

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to  
modify Commercial/Industrial  
Service Rider Pilot Study by  
Gulf Power Company.

DOCKET NO. 001217-EI  
ORDER NO. PSC-01-0390-TRF-EI  
ISSUED: February 15, 2001

The following Commissioners participated in the disposition of  
this matter:

E. LEON JACOBS, JR., Chairman  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

ORDER GRANTING APPROVAL OF MODIFICATION OF COMMERCIAL/INDUSTRIAL  
SERVICE RIDER PILOT STUDY

BY THE COMMISSION:

On September 24, 1996, we approved Gulf Power Company's (Gulf) petition to implement its Commercial/Industrial Service Rider (CISR) tariff. See Order No. PSC-96-1219-FOF-EI, Order Approving Commercial/Industrial Service Rider Tariff and Pilot Study Implementation Plan for Gulf Power Company (order). The tariff allows Gulf to enter into negotiated Contract Service Agreements (CSA) with commercial/industrial customers. The CISR tariff was approved on an experimental basis. The tariff includes a sunset provision which closes the CISR to further subscription when one of the following conditions has occurred: (1) The total capacity subject to the tariff reaches 200 megawatts; (2) Gulf has executed twelve contracts; and (3) 48 months have passed from the initial effective date. Gulf has executed two CSAs to date.

The CISR became effective on September 3, 1996, and pursuant to the third provision, Gulf's authority to offer a CISR rate expired on September 3, 2000. On August 21, 2000, Gulf filed a petition to modify the CISR tariff by removing the 48-month sunset provision. Gulf does not propose to modify the two remaining conditions. The proposed tariff revisions were suspended at the

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October 17, 2000, Agenda Conference to allow additional time for discovery. Suspension of the proposed tariff revisions does not affect the terms and conditions of the two existing CSAs. See Order No. PSC-00-2118-PCO-EI, issued November 7, 2000.

We have jurisdiction over the subject matter pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes.

The CISR tariff allows Gulf to enter into negotiated contracts with customers who meet certain eligibility requirements. The tariff is available to new or existing commercial/industrial customers. An existing customer is required to demonstrate to Gulf that without the negotiated contract, the customer would leave Gulf's system, or would not expand existing load on Gulf's system. A new customer is required to demonstrate to Gulf that the customer would not locate on Gulf's system in the absence of the negotiated contract. The price floor for contract negotiations is determined by the incremental cost to serve the customer plus some contribution to fixed costs. The discount can only be negotiated on base energy and/or base demand charges. If Gulf and the customer agree on the price and other terms and conditions, a CSA is executed.

An accurate assessment of at-risk load and quantification of incremental cost are essential requirements of the CISR tariff. The general body of ratepayers benefits from the tariff only if the load is truly at risk, and if the revenues received cover more than the incremental cost to serve the customer. The CISR tariff requires that Gulf determine that, absent a CISR rate, the existing or projected load would not be served by Gulf. To aid Gulf in its at-risk determination, an applicant for the CISR rate must provide an affidavit stating that, but for the application of the tariff to new or retained load, such load would not be served by Gulf. The applicant must further provide documentation to demonstrate a viable economic alternative to taking service from Gulf. Gulf has the burden of proof to demonstrate to the Commission that any customer receiving a CISR rate was truly at risk as defined in the tariff.

We have reviewed Gulf's at-risk determination and incremental cost analysis with respect to Gulf's two executed CSAs (CSA-1 and CSA-2). Gulf provided the Commission with all the documentation

it relied on to determine that the load subject to the CISR rate was at risk. The documentation includes the signed affidavits from CSA-1 and CSA-2. In addition, with respect to CSA-1, Gulf provided an independent analysis by consultants contracted by Gulf to review and assess the customer's alternatives, an analysis by the customer with respect to electric costs and alternatives, and Gulf's executive summary supporting its decision to pursue a CSA with the customer. With respect to CSA-2, prior to the CISR negotiations, the customer was already contractually obligated for an alternative energy source. The CISR negotiations between Gulf and CSA-2 resulted in the customer not pursuing the contract. We believe that Gulf provided the appropriate documentation to support its assessment that the CSA-1 and CSA-2 loads were at risk of not being served by Gulf.

When approving the CISR, we required Gulf to allocate the revenues received from a CSA first to all applicable cost recovery clauses at the rate at which the customer would have been charged in the absence of the CISR. This allocation ensures that the general body of ratepayers is not impacted by the tariff through the cost recovery clauses. We conducted an audit of Gulf's compliance with the CISR tariff in 1998. The audit specifically reviewed whether Gulf allocates all revenues received from its two executed CSAs first to all applicable cost recovery clauses at the rate at which the customer would have been charged in the absence of the CISR. Based on the audit report, we believe that Gulf properly credits the cost recovery clauses at the rates at which the customers would have been charged in the absence of the CISR.

Based on the review of Gulf's currently executed CSAs, we believe that Gulf has adequately demonstrated that it complied with the terms and conditions of the CISR tariff, and that the two currently executed CSAs are prudent. Gulf further states that CSA-1 and CSA-2 are not in the same Standard Industrial Classification (SIC) code, and Gulf has not received during the past four years a request for a CISR rate from a customer in the same SIC code as either CSA-1 or CSA-2. For the above stated reasons, we believe that Gulf's proposal to modify the CISR tariff by removing the 48-month sunset provision should be approved.

The CISR tariff does not require that we approve each CSA. However, we required Gulf to file two monitoring reports: quarterly

reports and a confidential supplement to the monthly surveillance report that reports the difference between the revenues that would have been produced by Gulf's otherwise applicable tariff and the revenues that are produced under the CISR (revenue shortfall). The primary purpose for monitoring the revenue shortfall was to provide an earnings threshold that could trigger a prudence review of the CSAs.

We may also review the prudence of any CSA upon its own motion. Gulf has the burden of proof in demonstrating to the Commission that individual CSAs between Gulf and participating customers were prudent decisions made in the best interests of its general body of ratepayers. If at the conclusion of the our review, Gulf has not demonstrated to our satisfaction that the CSAs were a prudent decision, we can impute the revenue shortfall.

As previously discussed, we believe that with respect to Gulf's two currently executed CSAs, Gulf has met the burden of proof in demonstrating to the Commission that Gulf complied with the terms and conditions of the CISR tariff. Because we believe that Gulf has adequately demonstrated that the two currently executed CSAs are prudent, it is no longer necessary for Gulf to report the revenue shortfall for the existing CSAs in the monthly surveillance reports. However, Gulf should still be required to provide the revenue shortfall associated with any subsequently executed CSAs until such time as they have been subject to a prudence review by the Commission.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Power Company's Petition for Authority to Modify its Commercial/Industrial Service Rider Pilot Study, is approved. It is further

ORDERED that Gulf Power Company is no longer required to continue reporting the revenue shortfall resulting from its two executed CSA's in its monthly surveillance report. It is further

ORDERED that Gulf Power Company is required to report the revenue shortfall associated with any subsequently executed CSA's. It is further

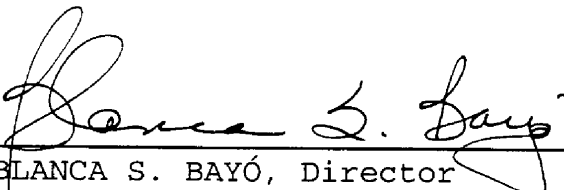
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ORDERED that the appropriate effective date of Gulf Power Company's revised Commercial/Industrial Service Rider Tariff is February 6, 2001. It is further

ORDERED that if a protest is filed within 21 days of issuance of the Order, the tariff shall remain in effect with any charges held subject to refund pending resolution of the protest. It is further

ORDERED that if no timely protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 15th day of February, 2001.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS

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.

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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.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 8, 2001.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.