

Dorothy Menasco

From: Roberts, Brenda [ROBERTS.BRENDA@leg.state.fl.us]
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To: Filings@psc.state.fl.us
Cc: Mcglothlin, Joseph; Saylor, Erik; Rehwinkel, Charles; Kelly, JR; Caroline Klancke; Charles Guyton; Christopher C. Thompson; Jeffrey A. Stone; John Moyle; John T. LaVia (jlavia@gbwlegal.com); Keino Young; Martha Barrera; Richard Melson (rick@rmelsonlaw.com); Russell Badders; Schef Wright (schef@gbwlegal.com); Shari Cornelius; Steve Griffin; Susan D. Ritenour; Vickie Gordon Kaufman (vkaufman@kagmlaw.com); White, Karen
Subject: e-filing (dkt. No. 110138-EI)
Attachments: 110138.Response to Request for Oral Argument.sversion.doc

Electronic Filing

a. Person responsible for this electronic filing:

Joseph A. McGlothlin, Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330
mcglothlin.joseph@leg.state.fl.us

b. Docket No. 110138-EI

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

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 4 pages.

e. The document attached for electronic filing is the Joint Response of OPC, FIPUG, FRF, and FEA in Opposition to Gulf Power's Request for Oral Argument on its Motion for Reconsideration
(See attached file: 110138.Response to Request for Oral Argument.sversion.doc)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts
Office of Public Counsel
Telephone: (850) 488-9330
Fax: (850) 488-4491

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition for increase in rates by Gulf)
Power Company.)
)
_____)

Docket No.: 110138-EI

Filed: April 25, 2012

JOINT RESPONSE OF OPC, FIPUG, FRF, and FEA
IN OPPOSITION TO GULF POWER'S REQUEST FOR ORAL ARGUMENT
ON ITS MOTION FOR RECONSIDERATION

The Office of Public Counsel ("OPC"), the Florida Industrial Power Users Group ("FIPUG"), the Florida Retail Federation ("FRF"), and the Federal Executive Agencies ("FEA"), hereinafter "Joint Respondents," hereby submit their Joint Response in Opposition to Gulf Power Company's ("Gulf") Request for Oral Argument on its pending Motion for Reconsideration of Order No. PSC-12-0179-FOF-EI ("Motion"), and state:

1. In its Request for Oral Argument, Gulf states that oral argument would enable Gulf to discuss the legal standard and factual basis for its pending Motion. Joint Respondents submit that there is neither controversy nor lack of clarity regarding the legal standard governing a motion for reconsideration, which is to bring to the attention of the decision maker a point of fact or law that the forum overlooked or failed to consider when making its decision. Equally well established is the fundamental tenet that it is not the purpose of a motion for reconsideration to seek to reweigh the evidence.
2. Oral argument is not needed to demonstrate that in its Motion Gulf does not adhere to the appropriate standard. Instead, in its review of the Motion the Commission will see that Gulf's Motion is a garden variety, albeit lengthy, impermissible effort to have the Commission reweigh the evidence of record. That Gulf expended some twenty-nine

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pages of argument in its effort to persuade the Commission to reweigh the evidence supports neither the Motion nor this Request for Oral Argument: the fact that Gulf's Motion is a *jumbo-sized* bite does not alter the fact that it is a prohibited *second* bite at the apple.

3. Under the Commission's procedural rules, oral argument is not a matter of right, and is not granted as a matter of course with respect to motions for reconsideration or any other motions. This is particularly and appropriately true for matters that have been the subject of evidentiary hearings and post-hearing briefs. To support a request for oral argument, the burden is on the requesting party to demonstrate a genuine value to the effort. There can be no such value when the relief sought is impermissible on its face.

4. For the reasons developed in the accompanying Joint Response in Opposition to the Motion, Joint Respondents submit that, notwithstanding the claim of an "unprecedented" ruling that is contained in the Request (the fallacious nature of which is a subject of the Joint Response in Opposition to the Motion), the impermissible nature of Gulf's Motion is conspicuous on its face. If anything, the length of the pending Motion weighs against, not for, oral argument. To grant oral argument on a motion for reconsideration that, on its face, is clearly out of bounds, simply because the pleading is lengthy and elaborate, would be to invite other parties to similarly fashion overlong motions for reconsideration, contrary to the limited purpose of such a motion.

Accordingly, the Commission should review the Motion and the Joint Response in opposition thereto, and upon its review, deny Gulf's Request for Oral Argument.

J.R. KELLY
PUBLIC COUNSEL

s/ Joseph A. McGlothlin
Joseph A. McGlothlin
Associate Public Counsel

Erik L. Saylor
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Rm. 812
Tallahassee, FL 32399-1400

Attorneys for the Citizens
of the State of Florida

s/ Robert Scheffel Wright
Robert Scheffel Wright
John T. LaVia

c/o Gardner Law Firm
1300 Thomaswood Drive
Tallahassee, FL 32308

Attorneys for the Florida Retail Federation

s/ Vicki Gordon Kaufman
Vicki Gordon Kaufman
Jon C. Moyle Jr.

Keefe, Anchors, Gordon & Moyle, PA
118 North Gadsden Street
Tallahassee, FL 32301

Attorneys for the Florida Industrial
Power Users Group

s/ Karen S. White
Karen S. White, Staff Attorney

USAF Utility Law Field Support Center
139 Barnes Drive
Tyndall AFB, FL 32403

Attorney for Federal Executive Agencies

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing **JOINT RESPONSE OF OPC, FIPUG, FRF, and FEA IN OPPOSITION TO GULF POWER'S REQUEST FOR ORAL ARGUMENT ON ITS MOTION FOR RECONSIDERATION** has been furnished by electronic mail and U.S. Mail on this 25th day of April, 2012, to the following:

Caroline Klancke, Esquire
Keino Young, Esquire
Martha Barrera, Esquire
2540 Shumard Oaks Boulevard
Florida Public Service Commission
Tallahassee, FL 32399-0850

Jeffrey A. Stone, Esquire
Russell A. Badders, Esquire
Steven R. Griffin, Esquire
Beggs & Lane
P. O. Box 12950
Pensacola, FL 32576-2950

Susan Ritenour
Gulf Power Company
One Energy Place
Pensacola, FL 32520

Charles Guyton
Gunster, Yoakley, & Stewart, P.A.
215 S. Monroe Street, Suite 618
Tallahassee, FL 32301

Richard Melson
705 Piedmont Drive
Tallahassee, FL 32312

Robert Scheffel Wright/John T. LaVia
Gardner, Bist, Wiener, Wadsworth, Bowden,
Bush, Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, FL 32308

Federal Executive Agencies
Christopher Thompson/Karen White
c/o AFLOA/JACL-ULFSC
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403

Florida Industrial Power Users Group
Vicki G. Kaufman/Jon C. Moyle, Jr.
Keefe Anchors Gordon & Moyle, P.A.
118 North Gadsden Street
Tallahassee, FL 32301

s/ Joseph A. McGlothlin
Joseph A. McGlothlin
Associate Public Counsel