

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to
implement Good Cents Conversion
Program by Gulf Power Company.

DOCKET NO. 981591-EG
ORDER NO. PSC-99-1801-PHO-EG
ISSUED: September 16, 1999

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on September 8, 1999, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

JEFFREY A. STONE, ESQUIRE, and RUSSELL A. BADDERS, ESQUIRE,
Beggs & Lane, 700 Blount Building, 3 West Garden Street, P.O.
Box 12950, Pensacola, Florida 32576-2950
On behalf of Gulf Power Company (GULF).

ANSLEY WATSON, JR., ESQUIRE, Macfarlane Ferguson & McMullen,
Post Office Box 1531, Tampa, Florida 33601
On behalf of Peoples Gas System (PGS).

TIFFANY R. COLLINS, ESQUIRE, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida
32399-0850
On behalf of the Commission Staff (STAFF).

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

On April 7, 1999, Proposed Agency Action Order No. PSC-99-0684-FOF-EG was issued in this docket, denying Gulf Power Company's petition to implement its Good Cents Conversion Program. On April 28, 1999, Gulf Power Company timely filed a petition for a formal proceeding in this matter. On August 5, 1999, Peoples Gas System requested permission to intervene in this proceeding. Pursuant to

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-99-1801-PHO-EG
DOCKET NO. 981591-EG
PAGE 2

Order No. PSC-99-1626-PCO-EG issued August 19, 1999, intervention was granted. This docket is currently set for an administrative hearing on October 12, 1999.

III. 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, 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.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

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

- a) 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.

- b) 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.
- c) 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.
- d) 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.
- e) 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 Division of Records and Reporting's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 100 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 100 words, it must be reduced to no more than 100 words. If

a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, 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 40 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties 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.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
T.S. Spangenberg	GULF	1, 2, 3, 4, 5, 6, 7
Joseph W. McCormick	PGS	1, 2, 3, 5, 6, 7

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Rebuttal</u>		
T.S. Spangenberg	GULF	1, 2, 3, 5, 6, 7
D.A. Shell	GULF	2, 3

VII. BASIC POSITIONS

GULF: It is the basic position of Gulf Power Company that the Good Cents Conversion program should be approved by the Florida Public Service Commission as a conservation program eligible for cost recovery through the ECCR as provided by the Florida Energy Efficiency and Conservation Act. (FEECA)

PGS: Gulf Power Company's (Gulf's) proposed program does not meet the letter or intent of the Florida Energy Efficiency and Conservation Act (FEECA) and the Commission should, therefore, affirm its decision as stated in Order No. PSC-99-0684-FOF-EG; that is, the Commission should deny Gulf's petition to implement the program and recover the costs of the program through the Energy Conservation Cost Recovery Clause.

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.

VIII. ISSUES AND POSITIONS

ISSUE 1: Is Gulf Power Company's proposed Good Cents Conversion Program cost-effective?

POSITIONS:

GULF: Yes. Using conservative assumptions, the Good Cents Conversion Program passes all cost effectiveness tests as follows: RIM = 1.19, Participant = 1.39, TRC = 1.88. The values expressed in the Direct Testimony of T.S.

Spangenberg, though valid, are based on less conservative assumptions and are as follows: RIM = 1.74, Participant = 1.65, TRC = 2.20. Under either set of assumptions, the program is cost-effective using the Commission approved methodology for determining cost-effectiveness.

PGS: No. Gulf's analysis showing the program to be cost-effective is flawed by erroneous input assumptions. (McCormick)

STAFF: No position at this time pending evidence adduced at hearing.

ISSUE 2: Is Gulf Power Company's cost-effectiveness analysis based on accurate assumptions?

POSITIONS:

GULF: Yes. Gulf utilized conservative and accurate assumptions in its cost-effectiveness analysis. Gulf reasonably assumed a 1680 square foot home with a central air-conditioning unit having a SEER of 7 and a central gas furnace with an AFUE of 68%. The existing system was assumed to be replaced with a heat pump having a SEER of 11 and a HSPF of 7.4. Further, Gulf Power Company has incorporated reasonable summer peak demand, winter peak demand, and annual energy usage assumptions in its cost-effectiveness analysis.

PGS: No. Gulf has not incorporated reasonable summer peak demand, winter peak demand, annual energy usage or per-unit natural gas price assumptions in its cost-effectiveness analysis. Applicable efficiency standards require replacement cooling equipment to have a 10.0 SEER or higher. Thus, the realistic summer peak demand and electric energy consumption reduction the program will achieve is, at best, the reduction associated with replacing 10.0 SEER cooling equipment with 11.0 SEER equipment. Additionally, the program's requirement that customers remove any non-electric heating systems will dramatically increase weather-sensitive winter peak demand, contrary to FEECA. The resulting effective increase in the unit price of natural gas, in conjunction with other Gulf marketing

efforts, will cause customers to replace non-electric water heaters, which will further increase winter peak demand, summer peak demand and electric energy consumption compared to the values used in Gulf's cost-effectiveness analysis.

STAFF: No position at this time pending evidence adduced at hearing.

ISSUE 3: Under Gulf Power Company's proposed Good Cents Conversion Program, are customers likely to replace existing inefficient heating, ventilating, and air conditioning (HVAC) equipment only if it fails?

POSITIONS:

GULF: No. The low efficiency units which would be candidates for replacement by Gulf's program are not at or near the end of the normal useful life and would not be expected, with any reasonable degree of probability, to otherwise be replaced by the customer. Additionally, Gulf expects its program to specifically encourage customers to change out its equipment prior to the end of its functional life.

PGS: Gulf's analysis indicates that the program is designed to replace electric air conditioning equipment at or near the end of its useful life.

STAFF: No position at this time pending evidence adduced at hearing.

ISSUE 4: Is Gulf Power Company's proposed Good Cents Conversion Program an energy conservation program, or, rather, electricity competing with natural gas?

POSITIONS:

GULF: The Good Cents Conversion Program is an energy conservation program. See Gulf's position on Issue 5.

PGS: No position.

STAFF: No position at this time pending evidence adduced at hearing.

ISSUE 5: Is Gulf Power Company's proposed Good Cents Conversion Program consistent with the Florida Energy Efficiency and Conservation Act?

POSITIONS:

GULF: Yes. The Good Cents Conversion Program meets the requirements of FEECA because the program would result in a reduction in annual kWh consumption and/or a reduction in Gulf Power's annual peak demand which occurs in the summer. In addition, the weather-sensitive peak demand for natural gas, which occurs in the winter in Northwest Florida, would also experience a reduction.

PGS: No. Adjusted to reflect appropriate input assumptions, the program, if approved, would significantly increase winter peak demand, significantly increase annual electricity consumption, and only minimally decrease summer peak demand, violating both the letter and intent of FEECA.

STAFF: No position at this time pending evidence adduced at hearing.

ISSUE 6: Should the Commission approve Gulf Power Company's proposed Good Cents Conversion Program, including approval for cost recovery through the Energy Conservation Cost Recovery (ECCR) Clause?

POSITIONS:

GULF: Yes.

PGS: No.

STAFF: No position at this time pending evidence adduced at hearing.

ISSUE 7: Should the docket be closed?

POSITIONS:

GULF: Yes.

PGS: Yes.

STAFF: No position at this time pending evidence adduced at hearing.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			<u>Direct</u>
Spangenberg	GULF	_____ (TSS - 1)	Program Description
Spangenberg	GULF	_____ (TSS - 2)	Table of approved utility conservation programs and analysis life; Copy of page 35.2 from ASHRAE HVAC Applications Handbook
McCormick	PGS	_____ (JWM - 1)	SEER of heat pumps; average life of heat pump; Florida building code requirements; Gulf water heater conversion program; Gulf's responses to Staff's Interrogatories Nos. 18 and 7

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
	<u>Rebuttal</u>		
Shell	GULF	_____ (DAS - 1)	HVAC Probability of Failure Table

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

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

On September 7, 1999, Peoples Gas System filed its Motion to Strike Portions of Ted S. Spangenberg's testimony.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

It is therefore,

ORDERED by Commissioner J. Terry Deason, 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 J. Terry Deason as Prehearing Officer, this 16th day of September, 1999.



J. TERRY DEASON
Commissioner and Prehearing Officer

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ORDER NO. PSC-99-1801-PHO-EG
DOCKET NO. 981591-EG
PAGE 11

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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.