules and regulations prescribed, and the commission shall have the authority to determine and fix fair, just, and reasonable rates that may be requested, demanded, charged, or collected by any public utility for its service. The commission shall investigate and determine the actual legitimate costs

of the property of each utility company, actually used and useful in the public service, and shall keep a current record of the net investment of each public utility company in such property which value, as determined by the commission, shall be used for ratemaking purposes and shall be the money honestly and prudently invested by the public utility company in such property used and useful in serving the public, less accrued depreciation, and shall not include any goodwill or going-concern value or franchise value in excess of payment made therefor. In fixing fair, just, and reasonable rates for each customer class, the commission shall, to the extent practicable, consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the public utility; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures.

13. Under Gulf's instant Petition for Waiver and associated Crist Coal Retirement Petition, Gulf would not charge any rate unless and until approved by the Commission. The Commission would maintain its jurisdiction and statutory role under Section 366.06(1), Fla. Stat. to fix, fair, just, and reasonable rates, which would include the retirement of the Crist Units 4-7 coal assets and capability. Likewise, the Commission would maintain its authority to allow Gulf to only charge customers electric service rates associated with utility property that is used and useful for serving the public, less accrued depreciation. Gulf's proposal for early retirement will result in an estimated \$3.6 million in customer savings when compared to repairing and restoring the damage to the Crist Units 4-7 coal generation assets and capability.

14. In sum, Gulf's requested waiver and associated Crist Coal Retirement Petition, if granted by the Commission, will achieve the purposes of the underlying statutes. The Commission will continue to have the jurisdiction and authority to regulate Gulf and its electric service rates as specified in Sections 350.115, 366.04(2)(f), and 366.06(1), Fla. Stat. Specifically, the Commission will still have oversight and authority to review and approve the remaining net book values of the retired assets for which capital recovery is sought and the appropriate amortization period, along

with the prudence of the holistic project conversion to natural gas for the Crist units, in Gulf's next base rate proceeding.

VII. Whether Waiver Requested is Permanent or Temporary

15. The requested waiver is permanent in the sense that the Commission approval of the requested regulatory assets would occur after the Crist coal assets and capability and retirement and not prior to the retirement, as required by Rule 25-6.0436(7)(a), F.A.C.

WHEREFORE, for the foregoing reasons pursuant to Section 120.542, Fla. Stat., Gulf Power Company respectfully requests that the Commission grant a waiver of Rule 25-6.0436(7)(a), F.A.C. so that the Commission can grant the relief requested in Gulf's Crist Coal Retirement Petition.

DATED this 19th day of January 2021

Respectfully submitted,

Gulf Power Company

By: /s/ Russell A. Badders

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CERTIFICATE OF SERVICE
Docket No. 20200242-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail or overnight express mail on this 19th day of January 2021 to the following:

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: **Environmental Cost**)
Recovery Clause)

Docket No.: **20200007-EI**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished by electronic mail this 19th day of January 2021 to the following:

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