ARPC
analysis•research•planning
1220 19th Street, NW
Suite 700
Washington, D.C. 20036
Phone (202) 797-1111
Fax (202) 797-3619

Attachment A

ARPC Methodology for Calculating Interim Payments for 2011 Losses Due to the Oil Spill

August 16, 2011

I. Requirement that claimants demonstrate a revenue and/or earnings growth rate of at least 5% from 2010.

This suggested methodology is intended to allow the GCCF to more accurately measure the effect of the Oil Spill and other factors on the gross revenues for businesses and gross earnings for individuals. For 2010 losses, the GCCF relied on a combination of geographic proximity, financial tests and direct evidence to determine whether a claimant was affected by the Oil Spill. If the claimant satisfied the requirements, it was presumed that the losses were generally attributable to the Oil Spill and the claimant was eligible to be compensated for such losses. These tests, while they continue to be a necessary condition for eligibility, are not sufficient to ensure that the claimant's continuing losses after 2010 are attributable to the Oil Spill. It is clear, that as time passes, it becomes increasingly difficult to determine whether changes in revenue and earnings are due to the Oil Spill or other factors.

A reasonable approach to determine the ongoing impact of the Oil Spill on claimants is to expect that all claimants demonstrate a revenue and/or earnings growth rate of at least 5% from 2010. If the claimant demonstrates a growth rate of at least 5% from 2010, the losses would be presumed to be due to the Oil Spill. If the claimant does not demonstrate a 5% growth rate, some or all of the losses would be attributed to factors other than the Oil Spill and would therefore be disallowed. Claimants filing claims for interim payments (who have previously filed for 2010 losses and have passed existing financial and eligibility tests) would be allowed to receive full or partial payment without the need to provide supporting evidence which ties the losses to the Oil Spill. In the event these claimants do not demonstrate a growth rate of at least 5% from 2010, they could still provide specific evidence demonstrating that their losses or a portion of their losses are due to the Oil Spill. This modification redefines the computation of loss due to the Oil Spill by using data which implies a Gulf Region economic growth rate in excess of 10%[1]. (The GCCF already anticipated this 10% growth rate in determining the Future Factor[2].) Since not all individuals and businesses will experience this level of recovery, a lower growth rate of 5% has been selected.

This approach assumes that, if the claimant's individual or business growth is less than 5% from 2010, not all of the loss is attributable to the Oil Spill and only part of the loss will be compensated. For claimants who have already filed claims with the GCCF, and are submitting additional interim claims, loss above the 5% growth rate is presumed to be from the Oil Spill. The loss associated with revenues or earnings less than the 5% growth rate is presumed to be from non-Oil Spill factors and would not be compensated.

Determination of the 5% rate is derived as follows:

- **Determine the Average Anticipated Growth Rate for Individuals and Businesses with a Loss in 2010**

A 10% growth rate in the Gulf Region is a conservative estimate of the average growth rate for individuals and businesses with a loss in 2010. The available economic indicators provide a good basis for the development of the conservative growth rate for this purpose.

- Tourism
    - Trends in hotel occupancy rates and revenues per available room indicated that the growth rate in the areas close to the beach is likely to be approximately 15%.[3]
    - Sales tax revenues for restaurants (where available) show full recovery or increases to pre-Oil Spill levels.
    - Tourism spending indicators (where available) show full recovery or increases to pre-Oil Spill levels.

- Fishing
    - All federal fishing grounds are reopened.
    - Nearly all state fishing areas have been reopened.
    - Increases in catches of shrimp in the first four months of 2011 and the National Marine Fisheries Service expects a solid harvest of menhaden in 2011.[4]

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[1] See ARPC report, *"Measures of the Effects of the Gulf Oil Spill on Individuals and Businesses and Proposed Compensation Schema*," dated January 24, 2011, http://www.gulfcoastclaimsfacility.com/exhibit_c.pdf.
[2] See *Bibliography* on GCCF web site – http://www.gulfcoastclaimsfacility.com/exhibit_e.pdf. Oxford Economics, "*Potential Impact of the Gulf Spill on Tourism*," prepared for the US Travel Association, July 2010.
3 Based on the analysis of data from Smith Travel Research, Inc.
[4] Shrimp harvest based on landings data provided by NOAA Fisheries Market News Archive summaries from the Fisheries Statistics Division, National Marine Fisheries Service. For Menhaden, see *Forecast for the 2011 Gulf and Atlantic Menhaden Purse-Seine Fisheries*, March 2011, Sustainable Fisheries Branch, NMFS, Beaufort, NC.

In addition, these observations concerning the recovery of tourism are consistent with our analysis of the recovery of tourism derived from other historical events such as natural disasters or other large unpredictable shocks[5]. That analysis indicates that the short-term recovery rate was about 10%.[6]

- **Determine the Growth Rate the Majority of the Claimants Would be Expected to Equal or Exceed.**

We do not assume that all individuals and businesses will grow at a 10% average – some will grow faster and others slower. Based on a statistical analysis of historical data from the five Gulf States indicating a 10% overall growth rate, we can be confident that 75% of the individuals and businesses will grow at a rate of at least 5.6%.

The derivation of the 5.6% was determined by analyzing the Bureau of Economic Analysis's quarterly Personal Income data for each of the Gulf States, from the first quarter of 2000 through the fourth quarter of 2010 (the most recent quarter the data was available). During this period, across the five Gulf States, the analysis indicates that if the average growth rate is 10% that 75% of the individuals and businesses will grow at a minimum of 5.6%. To be conservative, we lowered the 5.6% to 5%.

The claimant's "actual" revenue/earnings for 2011 is presumed to grow at no less than 5% from 2010 levels, unless the claimant can provide proof that the "actual" loss can be explained <u>solely</u> due to the Oil Spill. This approach reflects the expectation that, in an environment where opportunities for recovery have improved markedly, it is reasonable to expect that a claimant's actual 2011 revenues or earnings will show some minimum improvement.

II. Interim Claims of Unemployed Claimants

An analysis of the unemployment statistics in the Gulf States concludes that the average duration of unemployment in the Gulf States is approximately 22 weeks[7]. A study of the duration of unemployment indicates that approximately 95% of unemployed individuals in the Gulf States will become re-employed after 78 weeks[8]. Based on the above statistics, an eligible

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[5] See *Bibliography* on GCCF web site – http://www.gulfcoastclaimsfacility.com/exhibit_e.pdf. Oxford Economics, "*Potential Impact of the Gulf Spill on Tourism*," prepared for the US Travel Association, July 2010.

[6] Our analysis of the "recovery curve" indicated that immediately after the disaster or unpredictable shock, the general economy would lose about 20% from its pre-disaster level, but after the first year it would rebound to about 90% of its pre-disaster level. This growth is approximately 10%.

[7] U.S. Bureau of Labor Statistics, Geographic Profile of Employment and Unemployment, Table 26, 2009 (http://www.bls.gov/opub/gp/pdf/gp09_26.pdf).

[8] Carrington, William "*Wage Losses for Displaced Workers: Is it really the firm that matters?*" Journal of Human Resources 28(3) Summer 1993: 435-462; Abbring, Jaap, et al, "*Displaced Workers in the United States and the Netherlands*," Working Paper, August 1998; Bowlus & Vilhuber, "*Displaced workers, early leavers and re-employment wages*," U.S. Census Bureau Technical Paper No. TP-2002-18, November 2002 (citing Ruhm, Christopher, "*Advance Notice and Postdisplacement Joblessness*," Journal of Labor Economics 10(1) 1992: 1-32.

individual should continue to be paid through the GCCF interim payment process for a maximum of 78 weeks from the date of unemployment due to the Oil Spill, as supported by documentation provided by the claimant.

III. Compensation Formula for Claimants Without 2010 Losses

For claimants who do not have 2010 losses but can demonstrate 2011 losses due to the Oil Spill, compensation will have two components:

1. Valid 2011 losses,[9] and

2. A Final Offer equal to 2011 losses plus a Future Factor times the 2011 losses that will be determined on a case-by-case basis.

The determination of the Future Factor for these claimants is based on the same research that underlies the Final Offer for claimants with 2010 losses. ARPC provided a description of this research in a recently published document detailing the presumed recovery path for claimants with 2010 losses.[10] In sum, data from previous disasters indicates that approximately 70% of the recovery is expected to take place in the first year and approximately 30% thereafter. Claimants with proven 2011 losses, but no 2010 losses are a unique category. These claimants incur their first loss during the recovery period and therefore require a separate, individualized case by case review and analysis.

IV. Compensation Formula for Claimants With No 2010 Income

Claimants who have no 2010 income are either individuals that were unemployed for the entire year (both pre and post the Oil Spill) or businesses without any sales for the entire year (both pre and post the Oil Spill). The GCCF believes that very few claimants that are qualified for payment are likely to exhibit such circumstances and that these circumstances are so unique that no generalized rule is applicable. Thus, the GCCF will review each of these cases individually.

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[9] See *Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology*, page 3, *Calculation of Awards for Interim and Final Payments*: http://www.gulfcoastclaimsfacility.com/FINAL_RULES.pdf

[10] See *Final Rules Governing Payment Options, Eligibility and Substantiation Criteria, and Final Payment Methodology, Attachment B: Response to Comments on the Derivation and Calculation of Future Damages*, page 13: http://www.gulfcoastclaimsfacility.com/FINAL_RULES_B.pdf