

State of Florida



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: February 19, 2002
TO: All Commissioners
FROM: Office of the General Counsel (Espinoza) *JTE*
RE: Docket No. 010949-WS - Request for rate increase by Gulf Power Company.

Attached please find a copy of the Stipulation for Partial Settlement that relates to the above-referenced docket. Pursuant to Chairman and Prehearing Officer Jaber's instructions, this matter will be taken up as the first preliminary matter in the hearing scheduled to commence Monday, February 25, 2002, at 9:30 a.m.

LAE/dm

cc: Division of the Commission Clerk and Administrative Services
Office of the General Counsel (McLean, Helton, Stern, Harris)

I:\010949-m2 lae

DOCUMENT NUMBER-DATE

01965 FEB 19 02

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition of Gulf Power Company for
an increase in its retail rates and charges.

Docket No. 010949-EI
Date Filed: February 15, 2002

STIPULATION FOR PARTIAL SETTLEMENT

The Federal Executive Agencies (“FEA”), the Florida Industrial Power Users Group (“FIPUG”), and Gulf Power Company (“Gulf” or the “Company”) (collectively the “Stipulating Parties”), pursuant to Order No. PSC-01-2035-PCO-EI and Section 120.57(4), Florida Statutes (2001), have entered into this Stipulation for Partial Settlement to effect an informal disposition and complete and binding resolution of the issues identified herein. In keeping with the Florida Public Service Commission’s long-standing policy and practice of encouraging parties in contested proceedings to settle issues whenever possible, this Stipulation for Partial Settlement, upon approval by the Florida Public Service Commission (“Commission”), will allow the Stipulating Parties, the other intervenors and the Commission to avoid the time, expense and uncertainty associated with adversarial litigation regarding the issues identified herein. Accordingly, without prejudice to any party’s position in any other proceeding before the Florida Public Service Commission or any other venue, present or future, the Stipulating Parties stipulate and agree as follows:

1. On July 6, 2001, Gulf filed notice of its intent to request a rate increase. On September 10, 2001, Gulf filed its petition, minimum filing requirements and testimony in support of the Company’s request for a rate increase. The matter has been assigned Docket No. 010949-EI by the Commission and set for hearing before the full Commission during the week

of February 25, 2002 through March 1, 2002.

2. FEA and FIPUG have intervened in Docket No. 010949-EI. Other intervenors include the Florida Cable Telecommunications Association (“FCTA”) and the Office of Public Counsel (“OPC”) on behalf of the Citizens of Florida. These parties shall hereafter be collectively referred to as “Intervenors.” The Stipulating Parties have been authorized to represent to the Commission that FCTA and OPC, while not party to this Stipulation for Partial Settlement, do not oppose it.

3. On October 15, 2001, Chairman Lila A. Jaber, in her capacity as Commissioner and Prehearing Officer in Docket 010949-EI (“this Docket”) issued Order No. PSC-01-2035-PCO-EI (the “Order”) pursuant to Rule 25-106.211, Florida Administrative Code for the purpose of establishing a procedure to be followed in this Docket “. . . to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.” At page 7 of the Order, Chairman Jaber set forth certain controlling dates and stated:

In addition to the above controlling dates, I note that staff has scheduled two meetings of the parties and staff to identify and clarify issues to be resolved in this proceeding. The first meeting has been scheduled for November 7, 2001, which is prior to the filing of intervenor and staff testimony. Staff has indicated that the Issue Statements of the parties will be filed on January 2, 2002, and a second issue identification meeting will be held January 14, 2002. These meetings should help clarify issues, eliminate duplicative issues and promote an efficient and effective hearing process. Parties are encouraged to participate fully and use these opportunities to seek resolution of issues where feasible. [Emphasis added]

In addition to the meetings described in the Order, the parties and staff met again on February 13, 2002 in a further effort to clarify and resolve issues where feasible in order to promote an efficient and effective hearing process in keeping with the spirit and intent of the Order. At the

meeting on February 13, 2002, the parties's discussions were guided by a Draft Prehearing Order prepared by the Commission Staff from the prehearing statements filed by each of the parties. The Draft Prehearing Order includes a listing of 38 issues under the caption "Cost of Service and Rate Design" (Issues 85 through 122, inclusive).

4. Gulf witnesses pre-filed cost of service testimony and exhibits, including two cost of service studies. The difference between the two cost of service studies is that one uses the Minimum Distribution System methodology ("MDS") and the other does not use the MDS methodology. Gulf's pre-filed testimony and exhibits recommend the MDS cost of service study for the reasons set forth therein.

5. Gulf witnesses pre-filed rate design testimony and exhibits, including a recommended distribution of the revenue increase by rate class. The recommended distribution of the revenue increase by rate class moves class rate of return indices as close to parity as reasonable based on the MDS cost of service study with the following two general limiting guidelines:

- a. No rate class should receive an increase greater than 1.5 times the overall average percentage increase.
- b. No rate class should receive a decrease.

No other proposed distribution of revenue increase by rate class, other than that summarized above, is provided in Gulf's pre-filed testimony or exhibits or in any pre-filed testimony or exhibits of the Commission Staff or any other party.

6. The Intervenors and Staff have conducted extensive discovery and depositions on the issues in this proceeding including the 38 cost of service and rate design issues set forth in paragraph 3 above.

7. None of the Intervenors or the Commission Staff have pre-filed any testimony or exhibits that rebut the cost of service methodology or the revenue distribution testimony or exhibits of Gulf's witnesses described in paragraphs 4 and 5 above. The recommended MDS methodology classifies distribution costs as demand related, customer related or a combination thereof as stated by the National Association of Regulatory Utility Commissioners advocate in its official guide book "Electric Utility Cost Allocation Manual" (January 1992) at page 89.

8. In order to resolve Issue 90 as set forth in the Draft Prehearing Order, the Stipulating Parties agree that any revenue increase granted by the Commission in this Docket No. 010949-EI shall be allocated among the customer rate classes in accordance with the percentages contained in the last column of the tabulation that follows on the next page:

Customer Rate Class	Description	Revenue Increase at Proposed Gulf Rates (\$000's)	Allocation of Revenue Increase
		(a)	(b)
RS/RST/RSVP	Residential Service	\$55,312	79.2%
GS/GST	General Service – Non Demand	2,750	3.9%
GSD/GSDT	General Service – Demand	5,955	8.5%
LP/LPT	Large Power Service	3,450	4.9%
PX	Large High Load Factor Power	0	0.0%
RTP	Real Time Pricing	0	0.0%
SBS	Standby and Supplementary Service	0	0.0%
CISR/CSA	Commercial/Industrial Service Rider	0	0.0%
OS-I/II	Outdoor Service	2,200	3.2%
OS-III	Outdoor Service	200	0.3%
OS-IV	Outdoor Service	0	0.0%
	Total Jurisdictional	\$69,867	100.0%

(a) Revenue increase by rate class as filed by Gulf in MFR, Schedule E-11. The PX, RTP and SBS rate classes were shown combined on line 5 as "Major Accounts."

(b) Percentage distribution of revenue increase determined from amounts in Column (a).

By comparison, 73.5% of the approved revenue increase made effective September 13, 1990 as a result of the Commission decision in Docket No. 891345-EI was allocated to Residential Service Customer Rate Classes.

9. As a consequence of stipulating the allocation of any revenue increase per paragraph 8 above, Issues 88 and 89 as set forth in the Draft Prehearing Order are rendered moot and no longer considered matters at issue in this Docket. As stated in the Draft Prehearing Order, there being no disagreement or any differing position between any party or the Commission Staff on Issues 85, 86, 100, 102, 103, 105, 106, 107, 109, 111, 112, 113, 114, 117, 118, and 122, these issues are included as part of the settlement reached in this Stipulation and are no longer considered matters at issue in this Docket. Staff's position is agreed to on Issues 86, 100, 102, 103, 105, 106, 107, 109, 111, 114, and 122. Gulf's position on Issues 85, 112, 113, 116, 117, and 118 is agreed to by each of the Stipulating Parties.¹

10. For purposes of settlement, the Parties further agree that:

- a. Issues 94, 95, 97, 98, 99, 101, and 110 are to be decided in favor of Staff's position as set forth in the Draft Prehearing Order.
- b. Issues 87, 91, 92, 93, 96, 104, 108, 115, 116, 119, 120, and 121 are to be decided in favor of Gulf's position as set forth in the Draft Prehearing Order.²

11. As a result of the agreements in paragraphs 8, 9, and 10 above, all 38 cost of service and rate design issues are thus resolved by the Parties, for settlement purposes only in this Docket, and are no longer considered matters at issue in this Docket. In exchange for the resolution of all 38 cost of service and rate design issues as set forth in paragraphs 8, 9, and 10 above, the Stipulating Parties agree that FEA and FIPUG hereby withdraw all of their respective positions on the remaining issues identified in the Draft Prehearing Order, waive their right to cross-examine witnesses testifying in this Docket and will forego filing a post hearing brief.

¹ For Issues 91, 92, 93, 97, 98, and 119, the actual final charges are subject to the Commission's final decision on the requested revenue increase.

² See Note 1 above.

12. Furthermore, subject to the approval of the Florida Public Service Commission set forth in paragraph 13 below, all Stipulating Parties waive any right to request further administrative or judicial proceedings in regard to the establishment or implementation of this Stipulation for Partial Settlement. Such requests for further administrative or judicial proceedings shall include (but not be limited to): a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, Florida Administrative Code; or a notice of appeal to initiate judicial review by the Florida Supreme Court pursuant to Rule 9.110, Florida Rules of Appellate Procedure, in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

13. This Stipulation for Partial Settlement is contingent upon approval by the Commission in its entirety and without modification prior to the taking of any testimony at the hearing scheduled for February 25, 2002 through March 1, 2002. Upon approval by the Commission, this Stipulation for Partial Settlement will resolve all matters in this docket involving FEA and FIPUG pursuant to and in accordance with Section 120.57(4), Florida Statutes (2001). If this Stipulation for Partial Settlement is not accepted and approved by the Commission in its entirety without modification prior to the taking of any testimony at the hearing scheduled for February 25, 2002 through March 1, 2002, then this Stipulation for Partial Settlement shall be considered null and void and of no further force or effect.

14. To avoid the expenditure by the Stipulating Parties of time and resources in preparation for hearing on the issues that would be fully resolved by the Commission's approval of this Stipulation for Partial Settlement, the Stipulating Parties respectfully request that the

Commission consider and take action on this Stipulation for Partial Settlement, if possible, at the agenda conference scheduled for February 19, 2002 or as soon thereafter as possible.

15. This Stipulation for Partial Settlement, dated as of February 15, 2002, may be executed in counterpart originals and a facsimile of an original signature shall be deemed an original.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The Stipulating Parties evidence their acceptance and agreement with the provisions of this Stipulation for Partial Settlement by the signatures of their respective counsel this 15th day of February, 2002.

Florida Industrial Power Users Group

John W. McWhirter, Jr., Esq.
Vicki Gordon Kaufman, Esq.
Timothy J. Perry, Esq.

McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman,
Arnold & Steen, P.A.
P. O. Box 3350
Tampa, Florida 33601-3350

By: _____

Federal Executive Agencies

Douglas A. Shropshire, Lt.
Col. USAFR.
Major A1 Erickson, USAF

c/o United States Air Force
Utility Litigation Team
AFCESA/Utility Litigation
Team
139 Barnes Drive
Tyndall Air Force Base,
Florida 32403

By: _____

Gulf Power Company

Beggs & Lane
P. O. Box 12950
(700 Blount Building)
Pensacola, FL 32576-2950
Attorneys for Gulf Power Company

By: _____
Jeffrey A. Stone