IN THE SUPREME COURT OF FLORIDA

LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION, INC.

Appellant,

vs.

SUSAN F. CLARK, J. TERRY DEASON, JOE GARCIA, JULIA L. JOHNSON, and DIANE K. KIESLING, as the FLORIDA PUBLIC SERVICE COMMISSION,

Appellees.

_____/

CASE NO. 85,204

ANSWER BRIEF OF APPELLEES
GULF POWER COMPANY

Attorneys:

JEFFREY A. STONE
Florida Bar No. 325956
RUSSELL A. BADDERS
Florida Bar No. 7455
BEGGS & LANE
3 West Garden Street
Post Office Box 12950
Pensacola, Florida 32576-2950
(904) 432-2451
TERESA E. LILES (Of Counsel)
Florida Bar No. 510998

Lower Tribunal:

FLORIDA PUBLIC SERVICE COMMISSION
101 East Gaines Street
Tallahassee, Florida 32399-0861
(904) 488-7464

TABLE OF CONTENTS

TABLE OF CITATIONS

Florida Cases

Florida Statutes

Florida Administrative Code

References to the Record

The references are : record "[R page - page],"; exhibits "[Ex number and pages]"; May 20, 1994 transcript of the Pre-Hearing Conference "TrPHC page.line - page.line"; hearing transcript "Tr page.line - page.line"; October 3, 1994, Special Agenda Conference "TrSA page.line - page.line".

SUMMARY OF ARGUMENT AND STATEMENT OF FACTS

Legal Environmental Assistance Foundation's (LEAF) appeal should be dismissed by this Court. LEAF did not preserve a due process claim for appeal with a timely objection in the lower tribunal. The issue of due process should not be raised for the first time on appeal. Further, LEAF has failed to show that it was deprived of procedural due process by Commission Staff counsel's advising the Commission on legal matters and also participating as Commission Staff's representative in the hearings. The hearing in this docket was quasi-legislative and Staff counsel's actions were appropriate for a quasi-legislative hearing. In fact, Staff counsel carried out the duties set forth by Commission rule and precedent.

The Commission was within its discretion to set "narrative" conservation goals for Gulf Power Company in the years 1994-1999 because competent substantial evidence showing that no kilowatt or kilowatt-hour savings could be obtained in those years was in the record. Additionally, the establishment of minimum, rather than aspirational, goals does not violate FEECA's mandate or the Commission's rules implementing FEECA.

The Commission's decision to utilize the Rate Impact Measure test was based on sufficient record evidence. The record clearly indicates that the difference in energy and demand savings between the Rate Impact Measure (RIM) and the Total Resource Cost (TRC) tests is negligible and that TRC would ultimately affect the utilities' rates.

Gulf Power Company adopts the statement of facts set forth in the Answer Brief of Appellees, Florida Public Service Commission. While we do not agree with the all of the assertions made by LEAF in their statement of facts, Gulf believes it is not necessary

to address their version of the facts in supporting our argument asking the Court to dismiss this appeal.

ARGUMENT

I. NO DUE PROCESS RIGHTS ARE AFFECTED WHERE COMMISSION STAFF COUNSEL, IN A QUASI-LEGISLATIVE PROCEEDING, PARTICIPATED IN THE COMMISSION HEARINGS AND ALSO SERVED AS THE COMMISSION'S LEGAL ADVISOR.

Legal Environmental Assistance Foundation (hereafter LEAF) argues that its due process rights were violated because Michael Palecki, acting in his capacity as counsel to the Public Service Commission, participated in the hearings in this docket on behalf of the Commission Staff and also advised the Commission by making certain recommendations as to the outcome of these proceedings. In support of this contention, LEAF refers the Court to the recently decided case of Cherry Communications, Inc. v. Deason, 20 FLW S179 (Fla. April 20, 1995). LEAF also refers to the Commission's rules applicable to proceedings, such as the docket below, conducted under Section 120.57, Florida Statutes, governing the appearance of parties and the role of the Commission Staff in such matters. As the following discussion will demonstrate, under both this Court's recent holding in Cherry Communications and the Commission's procedural rules, Mr. Palecki's conduct in this docket in no way violated LEAF's right to due process.

This docket, as LEAF notes in its Initial Brief, was initiated to implement rules promulgated by the Commission pursuant to the directive of the Florida Energy Efficiency and Conservation Act. Specifically, in 1991 the Florida Legislature revised FEECA and required that the Commission adopt "appropriate goals for increasing the efficiency of energy consumption... ." Following this legislative mandate, the

Commission adopted Rules 25-17.001 through 25-17.005, Florida Administrative Code, providing for the establishment of numeric conservation goals which would reflect reasonably achievable conservation savings to be obtained through energy conservation measures. The Commission required electric utilities, including Gulf Power, to conduct detailed evaluations of potential demand side management (DSM) measures and to report to the Commission the conservation savings deemed reasonably achievable through implementation of such measures. A number of parties, both individuals and groups or organizations such as LEAF, intervened in the docket and significant discovery was conducted regarding the nature of the DSM measures studied; the feasibility of implementing the measures; the conservation savings deemed "reasonably achievable"; the availability of other measures; the adequacy of the utilities' planning process used to ascertain reasonably achievable conservation goals; and a host of related issues.

A. LEAF FAILED TO OBJECT TO THE COMMISSION'S PROCEDURE; IT FAILED TO PRESERVE FOR APPEAL A DUE PROCESS CHALLENGE

Conspicuously absent in LEAF'S brief is any reference to the record where LEAF objected to the post-hearing procedures employed by the Commission. This is a telling omission, for LEAF failed to object to either the Staff attorney advising the Commissioners at the Special Agenda Conference or the Staff having access to the Commissioners after the parties filed their briefs.

It is a fundamental principle of appellate law that appellate courts will not entertain any ground for error not presented to the court or agency below; review is limited to the specific grounds raised below. C.F. Industries, Inc. v. Nichols, 536 So.2d

234 (Fla. 1988); Clock v. Clock, 649 So.2d 312 (Fla. 3d DCA 1995). In fact, a party is entitled to have the agency rule on the adequacy of its procedure, and failure by the agency to do so is subject to immediate judicial review. Adam Smith v. Dept. of Environmental Regulation, 553 So.2d 1260 (Fla. 1st DCA 1990). This principle that error must be preserved below also applies to due process challenges to the impartiality of the decision-maker. For instance, this Court has held that a request for disqualification of a judge must be timely or it is waived; it is not fair to other litigants to wait until after an allegedly biased decision is rendered:

> It is a general rule of law that a party waives any grounds for disqualification of a judge or justice when the suggestion is not filed within a reasonable period of time after having knowledge of such grounds. The purpose of this timeliness requirement is to avoid the adverse affects on the litigant and the problems of a retrial with its resulting costs and delay. Allowing a party to request disqualification after a decision has been rendered by the Court provides a second opportunity to achieve a favorable result when the decision is adverse, an opportunity not available to the opposing party. Because of these factors, this rule of law has been strictly enforced in situations where there is knowledge of the grounds for disqualification before a decision but the suggestion for disqualification is not filed until after the court's decision is rendered.

In Re Estate of Carlton, 378 So.2d 1212, 1218 (Fla. 1979). Other Florida appellate courts have reached consistent conclusions in cases where the role of an agency's attorney has been attacked. Forehand v. School Board of Monroe County, 600 So.2d 1187 (Fla. 1st DCA 1992) (even though the court found a denial of due process, it first articulated the principle that a claim of lack of impartiality was precluded from being raised on appeal if not objected to below); Santacroce v. Dept. of Banking & Finance, 608 So.2d 134 (Fla. 4th DCA 1992) (cannot appeal on ground that hearing officer not impartial if no objection

raised at hearing); Edgar v. School Board of Calhoun County, 549 So.2d 726 (Fla. 1st DCA 1989)(teacher knew of attorney's dual role for several months, and failure to move for disqualification within reasonable time may constitute waiver); Ford v. Bay County School Board, 246 So.2d 119 (Fla. 1st DCA 1970) (court held that although better to separate advisory and prosecutor functions, there was no denial of due process because, among other reasons, no objection was raised at the hearing).

LEAF was clearly aware throughout the case that the Staff attorney was participating in the hearing and advising the Commission; LEAF discuss this practice in its brief. LEAF also knew from prior practice before the Commission that: Staff would submit, after the parties in interest filed their briefs, a Staff Recommendation for the Commission deliberations at the Agenda Conference[1]; that Staff attorney would sign, along with members of the technical Staff, the Staff Recommendation; the Staff Attorney would participate at the Special Agenda Conference; and that the Staff would be the only entity addressing the Commission at the Special Agenda Conference.[2] Likewise, LEAF's portrayal of Staff's Recommendation as an "unsolicited memorandum" is false. The issue of Staff submitting a Recommendation was not only addressed in the many Case Assignment and Scheduling Records (CASR), but also at both the hearing and at the pre-

---

[1]LEAF was also aware of this from the Case Assignment and Scheduling Records issued throughout the proceeding.

[2]LEAF had notice from the Commission's procedural rules that Staff would be the only entity afforded an opportunity to address the Commission at the Special Agenda Conference following a hearing. See, Fla. Admin. Code Rule 25-22.0021(2).

hearing conference. [CASR attached as appendix 1 to Florida Public Service Commission Answer Brief; Tr. 5696-5697; TrPHC 2.16 and 166.5] LEAF raises the claim of denial of due process for the first time on appeal; therefore, under the authority previously cited, that claim has been waived by LEAF, and LEAF is precluded from raising a due process challenge on appeal.

B. CHERRY COMMUNICATIONS IS NOT APPLICABLE TO THIS MATTER AS THE ESTABLISHMENT OF CONSERVATION GOALS IS QUASI-LEGISLATIVE IN NATURE

It is likewise clear that this docket, in which the Commission solicited information in order to establish numeric conservation goals for public utilities, was quasi-legislative in nature. As such, this Court's holding in Cherry Communications, Inc., supra, is wholly inapplicable to Mr. Palecki's role in this docket. Cherry Communications involved a quasi-judicial proceeding held under a show cause order to revoke the certificate of an interexchange services provider---tantamount to a license revocation or other disciplinary-type proceeding. The Court in that case held only that the Commission Staff Counsel could not prosecute the case against the certificate holder and then act as the Commission's legal advisor after conclusion of the hearing. Id. Despite LEAF's attempt to bring the instant case within the holding in Cherry Communications by parroting language from that opinion, in no sense can Mr. Palecki's role at the hearings in this docket be considered "prosecution" against any specific party. While Staff ultimately took positions on the issues raised for consideration, Mr. Palecki's conduct during the discovery stage and the hearings held in this docket was fully

consistent with Staff's role as an impartial fact-finder. There can be no comparison between the due process rights of LEAF, one of numerous participants advocating various positions in this docket, and the service provider against whom the Commission was actively prosecuting a certificate revocation proceeding in Cherry Communications.

Indeed, in its holding in Cherry Communications this Court distinguished its previous holding in South Florida Natural Gas v. Florida Public Service Commission, 534 So.2d 695 (Fla. 1988), acknowledging that it had in that case reached a different conclusion regarding the role of Staff counsel in Commission proceedings. In a footnote to Cherry Communications, the Court noted that South Florida Natural Gas did not involve a quasi-judicial investigation, but was instead a quasi-legislative proceeding to establish utility rates. Cherry Communications, 20 FLW at S180, n.2. It has long been held that the Commission's rate-setting authority under Section 366.04-.06 is quasi-legislative. Cooper v. Tampa Electric Co., 17 So.2d 785 (Fla. 1944).

While the instant docket was essentially the first of its kind conducted by the Florida Commission, it is similar in nature to the quasi-legislative proceedings attending a full revenue requirements rate case. In both instances, the utility submits financial, operational, technical, and other information to the Commission and, based on that information and on input from other parties to the proceeding, the Commission establishes parameters within which the utility is authorized to conduct its business in the future. In the rate example, the Commission establishes a range of return on equity which the utility is authorized to earn through the rates it charges to its customers; in the conservation goals setting, the Commission establishes numeric energy conservation

goals which the utility is expected to achieve. Since the docket in the instant case is quasi-legislative in nature, Cherry Communications is inapplicable.

C. STAFF COUNSEL'S ACTIONS IN THIS MATTER ARE SUPPORTED BY COMMISSION PROCEDURAL RULES

LEAF simply fails to recognize the difference in Staff's role in a quasi-judicial proceeding such as that involved in Cherry Communications, and in a fact-finding, or quasi-legislative proceeding such as that before the Court in the instant case. The Commission's procedural rules, in effect since 1991, clearly reflect this important distinction. As specifically stated in rule 25-22.026, F.A.C., Staff's primary role (even when participating as a party to a proceeding) is "to represent the public interest and see that all relevant facts and issues are clearly brought before the Commission for its consideration... ." Rule 25-22.026(3), F.A.C. Further, it is important to note that while Staff is directed to " be neither in favor of nor against any particular party, unless the Commission is enforcing rules or statutes through a show cause or similar proceeding," Rule 25-22.026(4), F.A.C. (emphasis supplied), Staff's presumed neutrality does not prevent it from taking positions on the issues under the rule. Rule 25-22.026(4) (a) and (b), F.A.C. Thus, in a show cause or other quasi-judicial proceeding such as that in Cherry Communications, Staff counsel may indeed take an adversarial role and, under Cherry Communications, should not then act in an advisory capacity following the official hearing. Conversely, in a quasi-legislative proceeding such as that in the instant case, Staff's function is to "see that all relevant facts and issues are clearly brought before

the Commission for its consideration." Rule 25-22.026(3), F.A.C. In so doing, Staff may, through its counsel, take a position on the issues through its counsel, as was done in the instant case, but by doing so Staff counsel does not act in an adversarial capacity against any party. Here, LEAF fails to acknowledge this distinction, inappropriately confusing Staff's recommendation contrary to LEAF's position, with a perceived Staff bias against LEAF as a party. It is evident that Staff's role in evaluating competing positions and making recommendations in a docket such as this is quite different from a formal adversarial Staff role in a show cause proceeding such as that before the Court in Cherry Communications. Mr. Palecki's conduct in the course of this docket was in compliance with applicable Commission rules and entirely appropriate as part of his duty to represent the public interest, to bring all relevant facts and issues before the Commission, and to advise the Commission regarding the issues.

II. THE COMMISSION'S ESTABLISHMENT OF "NARRATIVE" GOALS FOR GULF POWER COMPANY WAS WITHIN ITS DISCRETION.

A. THE RECORD SUPPORTS THE "NARRATIVE" GOALS FOR GULF POWER COMPANY

First, Gulf Power Company (hereafter Gulf Power or Gulf) will address that portion of LEAF's argument which most directly affects Gulf: the claim that the Commission's adoption of "narrative" (as opposed to numeric) goals for Gulf Power in the Commercial/Industrial class for the years 1994-1999 violates the requirements of applicable law and rules. LEAF insists that FEECA, and the Commission's rules

implementing FEECA, absolutely require the establishment of numeric goals in all categories identified in the rule. This insistence is contradicted by the express language in Rule 25-17.001, F.A.C., that "goals shall be based on an estimate of the total cost effective kilowatt and kilowatt-hour savings reasonably achievable in each utility's service area over a ten-year period." (Emphasis supplied.)

In the instant case, the record reflects that there are in fact no "reasonably achievable" energy savings for the 1994-1999 time frame. [Ex. 52, page 28; R 5261-5263; TrSA 140.16-22, 141.18-25;, 145.2-3; 146.16-25; 147.1-11] Gulf's Cost-Effectiveness Goal Results Report (CEGRR) shows that negative kilowatt and kilowatt-hour savings result in those years. [Ex. 52, page 28] Accordingly, the Commission was bound by its own rule not to establish goals above and beyond those which, based on the record, would be "reasonably achievable". This very issue was the subject of lengthy discussion at the Agenda Conference between the Commission and Staff, as well as among the Commissioners themselves. [TrSA 138.1-147.8] This discussion regarding Gulf Power Company's negative energy savings for the years 1994-1999 clearly revealed that the Commission was aware of and had considered the figures in Gulf's CEGRR, a document in the record of this docket. [Ex. 52] The logical conclusion reached by the Commission was that the negative "savings" resulting in the years 1994-1999 represented that no energy savings were "reasonably achievable" for those years and therefore no conservation goal could be set. The Commission's setting of no goals for 1994-1999 for Gulf Power is fully supported by the record.

B. THE ESTABLISHMENT OF MINIMUM RATHER THAN ASPIRATIONAL GOALS WAS WITHIN THE COMMISSION'S DISCRETION

LEAF also attacks in general the Commission's determination to establish minimum, rather than aspirational goals, and alleges that this determination violates the Florida Energy Efficiency and Conservation Act's (FEECA) mandate. However, a plain reading of Section 366.82, Fla. Stat., the language on which LEAF relies in its brief, demonstrates the legislature's intent to give the Commission broad authority to adopt conservation goals. The statute is wholly silent as to whether the goals must be stringent or liberal[3], merely stating that the Commission "shall adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of cogeneration... ." Section 366.82, Fla. Stat. (Emphasis supplied.) Even if more stringent, "aspirational" goals such as those sought by LEAF are deemed "appropriate" by the Commission in future proceedings, such a determination falls exclusively within the discretion of the Commission. At this early stage it was entirely prudent and well within the discretion of the Commission to deem minimum conservation goals "appropriate". LEAF's insistence that the general language contained in FEECA has the "plain meaning" of requiring something greater than minimum conservation goals in this docket is entirely without merit.

---

[3]Indeed, LEAF itself acknowledges that Chapter 366, Fla.Stat., does not define the term "goals"; it is hard to imagine that a statute which gives the Commission significant discretion to decide what "goals" should be adopted could then be construed to require that those (undefined) goals be "aspirational" as opposed to "minimal".

C. THE MINIMUM GOALS ADOPTED IN THIS DOCKET IS CONSISTENT WITH COMMISSION RULES IMPLEMENTING FEECA

Finally, LEAF argues that the minimum goals adopted in this docket violate the Commission's own rules implementing FEECA. However, the Commission's own interpretation of its rules is entitled to great deference. St. Johns North Utility Corp v. Florida Public Service Commission, 549 So.2d 1066 (Fla. 1st DCA 1989); Maclen Rehabilitation Center v. Department of Health and Rehabilitative Services, 588 So.2d 12 (Fla. 1st DCA 1991); Department of Environmental Regulation v. Goldring, 477 So.2d 532 (Fla. 1985). In fact, the Commission's determination to establish minimum goals at this time is entirely consistent with the language in Rule 25-17.001(6), F.A.C., that goals "represent a starting point for establishing demand-side management programs for all electric utilities." (Emphasis supplied.) The Commission has clearly indicated its intent to review and reevaluate utility conservation programs in the coming years, as well as its willingness to establish more stringent goals once more information and experience has been gained. The Commission's own determination that minimum goals represent an appropriate "starting point" at this time is well within its discretion, and should not be second-guessed by this Court.

III. THERE IS AMPLE RECORD EVIDENCE TO SUPPORT THE COMMISSION'S DETERMINATION THAT THE MEASURABLE ENERGY AND DEMAND SAVINGS FOR GOALS SET UTILIZING THE RATE IMPACT MEASURE TEST OR THE TOTAL RESOURCE COST TEST WERE "NEGLIGIBLE"

LEAF continues to assert its position that the Commission should have utilized the Total Resource Cost (TRC) test rather than the Rate Impact Measure (RIM) test in establishing numeric goals in this docket. Perhaps recognizing that the Commission's decision in the instant case is entitled to great deference, and that it cannot demonstrate a general abuse of discretion, LEAF claims that the Commission erred as a matter of law in finding that the differences in savings achieved under the two tests were "negligible". Indeed, LEAF goes so far as to state that there is no competent, substantial evidence in the record to support the finding of a negligible difference in savings. While LEAF goes on at great length to elaborate the extent of its disagreement with the Commission on this issue, however, it has completely failed to show that the Commission's determination was unsupported by the evidence.

While lengthy, LEAF's argument on this point is basically one of semantics rather than law. As the Commission clearly stated when rejecting this same argument in connection with LEAF's Motion for Reconsideration, the differences in savings "may be significant when viewed in isolation but negligible when viewed from a rates, generation expansion, and revenue requirements perspective." [Tr. 5403] There is certainly no requirement in either the statute or the Commission's rules which compels utilization of one standard over the other; thus, the Commission must, based on its experience, best judgment, and the record before it, determine which standard is the more appropriate.

LEAF's insistence that the TRC test could have more than negligible benefits over RIM when viewed a different way is simply not a valid basis for this Court to vacate the Commission's well-reasoned determination.

Finally, LEAF's attempt to validate its position on this issue by asserting a complete lack of record evidence on the negligible difference between RIM and TRC is wholly without merit. The Commission Staff even identified the record support for its recommendation that RIM be utilized. [Tr. 797, 798, 1084, 1327, 1329; Ex. 3] Further, the record overwhelmingly reflects that TRC would greatly increase utilities' revenue requirements and ultimately their rates; since the Commission correctly determined to include revenue requirement impacts from the different measures as a component of its analysis, this distinction alone could have supported the Commission's determination to utilize RIM. [Tr. 891, 3573, 5609, 1244]

IV. CONCLUSION

LEAF has failed to show that the Commission abused its discretion, acted in violation of applicable law or rules, or based its decision in this docket on matters outside the record. As such it is evident that LEAF merely disagrees with the Commission's order. It is not the role of this Court, however, to reweigh the evidence or substitute its judgment for that of the Commission. The Commission conducted a thorough investigation of this matter as is evidenced by the hearing transcript of more than 5700 pages of testimony (excluding the more than one hundred exhibits) and the extensive discovery that was conducted over the course of the year between the opening of the docket and the final hearing. Clearly, the Commission was in the best position to weigh

the evidence in this matter. Likewise, merely because Mr. Palecki's recommendations to the Commission were largely adverse to those positions taken by LEAF in this quasi-legislative proceeding, that is insufficient to demonstrate that Staff counsel improperly acted in an adversarial capacity against LEAF as a party. Having failed to show any basis in law or fact for this Court to revisit the Commission's decision in this matter, LEAF's appeal should be dismissed.

Respectfully submitted this 25th day of May, 1995.

Russell A. Badders
JEFFREY A. STONE
Florida Bar No. 325956
RUSSELL A. BADDERS
Florida Bar No. 7455
BEGGS & LANE
3 West Garden Street
Post Office Box 12950
Pensacola, Florida 32576-2950
(904) 432-2451
Attorneys for Gulf Power Company
TERESA E. LILES (Of Counsel)
Florida Bar No. 510998

IN THE SUPREME COURT
STATE OF FLORIDA

LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION, INC. Intervenor/Appellant, vs. SUSAN F. CLARK, et al., as the FLORIDA PUBLIC SERVICE COMMISSION, Appellees.	)	Case No. 85,204

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been furnished this 25th day of May 1995 by U.S. Mail or hand delivery to the following:

Michael Palecki, Esquire
Staff Counsel
FL Public Service Commission
101 East Gaines Street
Tallahassee FL 32399-0863

Michelle Herschel, Esq.
Florida Electric Cooperatives Association
P. O. Box 590
Tallahassee FL 32302

David Ludder, Esquire
LEAF, Inc.
1115 N. Gadsden Street
Tallahassee FL 32303

Robert Scheffel Wright, Esq.
Landers & Parsons
310 W. College Avenue
P. O. Box 271
Tallahassee FL 32302

John W. McWhirter, Esq.
McWhirter, Reeves, McGlothlin, Davidson and Bakas
P. O. Box 3350
Tampa FL 32301-3350

David J. Russ, Esq.
2740 Centerview Drive
Tallahassee FL 32399-2100

Floyd R. Self, Esq.
Messer, Vickers, Caparello, Madsen, Lewis, Goldman & Metz
P. O. Box 1876
Tallahassee FL 32302-1876

Joseph A. McGlothlin, Esq.
McWhirter, Reeves, McGlothlin, Davidson and Bakas
315 S. Calhoun St., Suite 716
Tallahassee FL 32301

Jack Shreve, Esq.
Office of Public Counsel
111 W. Madison St., Room 812
Tallahassee FL 32399-1400

Benjamin Ochshorn, Esq.
Florida Legal Services
2121 Delta Blvd.
Tallahassee FL 32303

Jack Langer, Pres. & CEO
City Gas Company of Florida
955 East 25th Street
Hialeah FL 33013

John Stark
3706 Bobbin Brook Circle
Tallahassee FL 32312

William B. Willingham, Esq.
Moore, Williams, Bryant,
Peebles & Gautier, P.A.
P. O. Box 1169
Tallahassee FL 32302

Colleen Kettles, Esq.
6208 W. Corporate Oaks Dr.
Crystal River FL 34429

Suzanne Brownless, Esq.
2546 Blairstone Pines Drive
Tallahassee FL 32301

James D. Beasley, Esq.
MacFarlane, Ausley, Ferguson
& McMullen
P. O. Box 391
Tallahassee FL 32302

Charles A. Guyton, Esq.
Steel, Hector & Davis
215 S. Monroe St., Suite 601
Tallahassee FL 32301

L. Benjamin Starrett
Dept. of Community Affairs
2740 Centerview Drive
Tallahassee FL 32399-2100

Lawrence A. Gollomp
Assistant General Counsel
U.S. Dept. of Energy
Rm 6D-033
1000 Independence Ave SW
Washington DC 20585

Gerald A. Williams, Esq.
Florida Power Corporation
P. O. Box 14042
St. Petersburg FL 33733

Russell A Badders

JEFFREY A. STONE
Florida Bar No. 325953
RUSSELL A. BADDERS
Florida Bar No. 0007455
Beggs & Lane
P. O. Box 12950
Pensacola FL 32576
904 432-2451
Attorneys for Gulf Power Company