

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Gulf Power)	DOCKET NO. 881167-EI
Company for a rate increase.)	ORDER NO. 20603
)	ISSUED: 1-13-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER SUSPENDING IN FULL GULF POWER COMPANY'S
 NEW RATE SCHEDULES AND DENYING INTERIM RATE RELIEF

BY THE COMMISSION:

By petition filed November 14, 1988, Gulf Power Company (Gulf or utility) has requested a permanent increase in its rates and charges designed to generate an additional \$25,793,000 of gross annual revenues. This request is based upon a projected 1989 test year and a 13-month average jurisdictional rate base of \$905,569,000. It has requested an overall rate of return of 8.63%, which assumes an allowed rate of return on common equity of 14.0%. The most significant basis for the requested increase, according to Gulf, is the commitment of over 500 MW of additional capacity from its Plants Daniel and Scherer to territorial service from July 1, 1988 through January 31, 1989, and the O&M expenses associated with this capacity. Additionally, the utility claims an increase in net operating income resulting from substantial capital additions in the transmission, distribution, and general plant functions and increased O&M expenses.

Section 366.06(3), Florida Statutes, provides that we may, pending a final order in this rate proceeding, withhold consent to the operation of all or any portion of the new rate schedules provided that we deliver to the utility, within 60 days, a reason or written statement of good cause for the withholding of our consent. The Commission's recent practice, especially where a projected test year has been involved, has been to completely suspend the permanent rate schedules in order to adequately and thoroughly examine the evidentiary basis for the new rates. Gulf's proposed rates are based on a projected 1989 test year, the very nature of which requires that we withhold our consent to the operation of the new rate schedules. The use of the projected test year calls for many estimates and assumptions which have not yet been shown to be reasonable; among these are projections involving the impact of inflation on the utility's operating expenses and construction expenditures. We shall, therefore, suspend the operation of the rate schedules so that the projections underlying the request can be more fully analyzed by Staff and the intervenors.

Interim Rate Relief

Gulf Power Company has requested that if the Commission does suspend all of the permanent rate schedules, it consent to the operation of a portion of the rate schedules designed to increase gross annual revenues by \$18,188,000. This request

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for interim rate relief was made pursuant to the "File and Suspend" law, Section 366.06(3), Florida Statutes, instead of the "Interim Rate" statute at Section 366.071, Florida Statutes. Gulf has stipulated to collecting this revenue under bond subject to refund. Gulf's request for interim rate relief is based, as is its permanent request, on a projected 1989 test year, rather than the historic "most recent 12-month period" test year required by the "Interim Rate" statute. The reason why Gulf did not request interim rate relief pursuant to the "Interim Rate" statute is that it would not be entitled to any interim rate relief under this statute.

In Order No. 13494, published in Gulf's last rate case, we made the following observation regarding its request for interim rate relief pursuant to Section 366.06(3), Florida Statutes:

However, Gulf claims an entitlement to interim rate relief based on calculations for the test year 1984 pursuant to Section 366.06(3), Florida Statutes, the "File and Suspend" law. The Commission has not granted interim rate relief pursuant to Section 366.06(3), Florida Statutes, since the effective date of Section 366.071, Florida Statutes, in mid-1980. Rather, the Commission has relied exclusively on Section 366.071, Florida Statutes, when it has granted interim rates.

By its enactment of Section 366.071, Florida Statutes, the Florida Legislature has established a comprehensive and precise methodology for calculating both interim rate increases and decreases. Utilizing easily ascertainable and auditable historic data a party may establish a prima facie entitlement to either a rate increase or decrease. The statute's comprehensiveness is demonstrated by the fact that it specifically addresses areas previously not touched by the law, such as the calculation of interim rate increases and decreases, the specific provision for refunds and the method by which they would be calculated, as well as specific provisions providing that interim rates be collected under bond or corporate undertaking. Additionally, we note that during a period of rising capital cost rates, the "Interim Statute" mitigates the effects of regulatory lag by including in the "required rate of return" calculation the current cost rates for fixed-rate capital, short-term debt, variable-cost debt and other sources of capital, except equity, which is included at its last authorized rate of return.

Although we decline to hold that Section 366.071, Florida Statutes, is the only avenue for electric and gas utilities to secure interim rate relief, we do find that it is

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the preferable methodology to be used in all cases except where a compelling reason for not using it is demonstrated. Such a demonstration would include evidence that the utility would suffer "financial distress" if it did not receive interim rate relief over and above what it was entitled to under Section 366.071, Florida Statutes. Under such circumstances, we will consider authorizing interim rate relief pursuant to the more general provisions of Section 366.06(3), Florida Statutes. In this case, however, Gulf Power has neither alleged nor demonstrated that it will suffer financial distress if it is not awarded interim rate relief over and above what it is entitled to under Section 366.071, Florida Statutes.

In its Petition, Gulf did not allege that it would suffer "financial distress" if it did not receive interim rate relief. Nor did it allege any other "compelling reason" for not relying upon Section 366.071, Florida Statutes, for determining whether interim rate relief should be granted. Furthermore, from our own review of Gulf's Petition, we cannot determine that it will suffer "financial distress" if it does not receive interim rate relief.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Power Company's rate schedules designed to increase rates in the amount of \$25,793,000 be and the same are suspended pursuant to the provisions of Section 366.06(3), Florida Statutes, pending a final order in this proceeding. It is further

ORDERED that Gulf Power Company's request for interim rate relief in the amount of \$18,188,000, pursuant to Section 366.06(3), Florida Statutes, be and the same is hereby denied. It is further

ORDERED that public hearings shall be held on this matter at a time and place to be announced by separate notice.

By ORDER of the Florida Public Service Commission, this 13th day of JANUARY, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

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