

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for authority) DOCKET NO. 931044-EI
to implement replacement rate) ORDER NO. PSC-94-0884-PHO-EI
schedule for standby electric) ISSUED: 07/20/94
service by Gulf Power Company.)
_____)

Pursuant to Notice, a Prehearing Conference was held on July 11, 1994, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

TERESA E. LILES, Esquire, Beggs & Lane, 700 Blount Building, 3 West Garden Street, Post Office Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company.

VICKI GORDON KAUFMAN, Esquire, McWhirter, Reeves, McGlothlin, Davidson and Bakas, 315 South Calhoun Street, Suite 716, Tallahassee, Florida 32301
On behalf of the Monsanto Company, Stone Container Corporation, and Champion International Corporation (Industrial Intervenors).

SHEILA L. ERSTLING, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

PREHEARING ORDER

I. CASE BACKGROUND

Gulf Power filed a petition to replace its Standby Service (SS) rate schedule with a revised schedule titled Standby and Supplemental Service (SBS) rate schedule. By Order Number PSC-04-0721-FOF-EI the Commission set Gulf's petition for hearing. In the interim, without the Commission taking action, this tariff, as modified at the Agenda Conference held June 7, 1994, was allowed to go into effect by operation of law.

DOCUMENT NUMBER-DATE

07301 JUL 20 94

FPSC-RECORDS/REPORTING

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not

subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and Staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the

witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

IV. ORDER OF WITNESSES

Upon an oral motion by Gulf, and without objection by the parties and staff, the order of witnesses shall be the intervenor witnesses first, then the utility witnesses and finally, staff witnesses.

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>(Direct)</u>		
Bruce Hollinger	INDUSTRIAL	4
Tom Kisla	INDUSTRIAL	4
Denny Brueggemeier	INDUSTRIAL	4
Charles F. Bogatie	INDUSTRIAL	4
Jeffry Pollack	INDUSTRIAL	1 - 4
M. W. Howell	GULF	1
J. I. Thompson	GULF	1 - 4
William B. Berg	STAFF	1, 2

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
(Rebuttal)		
Denny Brueggemeier	INDUSTRIAL	1
Jeffry Pollock	INDUSTRIAL	1
M. W. Howell	GULF	1
J. I. Thompson	GULF	1, 2, 4

V. BASIC POSITIONS

GULF POWER COMPANY (GULF): It is the basic position of Gulf Power Company that it should be allowed to keep its rate schedule SBS as the appropriate rate schedule for application to the service received by customers eligible for and taking standby electric service from the Company.

Gulf proposed to implement a replacement rate schedule for the standby electric service provided by the Company back in October 1993. Gulf Power has been offering standby electric service under a separate and distinct rate schedule (rate schedule SS) since 1988. For most of the period since that time, Gulf has been providing standby service to four of its customers. A fifth customer began taking service from the Company under rate schedule SS in August 1993. Essentially the pricing arrangement for the Company's standby service had remained unchanged from 1988 until July 1994 when Gulf's modified rate schedule SBS was allowed by Commission order to go into effect pending a future determination following a hearing.

Through the concerns expressed to Gulf Power by its affected customers based on their experience with rate schedule SS, as well as the Company's own experience with the previous arrangement, Gulf determined that the previous arrangement for standby electric service had several major weaknesses that made the old arrangement under rate schedule SS inadequate to serve the needs of Gulf's

¹As used in this statement and Gulf's petition, "pricing arrangement" or "pricing" refers to the entire transaction of determining customer bills. This includes the rates for service, the terms and conditions under which rates apply, and the process by which rates are applied to the customer's service.

customers. Through a collaborative effort between the Gulf and its affected standby service customers, a replacement rate schedule (rate schedule SBS) was developed.

Although not perfect, Gulf's rate schedule SBS, which was arrived at through a collaborative effort between Gulf and its self-generating customers, is a significant improvement over the previous arrangement. Although the new rate schedule SBS is still very complex, it successfully addresses most of the areas of weakness that existed in the previous arrangement. In addition, the new rate schedule results in a more appropriate price signal to the standby customers with regard to the timing of their scheduled maintenance activities. Recognizing the fact that all of the proposed changes, if approved, would be taking place outside the context of a rate case proceeding, Gulf was careful to structure its proposal so that (1) it would not result in a revenue increase to the Company for the same level of service; and (2) it would not result in increased charges to any affected customer for the same level of service. The new arrangement for standby service is an example of Gulf Power's commitment to effectively utilize pricing in a timely and responsive manner to achieve marketing objectives, including the Company's conservation and load management objectives.

MONSANTO COMPANY, STONE CONTAINER CORPORATION, AND CHAMPION INTERNATIONAL CORPORATION (INDUSTRIAL): The Replacement Rate Schedule for Standby Electric Service proposed by Gulf Power should be permanently approved by the Commission. The new rate has been agreed upon by the Company and by the affected customers after over two years of discussion and represents a good faith effort by all parties to remedy the problems associated with Gulf's old standby rate, including the complexity and subjectivity of that rate.

Staff's objections to the new rate are unfounded. The rate is cost-based and recognizes that both Gulf and the Southern System are summer peaking. In addition, the Option A daily demand charge is appropriate as are the limits on applicability. The Commission should approve the new rate.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

Gulf's SBS tariffs are purportedly designed to reduce the subjectivity and administrative burden of the SS rate schedule. Gulf has stated that sorting a customer's monthly billing

determinants into standby and supplemental billing units, as required under the old SS rate schedule, is the cause of subjectivity and administrative burden. We believe that the billing arrangement found on the new SBS tariffs is reasonable and agree that the need for "sorting" would be eliminated with approval of these tariffs. There are, however, other provisions found in the SBS tariff that are unacceptable and do not relate to the concerns stated by the company in their petition. These provisions are 1) the Coordinated Maintenance Month, 2) Option A daily demand charge, and 3) the applicability of rate charges.

VI. ISSUES AND POSITIONS

ISSUE 1: Is the Coordinated Maintenance Month (CMM) provision on the Standby and Supplemental rate schedule appropriate?

GULF: Yes. The seasonal differentiation in the daily demand charges for standby service associated with scheduled maintenance of the self-generating customer's generation allows the Company to provide a reasonable and appropriate incentive to its self-generating customers to perform their scheduled maintenance activities at a time when the impact of increased demand on Gulf's system is not likely to contribute to a need to procure additional long-term supply-side or demand-side generation capacity resources. The seasonal differentiation in prices sends an appropriate price signal to Gulf's standby service customers based on the incremental cost of additional supply-side generating capacity to serve the Company's annual peak demand. (Howell, Thompson)

INDUSTRIAL: Yes. While Staff suggests that the CMM is not cost-based and would send improper price signals to customers, their contention is incorrect. The CMM provision is cost-based because it recognizes that Gulf and the Southern Company are both summer peaking. Pricing service, like the rate at issue here, to encourage customers to minimize demand during summer may enable Southern to defer or avoid capacity additions and thus sends the correct signal to customers. In addition, the demand-related costs attributable to standby customers are fully recovered because the CMM provision recognizes the difference in both the nature and

the cost of providing backup and maintenance service. Finally, contrary to Staff's assertion, the IIC is not relevant in evaluating either the CMM or the costing/pricing practices of Gulf. (Pollock)

STAFF: No. This provision is unjustified and unnecessary.

ISSUE 2: Is the annual review of the Option A daily demand charge found on the Standby and Supplemental rate schedule appropriate?

GULF: Yes. The Option A provision itself allows the Company to provide its standby service customers with access to an optional service that is the same as the service offered to Gulf's full-service customers through the optional SE rate rider. The annual review provision, along with the associated possible adjustment to the accumulation of charges previously collected, is necessary in order to minimize the possible mismatch between the actual circumstances experienced by the Company and its standby service customers and the assumed circumstances from which the daily demand charges set forth in the rate schedule are derived. The charges themselves have been appropriately set based on expected conditions. It is the intention of the Company in its design of this provision that downward adjustments will not prove to be necessary. Nevertheless, the opportunity to review and adjust the charges annually should not be eliminated simply because the only possible result of the review and adjustment provision is either no adjustment or a downward adjustment for affected customers. If the provision operates to mandate a downward adjustment, such adjustment is appropriate in order to prevent the Company from having charged more for its service than would have been appropriate under the actual circumstances experienced by the Company and its affected standby service customers. An attempt to create symmetry in the adjustment provision by allowing for the possibility of an upward adjustment as well as a downward adjustment by operation of the provision raises the question of retroactive ratemaking. An attempt to set the charges at a level high enough to ensure that a downward adjustment will

necessarily result from operation of the review and adjustment provision causes the wrong price signal to be sent to the affected customers throughout the year. (Thompson)

INDUSTRIAL: Yes. Staff objects to using seven days in calculating the "Option A" daily demand charge. Staff appears to be concerned that a customer may be underbilled. However, Staff's concern is unfounded because Staff relies solely on past experience and does not factor in the availability of supplemental energy (SE) as Southern grows into its existing capacity resources. Because SE will be available for fewer hours in the future due to the fact that incremental cost of generation will exceed the average energy cost recovery in more hours of the year, the assumptions which support the new rate are appropriate. (Pollock)

STAFF: No. The annual review of Option A Daily Demand Charge as proposed by Gulf will result in an under-recovery of the costs the charge was designed to recover in those years when the average number of non-SE days is less than seven.

ISSUE 3: Is the applicability of rate charges for the above 7,499 KW demand range customers appropriate.

GULF: Yes. The applicability provision for the above 7,499 demand range simply ensures that these charges are applied to the appropriate customers. The charges in this demand range are currently being properly applied to three of Gulf's standby service customers. (Thompson)

INDUSTRIAL: The Industrial Intervenors' position is that the rate charge applicability provision is appropriate. Staff's concern that a standby customer may no longer qualify for the PX/PXT rate schedule because it does not have a 75% annual load factor is irrelevant to determining the local facilities and non-fuel energy charges for standby service. Local facilities are related to size and not load factor. Similarly, PX/PXT non-fuel charge has nothing to do with the size of the customer and is only indirectly related to load factor. (Pollock)

STAFF: No. It is unfair to allow at least one customer to pay a lower energy and local facilities charge for the over 7,499 KW category when its load characteristics are now extremely different from those of the other PXT customers, especially when the tariff provision precludes other customers of the same size and voltage level from being eligible for these lower charges.

ISSUE 4: Should the Commission approve the Gulf Power's Standby and Supplemental rate schedule?

GULF: Yes. Rate schedule SBS is the result of a collaborative effort by Gulf and its existing standby service customers to use their collective experience since 1988 under former rate schedule SS to address the most vexing concerns that existed under the previous pricing arrangement. The new arrangement is a major improvement over the old in that it successfully addresses two major areas of weakness in the previous arrangement: subjectivity and administrative burden. The new rate schedule is based on sound ratemaking principles and sends an appropriate price signal to Gulf's self-generating customers, for the ultimate benefit of the Company's general body of ratepayers. The new arrangement for standby service is an example of Gulf Power's commitment to effectively utilize pricing in a timely and responsive manner to achieve marketing objectives, including the Company's conservation and load management objectives. (Thompson)

INDUSTRIAL: Yes. The Gulf rate is the result of over two years of negotiations between the company and the customers to develop a workable solution to the complicated standby rate previously in effect. Staff's objections to the rate (discussed in the other issues) are unfounded and the rate should be approved. (Pollock, Hollinger, Kislá, Brueggemeier, Bogatie)

STAFF: No. Staff believes that all of Gulf's concerns, as expressed in the Company's petition, would be remedied by approval of a billing arrangement that is based on established contract demands as requested by Gulf. The Commission has approved

similar arrangements in the past for other utilities. The major problems with the additional three specific provisions as outlined by staff are, however, too significant for staff to recommend approval of the proposed SBS rate schedule as filed. Without these provisions staff could recommend the tariff petition.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Pollock	INDUSTRIAL	<u>(JP-1)</u>	(Schedule 1) Analysis of Monthly Peak Demands as a Percent of Annual System Peak; Summary of Load Characteristics
Pollock	INDUSTRIAL	<u>(JP-2)</u>	(Schedule 2) Analysis of Monthly Peak Demands as a Percent of Annual System Peak; Summary of Load Characteristics
Pollock	INDUSTRIAL	<u>(JP-3)</u>	(Schedule 3) Monthly Reserve Margins Expressed as a Percent of Peak Demand
Berg	STAFF	<u>(WBB-1)</u>	(Schedule 1) Average Number of Non-SE Days for 1990-1994 excluding CMM months

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

None at this time.

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IX. PENDING MOTIONS

None at this time. Gulf Power Company had filed a Motion for Relief from Extraordinary Notice Requirements together with a Request for Oral Argument on the Motion. It was determined by staff that a scrivener's error appeared in the Order Establishing Procedure, PSC-9400727-PCO-EI, issued June 12, 1994, whereby Rule 25-22.0406(6), Florida Administrative Code, was cited in lieu of the appropriate Rule 25-22.0405(4), Florida Administrative Code. Rule 25-22.0405(4), Florida Administrative Code provides for additional notice by mail or newspaper publication at the Commission's discretion. Based on the foregoing, Gulf's Request for Oral Argument on Gulf's Motion for Relief from Extraordinary Notice Requirements is denied. Gulf's Motion for Relief from Extraordinary Notice Requirements is granted with the proviso that Gulf notice the customers receiving the same class of service as required by Rule 25-22.0438(4)(c). In addition, Gulf is to notice any customer who may potentially be affected by Issue No. 3, which according to Gulf would involve approximately five additional customers.

It is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 20th day of July, 1994.



SUSAN F. CLARK, Commissioner and
Prehearing Officer

(S E A L)
SLE:bmi

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as

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well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.