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December 08, 2008

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

Dear Ms. Cole:

RE: Docket No. 080503-EI

Attached is Gulf Power Company's post workshop comments for the December 3, 2008 Renewable Portfolio Standards workshop.

Sincerely,

*Susan D. Ritenour*

mv

Enclosures

Cc: Beggs & Lane  
Jeffrey A. Stone

**Gulf Power Company's Post Workshop Comments  
December 3, 2008, Renewable Portfolio Standard Workshop  
Docket No. 080503-EI**

**I. Comments Relating to Draft Rule 17.400**

Gulf Power Company is generally supportive of Staff's draft rule. Gulf would like to take this opportunity to offer clarifying language regarding the definition of "Florida renewable energy resources" contained in section 17.400(2)(a) of the draft rule, and to briefly reiterate several points that it has made in previous proceedings.

*(a) Definition of Florida Renewable Energy Resources*

Section 17.400(2)(a) provides as follows:

"Florida renewable energy resources," means electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power that is produced in Florida."

The current definition of "Florida renewable energy resources," could be read to preclude the use of fuels deriving from states other than Florida, despite the fact that the renewable energy generated from such fuels is generated using in-state facilities. Under such an interpretation, biomass-fueled renewable generators located in Northwest Florida would be precluded from obtaining biomass from neighboring states like Alabama and Georgia, and instead would be required to expend additional dollars to transport fuel from the far corners of Florida. Similar problems could arise if attempts were made to harness ocean or wind energy sources that derive from outside of Florida's territory.

Gulf views such a result as being not only at odds with the objective of promoting cost-effective renewable energy within Florida, but also with the statutory definition of "Florida renewable energy resources" in section 366.92(a), Florida Statutes.

Section 366.92(a) provides as follows: “‘Florida renewable energy resources’ means *renewable energy*, as defined in s. 377.803, *that is produced in Florida.*” (emphasis supplied). Section 377.803(4), in turn, provides that: “‘Renewable energy’ means electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, as defined in s. 366.91, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power.”

In short, section 366.92(a) defines “Florida renewable energy resources” as “[r]enewable energy...that is produced in Florida.” It does not require that the *fuels* or *energy sources* used to generate the renewable energy also derive from Florida. The fact that the legislature did not impose such a limitation suggests that no such limitation exists.

In light of the foregoing, Gulf Power proposes modifying section 17.400(2)(a) of the draft rule as follows:

“‘Florida renewable energy resources,’ means electrical, mechanical, or thermal energy produced in Florida from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power.” ~~that is produced in Florida.~~

**(b) Additional Observations and Comments**

In past proceedings, Gulf has offered detailed observations and comments regarding various aspects of the draft rules. Gulf would like to take this opportunity to briefly reiterate several key points for the Commission and Staff’s consideration before final RPS proposals are approved and sent to the legislature.

**(1) Reward/Penalty Mechanism**

Section 17.400(5)(b) of the draft rule provides that a utility which fails to meet or exceed its standards shall be subject to a penalty equal to an amount of up to 50 basis points on the

utility's approved rate of return on equity. Gulf believes that any penalty mechanism incorporated into the rule should be symmetrical, with an opportunity for both a reward and penalty. This could be accomplished by splitting the 50 basis point penalty into a range allowing for a reward or penalty of up to 25 basis points on the utility's approved rate of return on equity. The Commission has experience with this approach. The Generation Performance Incentive Factor or "GPIF" in the fuel docket works in a similar fashion.

**(2) Return on Equity for Self-Built Projects**

Section 17.400(7)(a) of the draft rule provides for recovery through the RECR clause of all costs reasonably and prudently incurred by a utility in connection with the construction of Florida renewable energy resources, including a "separately determined return on equity on total capital costs." It is unclear to Gulf whether the separately determined ROE would be separate to each project or to the RECR clause overall. Gulf recommends that the Commission follow the approach taken in the Environmental Cost Recovery Clause and set the ROE for *all* self-built projects at the utility's "last authorized rate of return." *See*, § 366.8255, *Fla. Stat.* This provides consistency and eliminates the potentially time-consuming and costly process of determining the appropriate ROE during the RECR hearing process.

**(3) Carve-out for Solar and Wind**

Section 17.400(3)(b) of the draft rule requires that a minimum of 25 percent of the RPS be satisfied using solar or wind resources. Like the AARP and Office of Public Counsel, Gulf believes that a carve-out or set-aside, regardless of the level, would be an impediment to the most cost-effective mix of renewables. Gulf therefore suggests excluding the carve-out entirely, or at a minimum, utilizing a multiplier approach. Renewables should be permitted to compete on an

equal footing which, ultimately, should result in the most cost-effective renewable energy mix for Gulf's customers.

**(4) Cost Cap**

Gulf believes that it is of critical importance to the interests of its customers that the rule contain a mechanism to control costs. Section 17.400(5)(e) of the draft rule sets an overall cost cap of 2 percent of total annual revenue from the retail sale of electricity, with 1.5 percent of the cap attributable to Class I renewables and the remaining 0.5 percent attributable to Class II renewables. As stated in subsection (3) above, Gulf has concerns that allocating the cost cap between Class I and Class II renewables would be an impediment to Gulf's obtaining the most cost-effective mix of renewables for its customers.

**(5) Renewable Energy Cost Recovery Clause**

Gulf supports the inclusion of the Renewable Energy Cost Recovery Clause in the draft rule. The Florida Legislature recognized the importance of such a clause when it provided specific authority for cost recovery in section 366.92. The RECR clause also provides a forum and methodology for tracking, recording and reporting costs related to the RPS.

**II. Comments Relating to the alternative Standard Offer Contract Approach presented by Commissioner Skop**

Gulf Power is generally supportive of a Standard Offer Contract approach. However, without more information about specific components, Gulf can not adequately evaluate the proposal offered at the December 3<sup>rd</sup> Workshop. Additional details about cost cap level, nature and level of the goal, cost recovery mechanisms, methods for setting RSOC price levels and handling of self-build options are necessary in order to enable Gulf to adequately evaluate such an alternative. The simplicity, low overhead cost, use of existing legal and regulatory structures and emphasis on keeping renewable energy attribute revenues in Florida are all positive

characteristics of the proposal. Gulf could likely support an appropriately priced Standard Offer Contract approach assuming such an approach incorporated a reasonable cost cap (in the 1% to 2% range), reasonable cost recovery provisions (including cost-recovery for self-build projects), no carve-outs or set-asides, a modest (1% to 5%) allocation to solar rebates, and utility ownership of RECs for resale. Gulf looks forward to future evaluations of more specific proposals and appreciates the Commission's willingness to consider various solutions.