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**Subject:** Electronic Filing - Docket 110138-E1

**Attachments:** 110138.FRF.PHBrief.1-9-12.pdf

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b. 110138-E1

In Re: Petition for Increase in rates by Gulf Power Company.

c. Document being filed on behalf of the Florida Retail Federation.

d. There are a total of 30 pages.

e. The document attached for electronic filing is The Florida Retail Federation's Brief and Post-Hearing Statement of Issues and Positions (Part I).  
 (see attached file: 110138.FRF.PHBrief.1-9-12.pdf)

Thank you for your attention and assistance in this matter.

**Rhonda Dulgar****Secretary to Jay LaVia & Schef Wright**

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 00150 JAN-9 2012  
 FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for increase in rates by Gulf Power Company.

DOCKET NO. 110138-EI

DATED: JANUARY 9, 2012

**THE FLORIDA RETAIL FEDERATION'S BRIEF AND POST-HEARING STATEMENT OF ISSUES AND POSITIONS (PART I)**

The Florida Retail Federation ("FRF" or the "Federation"),<sup>1</sup> pursuant to the Order Establishing Procedure in this docket, Order No. PSC-11-0307-PCO-EI, and the Commission's instructions at the conclusion of the evidentiary hearing in this docket, hereby submits the Federation's Brief and Post-Hearing Statement of Issues and Positions (Part I), which addresses all issues in this case other than Issues 11, 62, 63, 80, 106, 107, and 108, which are the subject of pending partial settlements that are to be considered by the Commission at its agenda conference on January 10, 2012. If necessary, the FRF will file a supplemental post-hearing statement addressing those issues on January 11, 2012.

**SUMMARY OF THE FLORIDA RETAIL FEDERATION'S REQUESTED RELIEF**

Gulf Power Company's requested base rate increase of approximately \$101.6 million per year (including the impacts of transferring the costs of the Crist Turbine Upgrade Project from the Environmental Cost Recovery Clause into base rates) is excessive and contrary to the public interest. If this increase were granted, the resulting rates would be unfair, unjust, unreasonable, and greater than necessary to be fairly compensatory to the Company. In fulfilling its statutory mandate to regulate public utilities in the public interest, the Commission must ensure that Gulf

<sup>1</sup> In this Brief and Post-Hearing Statement, the following additional abbreviations are used: "Consumer Intervenors" refers to the Office of Public Counsel, the FRF, the Florida Industrial Power Users Group, and the Federal Executive Agencies of the United States of America. The Office of Public Counsel is abbreviated as "OPC." The Florida Industrial Power Users Group is abbreviated as "FIPUG." The Federal Executive Agencies are abbreviated as "FEA." Gulf Power Company is abbreviated as "Gulf," "Gulf Power," or the "Company." Commission refers to the Florida Public Service Commission. Citations to the hearing transcript are in the form "TR (page number)," with the name of the witness preceding the TR cite where appropriate. Citations to hearing exhibits are in the form "EXH (Exhibit number) (page number)." REPORT NUMBER - DATE

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provides safe, adequate, and reliable electric service to its customers at the lowest possible cost, and Gulf agrees that this is its duty. Crosswhite, TR 91. Competent, substantial evidence of record demonstrates that Gulf can, in fact, provide safe, adequate, and reliable service, recover all of its reasonable and prudent operating costs, and have an opportunity to earn a reasonable return on its reasonable and prudent investment in assets used and useful in providing service to the public, with total base rate increases of approximately \$17.2 million per year. Accordingly, in the public interest, the Commission should deny Gulf's requested increase of \$101.6 million per year and grant Gulf base rate increases of approximately \$17.2 million per year.

In determining a utility's fair, just, and reasonable rates, the Commission generally has the legal ability to choose within the range of competing reasonable values on each cost-determining factor in dispute, provided that the Commission's decisions must be supported by competent, substantial evidence of record. To fulfill its statutory duty to protect and promote the public interest by ensuring that Gulf provides safe, adequate, and reliable service at the lowest possible cost, the Commission should – indeed, arguably must – choose the lowest value supported by competent, substantial evidence for each cost-determining factor in the case. Stated differently, in examining each factor, the Commission must evaluate whether Gulf needs the amount requested in order to provide safe, adequate, and reliable service, and the Commission should allow Gulf only such amounts as Gulf actually needs to do so.

When the Commission follows this clear, statute-based approach in this case, the evidence shows that the Commission should increase Gulf's base rates by only \$17.2 million per year, for the following major reasons.

**Return on Equity.** Gulf's requested after-tax return on equity of 11.7 percent equates to a before-tax return greater than 19 percent. This is excessive and unjustified relative to current capital market conditions and relative to the minimal risks that Gulf faces as the monopoly provider of a necessity – electric service – pursuant to regulation by the Florida Public Service Commission under applicable Florida Statutes. In particular, the fact that Gulf recovers approximately 66 percent of its total revenues through “cost recovery clauses” greatly reduces

the risks that Gulf faces, thus rendering its requested 11.7 percent ROE unreasonable and overreaching. As testified to by Professor J. Randall Woolridge, an ROE of 9.25% is fair, just, and reasonable for Gulf under current capital market conditions, and accordingly, Gulf does not need an ROE any greater than this in order to provide safe, adequate, and reliable service. The Commission should accordingly use this reasonable 9.25% rate of return on equity to establish Gulf's base rates in this case.

**Speculative Nuclear Plant Site.** Gulf seeks to increase its base rates to earn a return on investment in a site that it claims will preserve an option for a future nuclear plant, even though that site is not used and useful in providing service to Gulf's customers, even though the site will not be used and useful in providing service to Gulf's customers in 2012 or at any other known time in the future, and even though, according to Gulf's own Ten-Year Site Plan, Gulf has no plans to use the site for any purpose for more than a decade, if ever. Gulf has another site in its rate base that has been there for decades without being used; it doesn't need another. The Commission should remove this item from Gulf's rate base and rates for the 2012 test year because Gulf does not need this site to provide safe, adequate, and reliable service to its customers.

**Incentive Compensation Benefitting Gulf's Shareholders.** Gulf asks the Commission to require its customers to pay for some \$12.5 million per year in incentive compensation for upper management personnel. This is inappropriate, because the Company's incentive program is heavily weighted toward promoting the Company's earnings (and its parent company's earnings) rather than to benefitting customers. If Gulf and its shareholders wish to compensate its executives for the value that they provide to the shareholders, Gulf is welcome to do so, but with shareholder funds. Gulf does not need this \$12.5 million per year to provide safe, adequate, and reliable service to its customers, and accordingly, the Commission should disallow this request when setting Gulf's rates in this docket.

**Storm Reserve Accrual.** Gulf seeks to increase its rates by approximately \$3.3 million per year through an unwarranted increase in its storm reserve accrual; granting Gulf's request

would bring Gulf's total annual storm reserve accrual to some \$6.8 million per year (\$6.539 million per year jurisdictional, TR 1548). However, Gulf does not need the increase, nor does it even need the current accrual of \$3.5 million per year in order to provide safe, adequate, and reliable service. In light of the fact that Gulf's current storm reserve is greater than it was when Gulf's service area was struck by Hurricane Ivan in 2004, the fact that the Commission has demonstrated – for Gulf and for other Florida utilities – that it will ensure that Gulf has adequate funds to restore service promptly after any unusually severe storm, the fact that Gulf's average storm restoration costs over the past ten years, excluding extreme storms, have been only \$575,566 per year, the Commission should disallow Gulf's requested storm reserve accrual (of \$6.8 million per year) and instead allow Gulf an accrual of no more than \$600,000 per year, as supported by witness Helmuth Schultz. TR 1551, EXH 37, Schedule C-1.

**Return on Non-Used-and-Useful Construction Work in Progress.** Gulf has also sought to inappropriately and prematurely include \$60.9 million of Construction Work in Progress (“CWIP”) in its rate base, even though this amount is not for any asset that will be used and useful in providing service during the 2012 test year. Chriss, TR 1309-11. Moreover, Gulf has not demonstrated that it needs any return on this amount in order to maintain its financial integrity, or that it needs this return to provide safe, adequate, and reliable service, and accordingly, the Commission should disallow this amount from Gulf's rate base in this case. (Of course, Gulf has the opportunity to file another rate case if and when costs associated with this CWIP amount become used and useful.)

**Other Claimed Rate Base and Expense Items Should be Disallowed.** As developed by the witnesses for the Citizens of the State of Florida, Gulf has requested that its rates be set assuming that a number of rate base items and operating and maintenance (“O&M”) expense items will be unreasonably high, relative to their recent historical levels, and that customers' rates be set to allow Gulf to recover amounts from affiliate transactions that are unreasonable and not needed by Gulf to fulfill its duty to provide safe, adequate, and reliable service at the lowest possible cost.

In summary, the combined evidence submitted by witnesses for the Consumer Intervenors in this case shows that Gulf can provide safe, adequate, and reliable service with a base rate increase of no more than \$17.2 million per year. The Commission should set Gulf's base rates in this proceeding by allowing increases totaling no more than this amount and require Gulf to refund the corresponding amount from the interim rate increase that Gulf was awarded earlier in these proceedings.

## **POST-HEARING STATEMENT OF ISSUES AND POSITIONS**

### **Preliminary Statement**

In addition to the FRF's discussions of specific issues contained herein, the FRF adopts the analyses and arguments of the Citizens of the State of Florida as set forth in their brief filed by the Office of Public Counsel.

### **Legal Issue**

**Issue 1:** Does Section 366.93, Florida Statutes, support Gulf's proposal to include the 4,000 acre Escambia Site and the costs of associated evaluations in Plant Held for Future Use as nuclear site selection costs?

**FRF Position:** \*No.\*

With respect to Gulf's inappropriate attempts to confuse cost recovery for the purported nuclear site under Section 366.93, Florida Statutes, the FRF adopts the argument and analysis of the Citizens of the State of Florida as set forth in their Brief on Issue 1.

### **Test Period and Forecasting**

**Issue 2:** Is Gulf's projected test period of the 12 months ending December 31, 2012 appropriate?

**STIPULATED**

**Issue 3:** Are Gulf's forecasts of Customers, KWH, and KW by Rate Class and Revenue Class, for the 2012 projected test year appropriate?

**STIPULATED**

**Issue 4:** Are Gulf's estimated revenues from sales of electricity by rate class at present rates for the projected 2012 test year appropriate?

**STIPULATED**

**Issue 5:** What are the appropriate inflation, customer growth, and other trend factors for use in forecasting the test year budget?

**STIPULATED**

**Issue 6:** Is Gulf's proposed separation of costs and revenues between the wholesale and retail jurisdictions appropriate?

**STIPULATED**

#### **Quality of Service**

**Issue 7:** Is the quality and reliability of electric service provided by Gulf adequate?

**STIPULATED**

#### **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?

**FRF Position:** \*Yes. Specifically, the reasonable and prudent costs of the Crist Turbine Upgrade Project should be included in rate base and recovered through base rates rather than through the Environmental Cost Recovery Clause. These costs should be included in rate base using the conventional average test year rate base methodology.\*

**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?

**FRF Position:** \*Yes. The reasonable and prudent costs of the Crist Turbine Upgrade Project should be included in rate base and recovered through base rates rather than through the Environmental Cost Recovery Clause. These costs should be included in rate base using the conventional average test year rate base methodology.\*

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

**FRF Position:** \*No.\*

**Issue 11:** Should the capital cost of the Perdido renewable landfill gas facility 1 and 2 be permitted in Gulf's rate base?

**FRF Position:** \*This issue is the subject of a pending Motion for Approval of Partial Settlement Agreements. If necessary, the FRF will file a supplemental brief addressing this issue on January 11, 2012.\*

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

**FRF Position:** \*None. Gulf's incentive compensation expenses should be borne entirely by Gulf's shareholders, whose interests the incentive plan is designed to promote, and not by consumers. Moreover, no incentive compensation, which is clearly an operating expense, should be capitalized.\*

**Issue 13:** **DROPPED**

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

**FRF Position:** \*Gulf's plant in service for the 2012 test year should be reduced by \$7,502,049.\*

**Issue 15:** What amount of Distribution Plant in Service should be included in rate base?

**STIPULATED**

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

**FRF Position:** \*No. The Commission should reduce Gulf's test year rate base by \$387,596 on a retail jurisdictional basis (\$401,146 system).\*

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

**FRF Position:** \*No. The Commission should remove \$79,141 from Gulf's 2012 test year rate base, because to allow these expenses to be included would force Gulf's customers to subsidize losses incurred by SouthernLINC, an unregulated affiliate of Gulf Power.\*

**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? (Fallout Issue)

**FRF Position:** \*No. The appropriate level of Plant in Service for the 2012 test year is \$2,625,391,000 on a retail jurisdictional basis.\*

**Issue 19:** What are the appropriate depreciation parameters and resulting depreciation rate for AMI Meters (Account 370)?

**STIPULATED**

**Issue 20:** Should a capital recovery schedule be established for non-AMI meters (Account 370)? If yes, what is the appropriate capital recovery schedule?

**STIPULATED**

**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? (Fallout Issue)

**FRF Position:** \*No. Consistent with the adjustments recommended by OPC's witnesses related to transmission capital additions, the Crist turbine upgrade transfer to base rates, capitalized incentive compensation, and the Smart Grid Investment Grant Program projects, the appropriate 2012 test year jurisdictional amount of Accumulated Depreciation is \$1,180,779,000.\*

**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?

**FRF Position:** \*No. This amount does not represent investment in any asset that is, or will be, used and useful in providing electric service to Gulf's customers during the 2012 test year, and Gulf has not shown that it needs any part of this amount to maintain its financial integrity. Accordingly, the full amount should be removed from Gulf's rate base in setting rates for the 2012 test year.\*

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

**FRF Position:** \*Yes.\*

**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?

**FRF Position:** \*No. Gulf should not be allowed to include the site in rate base, nor should Gulf be allowed to accrue AFUDC on the site, as there is no construction being done on the site, because the site is not used and useful, and because the site is unlikely to become used and useful for well over a decade, if ever.\*

### **DISCUSSION**

Gulf seeks to increase its base rates to earn a return on an investment in a site that it claims will preserve an option for a future nuclear plant, even though that site is not used and useful in providing service to Gulf's customers, even though the site will not be used and useful in providing service to Gulf's customers in 2012 or at any other known time in the future, and even though, according to Gulf's own Ten-Year Site Plan, Gulf has no plans to use the site for any purpose for more than a decade, if ever. Chriss, TR 1306-09, EXH 190 at 68. This request is unreasonable and unjustified, and if it were approved, the resulting rates would be unfair, unjust, and unreasonable. The Commission should remove this item from Gulf's rate base and rates for the 2012 test year because Gulf does not need this site to provide safe, adequate, and reliable service to its customers. If and when the site becomes used and useful, or perhaps even when Gulf develops a definitive plan to use the site to serve its customers, if ever, Gulf will have a full opportunity to request that its investment in the site be included in its rate base and base rates.

With respect to Gulf's inappropriate attempts to confuse cost recovery for the purported nuclear site under Section 366.93, Florida Statutes, the FRF adopts the argument and analysis of the Citizens of the State of Florida as set forth in their Brief on Issue 1.

**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? (Fallout Issue)

**FRF Position:** \*No. The appropriate jurisdictional amount of Property Held for Future Use to be included in rate base for the 2012 test year is \$5,482,000.\*

**Issue 26:** Should any adjustments be made to Gulf's fuel inventories?

### **STIPULATED**

**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?

**FRF Position:** \*Yes. Gulf should not be allowed to include an accrual for its storm damage reserve in base rates of any more than \$600,000 per year. Moreover, Gulf's existing reserve, together with its ability to obtain prompt storm cost relief from the Commission, with or without securitization, are adequate to address any reasonably foreseeable storm damages, such that the Commission should consider suspending accruals to Gulf's storm reserve when setting rates in this case.\*

### **DISCUSSION**

Gulf seeks to increase its rates by approximately \$3.3 million per year through an unwarranted increase in its storm reserve accrual; granting Gulf's request would bring Gulf's total annual storm reserve accrual to some \$6.8 million per year (\$6.5 million jurisdictional). However, Gulf does not need the increase, nor does it even need the current accrual of \$3.5 million per year in order to provide safe, adequate, and reliable service. In light of the fact that Gulf's current storm reserve is greater than it was when Gulf's service area was struck by Hurricane Ivan in 2004, in light of the fact that the Commission has demonstrated – for Gulf specifically as well as for other Florida utilities – that it will ensure that Gulf has adequate funds to restore service promptly after any unusually severe storm, and in light of the fact that Gulf's

average storm restoration costs over the past ten years, excluding extreme storms, have been only \$575,566 per year (TR 1551; EXH 37, Schedule C-1), the Commission should disallow Gulf's requested storm reserve accrual of \$6.5 million per year jurisdictional and instead allow Gulf an accrual of no more than \$600,000 per year, as supported by the Citizens' witness Helmuth Schultz. TR 1556.

That Gulf does not need a storm reserve accrual of any more than \$600,000 per year is readily demonstrated by Gulf's own direct experience following Hurricane Ivan, the strongest storm to strike Gulf's service area in recent memory. As context, the Commission should note the status of Gulf's storm reserve before Ivan struck and the cost impacts experienced by Gulf as a result of Ivan, as recited by the Commission in its order approving a storm surcharge for Gulf following the storm: "Prior to Hurricane Ivan, Gulf had accumulated \$27.8 million in its property insurance reserve. . . . [T]he total estimated restoration costs related to Hurricane Ivan are \$124.2 million, net of insurance reimbursements." In Re: Petition for Approval of Stipulation and Settlement Associated with Hurricane Ivan's Impact on Gulf Power Company, Docket No. 050093-EI, Order No. PSC-05-0250-PAA-EI at 2. Even in light of this tremendous disparity between the costs that Gulf needed to incur to restore service and its then-existing storm reserve balance, Gulf was able to restore service timely and to recover – with the agreement of the consumer parties in the proceedings for recovery of Ivan-related costs – its reasonable and prudent costs to restore service.

That Gulf's ability to restore service, despite the magnitude of the post-Ivan storm restoration costs relative to Gulf's storm reserve balance at the time Ivan struck, was entirely adequate is demonstrated by the testimony of Gulf's witness Scott Moore. In the December 13 session of the hearing in this docket, Mr. Moore was asked the following question:

- Q. Did Gulf have sufficient funding available to Gulf Power, to the company, to restore service promptly following each of the storms that impacted your service area in 2004 and 2005?"

TR 623.

Mr. Moore's response was immediate and unequivocal:

- A. I will speak to it from the operational perspective only. We absolutely had everything we needed to be able to respond to storm restoration in a timely manner and to make sure that we restored normalcy as soon as possible following those storms.

Id. (Emphasis supplied.)

In other words, even with a storm reserve less than Gulf's current reserve (which is approximately \$31,093,000, Erickson, TR 962), and even having been impacted by a major storm – Hurricane Ivan – that caused damages of \$124.2 million (Order No. PSC-05-0250-PAA-EI at 2), which amount was several times greater than Gulf's then-current reserve, Gulf “absolutely had everything we needed” to respond and restore service. This is the proof in the pudding of the Commission's fair and prompt treatment of utilities' storm restoration costs, and proof that Gulf does not need a reserve any greater than its current level of \$31 million.<sup>2</sup>

Accordingly, Gulf does not need any additional accrual to its storm reserve, even if it were to suffer the impacts of another Ivan-class storm, and the Commission should, accordingly, deny Gulf's requested accrual to its storm reserve of \$6.8 million per year (\$6.5 million per year jurisdictional), because Gulf does not need these monies in order to provide safe, adequate, and reliable service to its customers. At most, Gulf should be allowed to accrue \$600,000 per year to its storm reserve, as supported by the Citizens' witness Helmuth Schultz. TR 1556.

Gulf's putative reliance on the study (“Gulf Power Company: Transmission and Distribution Hurricane Loss and Reserve Performance Analysis”) performed by EQECAT, included as Exhibit 19, Schedule 5, to Ms. Erickson's testimony, is misplaced and unreasonable. This study contains the following disclaimer:

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<sup>2</sup> The Commission will also readily observe that, following the lesser cost impacts (about \$63.6 million) of Hurricanes Dennis and Katrina in 2005, Gulf was again able to get prompt recovery and approval of a continuing surcharge sufficient to recover storm restoration costs incurred due to those storms and to replenish its reserve, again with a stipulation with the consumer parties to that docket. In Re: Petition for Issuance of Storm Recovery Financing Order by Gulf Power Company, Docket No. 060154-EI, Order No. PSC-06-0601-S-EI at 1-2, 7.

THE DATA AND METHODOLOGY DESCRIBED HEREIN, AND THE ANALYSIS AND SERVICES PROVIDED HEREIN, ARE PROVIDED “AS IS” WITHOUT ANY WARRANTY OR GUARANTY OF ANY KIND. NEITHER EQECAT NOR ANY OF ITS OFFICERS, DIRECTORS, AGENTS, SUBSIDIARIES OR AFFILIATES GUARANTEES OR WARRANTS THE CORRECTNESS, COMPLETENESS, CURRENTNESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE ANALYSIS PROVIDED HEREUNDER.

EXH 19, Schedule 5 at page ii.

Aside from being unsubstantiated hearsay, even under the broad standard set forth in 120.569(1)(f), Florida Statutes, this purported “evidence” does not begin to rise to the level of competent, substantial evidence required under Florida administrative law. The Chapter 120 standard, which allows consideration of “all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida,” simply does not apply to this report, because no reasonable person would rely on a document that, by its own terms, is expressly not warranted as to its correctness or its fitness for any purpose. Thus, reliance on this unfit and unwarranted study would constitute clear and reversible error.

Finally, Gulf’s position on rate shock is inconsistent as between the possible impact of a storm surcharge after some future storm even and the immediate impact of Gulf’s proposed base rate increases in this docket. Gulf’s claim that it is concerned about the possible rate shock of a storm surcharge of \$2.71/1,000 kWh is patently inconsistent with its proposed base rate increase to its Residential customers in this rate case of \$11.85 per 1,000 kWh. MFR A-2 at page 1 of 5. The immediate and certain base rate increase (but for Commission action to reduce the requested increase) proposed by Gulf for implementation in 2012 is more than 4 times the possible storm surcharge touted by Gulf as the basis for its “rate shock” concerns. Although Ms. Erickson attempted to avoid answering the obvious question (to wit, if \$2.71 per 1,000 kWh is rate shock, isn’t \$11.85 per 1,000 kWh much greater rate shock?), TR 2332-34, Ms. Erickson eventually admitted that it is “a very tough call.” TR 2334. (In her efforts to avoid answering the question, Ms. Erickson revealed that she did not even know what the cost impact of Hurricane Ivan was —

saying “if I recall right, around \$50 million in damage,” TR 2334, a rather surprising admission for the Company’s witness supporting its request for an effective doubling of its storm reserve accrual.)

The FRF believes that this is not a tough call at all: if a surcharge of \$2.71 per 1,000 kWh constitutes rate shock, it is inescapable that an immediate rate increase of \$11.85 per 1,000 kWh is far greater rate shock. The Commission should reject this fabricated justification for Gulf’s requested increase in its storm reserve accrual, and instead focus on what Gulf actually needs to provide safe, adequate, and reliable service. With respect to the storm reserve accrual, since Gulf already has a reserve greater than it had when Hurricane Ivan made landfall, Gulf does not need any additional reserve, and the Commission should accordingly set the accrual to zero, or certainly to no more than \$600,000 per year, for purposes of setting rates in this docket. Alternately, if the Commission shares Gulf’s concern about rate shock being imposed on its customers, the Commission should allow rate increases in this docket of no more than \$2.71 per 1,000 kWh of Residential service.

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

**FRF Position:** \*No. Consistent with the Commission’s long-standing policy rejecting the inclusion of unamortized rate case expense in Working Capital, Gulf’s test year Working Capital should be reduced by \$2,450,000.\*

**Issue 29:** **DROPPED**

**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? (Fallout Issue)

**FRF Position:** \*No. The appropriate amount of Working Capital to be allowed for setting base rates for the 2012 test year is \$147,821,000, reflecting adjustments to remove unamortized rate case expense and stipulated corrections to Gulf’s fuel inventories.\*

**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? (Fallout Issue)

**FRF Position:** \*No. The appropriate jurisdictional rate base for the 2012 test year is \$1,597,915,000.\*

### **Cost of Capital**

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

**FRF Position:** \*The appropriate amount of deferred income taxes for the 2012 test year is \$245,119,000. If the Commission were to allow Gulf to annualize the Crist turbine upgrades in rate base, contrary to the positions of the Consumer Intervenors, the Commission should either increase the amount of deferred income taxes in Gulf's capital structure or reduce rate base to reflect the impact of those projects on deferred income taxes.\*

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

**FRF Position:** \*The appropriate amount of unamortized ITCs is \$2,793,000, and the appropriate ITC cost rate is 7.10%.\*

**Issue 34:** What is the appropriate cost rate for preferred stock for the 2012 projected test year?

**STIPULATED**

**Issue 35:** What is the appropriate cost rate for short-term debt for the 2012 projected test year?

**STIPULATED**

**Issue 36:** What is the appropriate cost rate for long-term debt for the 2012 projected test year?

**STIPULATED**

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

**FRF Position:** \*9.25%.\*

### **DISCUSSION**

Gulf's requested after-tax return on equity of 11.7 percent equates to a before-tax return greater than 19 percent. This is excessive and unjustified relative to current capital market conditions and relative to the minimal risks that Gulf faces as the monopoly provider of a necessity – electric service – pursuant to regulation by the Florida Public Service Commission under applicable Florida Statutes. In particular, the fact that Gulf recovers approximately 66 percent of its total revenues through “cost recovery clauses” greatly reduces the risks that Gulf faces, thus rendering its requested 11.7 percent ROE unreasonable and overreaching. Chriss, TR 1303-04, EXH 203. This high percentage of revenues recovered through cost recovery charges greatly reduces Gulf's exposure to regulatory lag, as does the Commission's use of projected test years in setting rates. TR 1304.

Moreover, the Commission's attention to Gulf's overreaching ROE request should be heightened by the Commission's concern for the people Gulf serves and for the State's economy. In the current difficult economic times, and in view of the fact that Gulf's rates are already among the highest in the Southeastern United States, Chriss, TR 1301-02, EXH 27, more money flowing out of Floridians' pockets can only suppress economic activity in Florida. See also the extensive testimony provided by public witnesses at the customer service hearings. Customer Service Hearing Transcript (Pensacola) 25-162, and Customer Service Hearing Transcript (Panama City) 23-110. No customers supported Gulf's requested increase. Perhaps the overall sentiment and position of customers was summarized best by Representative Broxton, who simply said, on behalf of his constituents, that “we are at a breaking point. . . . Every business, every family has not only had to cut the fat, they have had to cut the bone and the flesh.” Pensacola Transcript at 25.

As testified to by Professor J. Randall Woolridge, an ROE of 9.25% is fair, just, and reasonable for Gulf under current capital market conditions, and accordingly, Gulf does not need an ROE any greater than this in order to provide safe, adequate, and reliable service. The Commission should accordingly use this reasonable 9.25% rate of return on equity to establish Gulf's base rates in this case.

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

**FRF Position:** \*5.89% (Regulatory Capital Structure basis).\*

### **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?

**FRF Position:** \*No.\*

**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?

**FRF Position:** \*Yes. The Commission should impute a 2 percent compensation payment from Gulf's non-regulated affiliates to Gulf, thereby increasing Gulf's 2012 test year operating revenues by \$1,500,000.\*

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

**FRF Position:** \*Yes.\*

**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? (Fallout Issue)

**FRF Position:** \*No. The appropriate jurisdictional amount of operating revenues for the 2012 test year is \$484,019,000.\*

**Issue 43:** Has Gulf made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause?

### **STIPULATED**

**Issue 44:** Has Gulf made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Conservation Cost Recovery Clause?

**STIPULATED**

**Issue 45:** Has Gulf made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause?

**STIPULATED**

**Issue 46:** Has Gulf made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause?

**STIPULATED**

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

**FRF Position:** \*No.\*

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

**FRF Position:** \*Yes.\*

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

**FRF Position:** \*Yes.\*

**Issue 50:** **DROPPED**

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

**FRF Position:** \*Yes. Allocation factors should be based on cost-causative relationships to the extent possible and should also recognize the benefits received from the services provided. Gulf inappropriately uses a “financial” factor to allocate affiliate administrative and general expenses to regulated companies. In particular, the factor includes fuel and purchased power expenses, which over-allocates costs to regulated operating utility companies. Correcting for this over-allocation, Gulf’s test year expenses should be reduced by \$832,284.\*

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

**FRF Position:** \*Yes. Southern Company inappropriately charges all affiliates, including the regulated utility companies, for SouthernLINC charges that are not covered by commercial revenues. This results in Gulf subsidizing SouthernLINC, which is inappropriate, contrary to Commission policy, and contrary to the public interest. The Commission should reduce Gulf's test year expenses by \$294,765.\*

**Issue 53:** Should the costs related to Work Order 466909, associated with a system-wide asset management system, be removed from operating expenses?

**STIPULATED**

**Issue 54:** **DROPPED**

**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?

**FRF Position:** \*No. Gulf failed to justify the costs associated with these work orders, and accordingly, the Commission should reduce test year expenses by \$186,780.\*

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

**FRF Position:** \*Yes. Because Gulf's work order does not document what service is being provided to Gulf and Gulf's customers and does not document what, if any, benefits were provided to Gulf and its customers by the work charged, the Commission should reduce Gulf's test year expenses by \$116,841.\*

**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?

**FRF Position:** \*Yes. Because the benefit review that is the subject of this work order does not occur annually, the cost should be amortized over two years. The Commission should accordingly reduce Gulf's test year expenses by \$18,067.\*

**Issue 58:** Should the costs related to Work Order 49SWCS, related to a customer summit that is only held every other year, be removed from operating expenses?

**STIPULATED**

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

**FRF Position:** \*Yes. Test year expenses should be reduced by \$20,102 and \$102,411, respectively.\*

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

**FRF Position:** \*Yes. Consistent with the Commission's long-standing policy of disallowing expenses that are image-enhancing for the benefit of the Company's shareholders, the Commission should reduce Gulf's test year expenses by \$17,482.\*

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

**FRF Position:** \*Yes. Because Gulf has not demonstrated that these legal expenses benefit customers, the Commission should reduce Gulf's test year expenses by \$33,690.\*

**Issue 62:** Should operating expenses be adjusted to remove aircraft expenses in Work Orders 486030 charged by SCS?

**FRF Position:** \*This issue is the subject of a pending Motion for Approval of Partial Settlement Agreements. If necessary, the FRF will file a supplemental brief addressing this issue on January 11, 2012.\*

**Issue 63:** Should any adjustments be made to expenses related to use of corporate leased aircraft?

**FRF Position:** \*This issue is the subject of a pending Motion for Approval of Partial Settlement Agreements. If necessary, the FRF will file a supplemental brief addressing this issue on January 11, 2012.\*

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

**FRF Position:** \*Yes. Because the expenses that are the subject of this work order represent costs of shareholder services, which benefits shareholders but not customers, the Commission should reduce Gulf's test year expenses by \$96,851.\*

**Issue 65:** What is the appropriate amount of advertising expenses for the 2012 projected test year?

**STIPULATED**

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

**FRF Position:** \*No. Gulf's customers should not be required to pay the interest costs of a deferred compensation program that benefits a limited number of Gulf's upper management personnel. Moreover, Gulf has not justified the high interest rate on these amounts. Accordingly, the Commission should reduce Gulf's 2012 test year expenses by \$355,059 on a jurisdictional basis.\*

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

**FRF Position:** \*No. Gulf failed to justify its request that Gulf customers be required to pay for these early retirement costs, which are associated with early retirement benefits provided to Southern Company Services employees who have not worked for SCS since the 1980s and 1990s, and further failed to even explain how Gulf's customers benefit from services provided by the SCS employees. Accordingly, the Commission should reduce Gulf's test year expenses by \$50,340.\*

**Issue 68:** Should Executive Financial Planning Expenses be included in operating expenses?

**STIPULATED**

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

**FRF Position:** \*No.\*

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

**FRF Position:** \*No. Gulf has overstated the number of employees for the 2012 test year and accordingly has overstated labor expenses. The Commission should reduce Gulf's 2012 test year expenses by \$3,195,627.\*

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

**FRF Position:** \*None. For purposes of setting Gulf's rates in this docket, the Commission should disallow all of Gulf's claimed test year incentive compensation expenses because Gulf's incentive plans are designed to benefit shareholders and not customers, and dependent on first meeting shareholder goals. If Gulf wishes to make such incentive compensation payments, they should be funded by shareholders because the compensation is so heavily dependent on Gulf's and Southern Company's earnings. The Commission should reduce Gulf's test year expenses by \$12,623,632, and should further reduce test year expenses by an additional \$2,259,624 to remove stock-based compensation allocated to Gulf by Southern Company Services.\*

**Issue 72:** What is the appropriate amount of allowance for employee benefit expense?

**FRF Position:** \*See positions on Issues 66, 67, 68, 70, and 71.\*

**Issue 73:** What is the appropriate amount of Other Post Employment Benefits Expense for the 2012 projected test year?

**STIPULATED**

**Issue 74:** What is the appropriate amount of Gulf's requested level of Salaries and Employee Benefits for the 2012 projected test year? (Fallout Issue)

**FRF Position:** \*See positions on Issues 68 through 73.\*

**Issue 75:** What is the appropriate amount of Pension Expense for the 2012 projected test year?

**STIPULATED**

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

**FRF Position:** \*No more than \$600,000 per year. Given Gulf's existing reserve and the ready availability of rate relief to address unusually high storm restoration costs, and recognizing current economic conditions, the Commission should consider reducing the accrual to zero.\*

**DISCUSSION**

Please see the discussion under Issue 27 above.

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

**FRF Position:** \*Yes. The Commission should reduce test year expenses by \$58,196 on a retail jurisdictional basis.\*

**Issue 78:** What is the appropriate amount of the accrual for the Injuries & Damages reserve for the 2012 projected test year?

**STIPULATED**

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

**FRF Position:** \*The appropriate amount of jurisdictional distribution tree-trimming expenses for the 2012 test year is \$4,531,320, which represents a reduction of jurisdictional test year expenses of \$386,384. Gulf's requested amount of \$4,918,000 is unreasonably high, and unreasonably greater than its average tree-trimming expenses of \$4.3 million per year incurred since 2007.\*

**Issue 80:** What is the appropriate amount of Gulf's pole inspection expense for the 2012 projected test year?

**FRF Position:** \*This issue is the subject of a pending Motion for Approval of Partial Settlement Agreements. If necessary, the FRF will file a supplemental brief addressing this issue on January 11, 2012.\*

**Issue 81:** **DROPPED**

**Issue 82:** Should an adjustment be made to O&M expenses to normalize the number of scheduled outages Gulf has included in the 2012 projected test year?

**DROPPED**

**Issue 83:** **DROPPED**

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

**FRF Position:** \*The appropriate amount of Gulf's test year production plant O&M expense is \$99,212,245.\*

**Issue 85:** What is the appropriate amount of Gulf's transmission O&M expense?

**STIPULATED**

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

**FRF Position:** \*Gulf's test year distribution O&M should be reduced by \$386,834 on a jurisdictional basis to reduce Gulf's overstated tree-trimming expenses. This issue may also be impacted by the Commission's decision regarding Issue 80, which is the subject of a pending motion for approval of partial settlement agreements.\*

**Issue 87:** **DROPPED**

**Issue 88:** What is the appropriate amount of Rate Case Expense for the 2012 projected test year?

**FRF Position:** \*The Commission should reduce Gulf's claimed rate case expense by \$482,273.\*

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

**FRF Position:** \*The appropriate amount of uncollectible expense for the 2012 test year is \$3,997,000.\*

**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? (Fallout Issue)

**FRF Position:** \*No. The appropriate allowable level of O&M Expense for the 2012 test year is no more than \$246,132,000.

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

**FRF Position:** \*Incorporated in Issue 92.\*

**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? (Fallout Issue)

**FRF Position:** \*No.\*

**Issue 93:** What is the appropriate amount of Taxes Other Than Income Taxes for the 2012 projected test year? (Fallout Issue)

**FRF Position:** \*The appropriate amount of Taxes Other Than Income Taxes for the 2012 test year is \$27,977,000.\*

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

**FRF Position:** \*Yes.\*

**Issue 95:** What is the appropriate amount of Income Tax expense for the 2012 projected test year? (Fallout Issue)

**FRF Position:** \*The appropriate amount of test year Income Tax expense is \$29,877,000.\*

**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? (Fallout Issue)

**FRF Position:** \*No. The maximum appropriate level of allowable jurisdictional Total Operating Expense for the 2012 test year is \$398,726,000.\*

**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? (Fallout Issue)

**FRF Position:** \*No. The appropriate level of jurisdictional NOI for the 2012 test year is \$85,293,000.\*

### **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?

**FRF Position:** \*The appropriate NOI multiplier is 1.634173.\*

**Issue 99:** Is Gulf's requested annual operating revenue increase of \$93,504,000 for the 2012 projected test year appropriate? (Fallout Issue)

**FRF Position:** \*No. Including the impacts of adding the Crist turbine upgrades into base rates using the conventional average test year approach, allowing Gulf to earn the reasonable return on equity of 9.25%, and making the other adjustments advocated by witnesses for the Consumer Intervenors, the Commission should allow Gulf Power Company to increase its base rates for the 2012 test year by \$17,191,000 per year.\*

### **Cost of Service and Rate Design**

**Issue 100:** Should Gulf's proposal to eliminate the Interruptible Standby Service (ISS) rate schedule be approved?

**STIPULATED**

**Issue 101:** Should Gulf's proposal to modify the Residential Service Variable Pricing (RSVP) rate schedule to use the Energy Conservation Cost Recovery Clause to achieve the price differentials among the pricing tiers be approved?

**STIPULATED**

**Issue 102:** Should the minimum kW usage level to qualify for the GSD rate be increased from 20 kW to 25 kW?

**STIPULATED**

**Issue 103:** Should Gulf's new critical peak pricing option for customers taking service on the commercial time-of-use rates GSDT and LPT be approved?

**STIPULATED**

**Issue 104:** Should the minimum kW demand to qualify for the Real Time Pricing (RTP) rate schedule be reduced from 2,000 kW to 500 kW?

**STIPULATED**

**Issue 105:** Should the minimum kW demand for new load to qualify for the Commercial/Industrial Service Rider (CISR) be reduced from 1,000 kW to 500 kW?

**STIPULATED**

**Issue 106:** What is the appropriate cost of service methodology to be used in designing Gulf's rates?

**FRF Position:** \*No position. This issue is the subject of a pending Motion for Approval of Partial Settlement Agreements. Since the FRF has taken no position on this issue, the FRF will not file a supplemental brief addressing this issue on January 11, 2012.\*

**Issue 107:** What is the appropriate treatment of distribution costs within the cost of service study?

**FRF Position:** \*No position. This issue is the subject of a pending Motion for Approval of Partial Settlement Agreements. Since the FRF has taken no position on this issue, the FRF will not file a supplemental brief addressing this issue on January 11, 2012.\*

**Issue 108:** If a revenue increase is granted, how should it be allocated among the customer classes?

**FRF Position:** \*No position. This issue is the subject of a pending Motion for Approval of Partial Settlement Agreements. Since the FRF has taken no position on this issue, the FRF will not file a supplemental brief addressing this issue on January 11, 2012.\*

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

**FRF Position:** \*No position.\*

**Issue 110:** What are the appropriate demand charges?

**FRF Position:** \*No position.\*

**Issue 111:** What are the appropriate energy charges?

**FRF Position:** \*No position.\*

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

**FRF Position:** \*No position.\*

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

**FRF Position:** \*No position.\*

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

**FRF Position:** \*No position.\*

**Issue 115:** What are the appropriate transformer ownership discounts?

**FRF Position:** \*No position.\*

**Issue 116:** What are the appropriate minimum monthly bill demand charges under the PX and PXT rate schedules?

### **STIPULATED**

### **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?

**FRF Position:** \*Yes. The amount to be refunded is the difference between the amount collected by Gulf by virtue of the interim rate increase granted and the amount that Gulf would have collected if it had implemented new rates to recover an annual increase in operating revenues of \$17.191 million.\*

**Issue 118:** Should Gulf be required to file, within 60 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case?

**STIPULATED**

**Issue 119:** Should this docket be closed?

**FRF Position:** \*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, this docket should be closed.\*

Respectfully submitted this 9th day of January, 2012.



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**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Florida Retail Federation's Brief and Post-Hearing Statement of Issues and Positions has been furnished by electronic Mail this 9th day of January, 2012 to the following:

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