

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Gulf Power Company)	DOCKET NO. 881167-EI
for an increase in its rates and)	ORDER NO. 21243
charges.)	ISSUED: 5-16-89

The following Commissioners participated in the disposition of this matter:

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

ORDER DENYING MOTION FOR RECONSIDERATION
OF INTERIM ORDER

BY THE COMMISSION:

On November 14, 1988, Gulf Power Company (Gulf) requested a permanent increase in its rates and charges designed to generate an additional \$25,793,000 of gross annual revenues. The request is based on a projected 1989 test year and assumes a return on common equity (ROE) of 14.00%. Gulf did not request interim relief under Section 366.071, Florida Statutes, the "interim statute", but rather under the "file and suspend" statute, Section 366.06(3), Florida Statutes. In its request, Gulf asked that the entire rate increase be immediately implemented by allowing its proposed rate schedules to go into effect 60 days after Gulf's application filing date. Alternatively, Gulf requested that it be allowed an "interim" rate increase of \$18,188,000. Gulf asserted that this increase was needed because of the inclusion of additional Plant Daniel and Plant Scherer capacity in Gulf's rate base.

In Order No. 20603, issued on January 13, 1989, we suspended Gulf's proposed rate schedules and completely denied its request for "interim" rate relief under Section 366.06(3). In denying Gulf's requests, we reiterated our position that Section 366.071 is the preferable methodology to be used in all cases except where a compelling reason for not using it is demonstrated. Such a compelling reason would include evidence that the utility would suffer "financial distress" if relief in excess of that afforded by the interim statute were not granted. Based on a review of the materials supplied by Gulf, we found that such "financial distress" would not occur if the interim rate relief requested were not granted.

Subsequent to the issuance of Order No. 20603 the following documents have been filed on the dates indicated:

1. Gulf's motion for reconsideration of decision withholding consent, or in the alternative, motion for consent, and request for oral argument (Document No. 01050) - January 30, 1989
2. Gulf's addendum to motion for reconsideration (Document No. 02107) - February 24, 1989

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3. Public Counsel's response to addendum to motion for reconsideration (Document No. 02457) - March 8, 1989
4. Gulf's reply to Public Counsel's response (Document No. 02773) - March 17, 1989

In its motion and addendum, Gulf asserts that: interim relief under Section 366.06(3) does not require a demonstration of "financial distress"; that Gulf does not have to prove a "compelling reason" for use of the Section 366.06(3) rather than Section 366.071, the interim rate statute; that even if the "financial distress" standard is applied it has alleged facts which met the standard since Staff adjustments to rate base and net operating income are inappropriate and unjustified; and that its "compelling reason" for not using the interim statute is the inclusion in its rate base of the cost of approximately 500 MW of capacity from Plants Daniel and Scherer. The Staff adjustments with which Gulf takes issue are: reduction of fuel inventory, exclusion of an acquisition adjustment for Plant Scherer, and the reduction of O&M expenses based on the Commission's "benchmark" calculation. Further, Gulf states that if an end-of-year rate base, which would be justified by the addition of the Plant Daniel and Scherer capacity to its rate base, were used Gulf would be entitled to "significant interim relief".

In its addendum, Gulf asserts that using its projected 13-month average rate base, its projected ROE will decline from 12.12% in January of 1989 to 8.12% on September of 1989 if no interim rate relief is granted. These percentages are significantly less than the current prime rate of 11.5% and the current bond rate of 10.4% and are thus a satisfactory proof of "financial distress".

In the Public Counsel's response to Gulf's addendum, it is asserted that Gulf is attempting to establish an interim test year that was not included in its initial filing, an approach explicitly rejected in In re: Petition of Tampa Electric Company, 82 FPSCR 11:64,112. In addition, Public Counsel points out that the interim statute requires historical, not projected data. Thus, the end-of-year rate base which should be used to comply with the interim statute should be based on October, 1988, not December, 1989. Although not stated, it is apparently Public Counsel's opinion that the use of the correct end-of-year rate base would also not result in any relief under the interim statute. Gulf's reply to Public Counsel's response, asserts that it is not attempting to establish a new interim test year or assert its entitlement to interim relief under Section 366.071.

Although Gulf's motion for reconsideration and addendum are confusing on this point, we accept Gulf's representation that it is asking for reconsideration of its petition for interim relief based on a projected 1989 test year. We do, however, agree with Public Counsel that only one request for interim relief under Section 366.071 is appropriate, and that if the interim statute were used, and Gulf were requesting use of a year-end rate base, that year-end rate base would have to be based on October, 1988, rather than November, 1989.

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In its motion and addendum, Gulf has not provided any new evidence that it is entitled to any "interim" rate relief under Section 366.06(3). The updated projections of earnings supplied in Gulf's motion and addendum do not affect the validity of the initial analyses of Gulf's financial situation which we have previously approved. Gulf has not alleged that any facts were overlooked or misinterpreted in reaching the first decision, only that it continues to disagree with certain rate base and accounting adjustments which we approved. That does not constitute sufficient grounds on which to grant a motion for reconsideration.

As stated by Gulf, the most significant factor affecting the need for any permanent or "interim" rate relief is the inclusion of the capacity related to Plant Daniel and Plant Scherer. In our evaluation of Gulf's requests, the impact of both Plant Daniel and Plant Scherer was taken into account. Despite the inclusion of this capacity, it was our opinion that no immediate rate relief was required.

The other adjustments objected to by Gulf in its motion are: (1) Generic Fuel Inventory Level; (2) Plant Scherer Acquisition Adjustment; and (3) O&M Benchmark Adjustment. These too were thoroughly discussed and evaluated by us in reaching our initial decision on interim relief in this docket.

The generic fuel inventory level adjustment reduced the inventory by \$15,688,000. In its motion, Gulf stated that it had no knowledge of any generic fuel inventory policy established by the Commission. In Docket No. 830001-EI, Order No. 12645, issued November 3, 1983, we adopted a generic fuel inventory policy that could be used to determine a utility's fuel inventory level in the event that the utility's inventory level could not reasonably be derived from evidence presented in the rate case. At the present time, our Staff is still investigating the appropriateness of the fuel inventory levels requested by Gulf. It is appropriate, until this investigation is complete, to use the generic levels set forth in Order No. 12645 to evaluate the reasonableness of any "interim" rate relief requests, especially when totally projected data is used.

Gulf has also questioned the elimination of the Plant Scherer Acquisition Adjustment which reduced rate base by \$8,037,000 and amortization expense by \$249,000. Per the Uniform System of Accounts, the normal procedure is to amortize any acquisition adjustment to a "below-the-line" account and not collect it from the ratepayers. We have allowed positive acquisition adjustments to be amortized to an "above-the-line" account and recovered from the ratepayers, however, in unusual circumstances. Although Gulf has yet to seek approval from this Commission for such treatment, it did request and receive approval from the Federal Energy Regulatory Commission (FERC) for its proposed accounting entries, including a "below-the-line" amortization of the acquisition adjustment.

In late September, 1988, Gulf filed a revised request to change the amortization to an "above-the-line" account in order to recover the amortization from its Florida ratepayers. No justification was provided for this action. Until we have reviewed the justification for, and reasonableness of, paying

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more than the original cost for the Plant Scherer Common Facilities, the associated acquisition adjustment should not be included for the purposes of determining any "interim" rate relief.

The last point raised by Gulf concerns the level of O&M expenses to be used to calculate whether any "interim" rate relief is warranted. Due to the 60 day deadline for the initial evaluation of Gulf's request, it was not possible to do an in-depth analysis of O&M expenses, especially since these expenses are totally projected. As a first-cut measure of the reasonableness of O&M expenses, our Staff has consistently used the O&M benchmark analysis. Barring any compelling evidence to the contrary, it is our opinion that the O&M benchmark is a reasonable O&M expense allowance for "interim" purposes when totally projected data is used.

As discussed in our initial consideration of Gulf's motion for interim relief, Gulf's alleged need for rate relief, and source of "financial distress" should it not be granted, is based on the premise that all of its projections will ultimately be accepted unmodified by this body. As the previous discussions indicate, however, all of the projections are the subject of much contention and must be critically reviewed before their appropriateness can be ascertained. Finally, Gulf has projected that its ROE will decline to a level of 8.12% in September of 1989 should interim relief not be granted. When the adjustments which we have approved are made to Gulf's projected 1989 test year, the result is an overall rate of return of 7.62% and an ROE of 11.01%

Based on our Staff's most recent Quarterly Report on Equity Cost Rates, the estimated ratemaking rate of return on equity is 11.7% under the Discounted Cash Flow method and 12.7% under the Risk Premium method. We find, therefore, that Gulf is not under "financial distress" such that interim relief under Section 366.06(3) is warranted.

Having presented no new or compelling information which indicates that the analyses of the issues discussed above and previously approved by this Commission are flawed, we find that Gulf's Motion for Reconsideration should be denied.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Power Company's motion for reconsideration of Order No. 20603, or alternatively, motion for consent and oral argument is hereby denied.

By Order of the Florida Public Service Commission,
this 16th day of MAY, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

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