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080410-EG

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Sent: Thursday, January 21, 2010 3:43 PM
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Attachments: 01-21-10 Gulf's Response to NRDC-SACE Motion.pdf

01-21-10 Gulf's
response to NR.

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B. Docket No. 080410-EG

C. Gulf Power Company

D. Document consists of 4 pages.

E. The attached document is Gulf's response to NRDC/SACE's Motion for Reconsideration.

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DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

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January 21, 2010

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

Dear Ms. Cole:

Re: Docket 080410-EG

Enclosed is Gulf Power Company's Response to NRDC/SACE's Motion for Reconsideration in the above referenced docket.

Sincerely,

Susan D. Ritenour (lwr)

mr

Enclosures

cc w/encl.: Beggs and Lane
Jeffrey A. Stone, Esquire

DOCUMENT NUMBER-DATE

00513 JAN 21 0

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Commission Review of Numeric
Conservation Goals for Gulf Power
Company)
)
)
)

Docket No.: 080410-EG

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished by U. S. mail this 21st day of January, 2010, on the following:

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric
conservation goals (Gulf Power Company)

Docket No.: 080410-EG
Filed: January 21, 2010

**GULF POWER'S RESPONSE TO
NRDC/SACE'S MOTION FOR RECONSIDERATION**

Gulf Power Company, by and through its undersigned counsel, and pursuant to Rule 25-22.060, Florida Administrative Code, hereby responds to the Natural Resources Defense Council ("NRDC") and Southern Alliance for Clean Energy's ("SACE") motion for reconsideration and states as follows:

1. On January 14, 2010, NRDC/SACE filed a consolidated motion for reconsideration of Commission Order No. PSC-09-0855-FOF-EG and opposition to Progress Energy Florida's ("PEF") motion for reconsideration of the same Order.

2. In contrast to the limited requests for reconsideration filed by PEF, Gulf Power and Florida Power & Light, NRDC/SACE seek wholesale reconsideration of the Commission's treatment of measures having a customer payback of two years or less (the "Two-Year Payback Measures"). NRDC/SACE do not base their request for reconsideration on points of law or fact which were overlooked by the Commission. Instead, NRDC/SACE contend that the Commission should reverse its ruling on the treatment of Two-Year Payback Measures as a matter of "sound policy." (Motion at p. 9, ¶ 15).

3. As stated in Gulf Power's motion for reconsideration, reconsideration is proper where the Commission overlooked or failed to consider specific facts or points of law in rendering its Order. See, In re: Petition of Rate Increase by Tampa Electric Company, 2009 WL 2589104 (Fla. P.S.C. Aug. 21, 2009) (citing Stewart Bonded Warehouse, Inc. v. Bevis, 294

So.2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962) and Pingree v. Quaintance, 394 So.2d 161 (Fla. 1st DCA 1981)). This is the “sole and only purpose of a motion for reconsideration.” In re Investigation of Vilaire Communication, Inc., 2008 WL 2091045 at *1 (Fla. P.S.C. May 8, 2008)

4. As this Commission has previously recognized, “[i]n a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Reconsiderations based on rearguing facts and evidence available to us at the time [the order] was granted is reversible error on appeal.” In re Investigation of Vilaire Communication, Inc., 2008 WL 2091045 at *1 (Fla. P.S.C. May 8, 2008).

5. NRDC/SACE’s motion does not state proper grounds for reconsideration and fails as a matter of law.

WHEREFORE, for the foregoing reasons, Gulf Power respectfully requests that the Commission deny NRDC/SACE’s motion for reconsideration.

Respectfully submitted this 21st day of January, 2010.

/s/ Steven R. Griffin

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