

FLORIDA PUBLIC SERVICE COMMISSION

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M E M O R A N D U M

March 4, 1993

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF ELECTRIC AND GAS (FUTRELL, FLOYD) *MF* *RJ*
 DIVISION OF LEGAL SERVICES (CANZANO) *RMP* *RLT*

RE : DOCKET NO. 921167-EQ - PETITION FOR APPROVAL OF SEPARATELY NEGOTIATED CONTRACT FOR PURCHASE OF FIRM CAPACITY AND ENERGY FROM MONSANTO COMPANY BY GULF POWER COMPANY

AGENDA: 03/16/93 - CONTROVERSIAL AGENDA - PROPOSED AGENCY ACTION - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\EAG\WP\921167.RCM

CASE BACKGROUND

The Florida Public Service Commission (Commission) in Docket No. 910004-EU approved Gulf Power Company's (Gulf) 1995 combustion turbine (CT) as Gulf's next avoided unit and the basis for its standard offer contract. This contract had a subscription limit of 79 megawatts (MW) and was available until June 1, 1992.

Monsanto Chemical Company (Monsanto) produces various products, including chemicals and manufactured fibers at its Pensacola, Florida plant. Monsanto has had three cogeneration units with a combined capacity of 16 MW on site since the 1950s, and has relied on Gulf to meet the majority of its electrical needs. On May 14, 1992 Monsanto notified Gulf of its intent to expand its cogeneration capacity by constructing an 86 MW unit. This would allow Monsanto to self-serve its electrical needs and sell excess capacity to Gulf. On May 15, 1992 Monsanto delivered a signed standard offer contract for 16 MW to Gulf. Docket No. 920581-EQ was opened to handle the closure of Gulf's standard offer based on the 1995 CT, and the signed standard offer by Monsanto.

On August 7, 1992 the Commission issued Order No. PSC-92-0772-PCO-EQ granting the joint motion by Gulf and Monsanto for stay of the proceedings in Docket No. 920581-EQ. The parties requested this action to allow time for negotiation of a contract for the

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purchase of firm capacity and energy from Monsanto's proposed 86 MW cogeneration unit.

The result of these negotiations was a proposed contract for the purchase of 21 MW from Monsanto's new cogeneration unit. On November 6, 1992 Gulf filed a notice of contingent settlement agreement in Docket No. 920581-EQ. Gulf stated that the standard offer contract for 16 MW filed by Monsanto in May 1992, would be withdrawn by Monsanto once the proposed negotiated contract is executed by the parties. On November 10, 1992 Gulf filed its petition in this docket for approval of the proposed negotiated contract with Monsanto for 21 MW. It is important to note that a letter of agreement has been signed by the parties and not the proposed negotiated contract. The parties consider the contract to be "proposed" and shall be referred to as such in this recommendation. The proposed contract will be signed and "executed" contingent upon Commission approval.

Monsanto's new cogeneration unit is expected to be on-line in August of 1993. At that time Monsanto will no longer require electric service under its current rate schedule. Monsanto will only require standby service from Gulf.

Lease Agreements

As part of the discovery process in this docket, staff received copies of two unexecuted lease agreements between Monsanto and Niject Services Company (Niject), and Monsanto and Praxair Energy Services Corporation (Praxair) a subsidiary of Union Carbide. These leases may determine whether Monsanto would be making retail sales after the expansion of Monsanto's cogeneration facility. Niject owns a plant on Monsanto's property which produces compressed air. This product is used by Monsanto as an input in its overall operation. Likewise, Praxair owns a nitrogen production facility on Monsanto's property, and this product is also an input in Monsanto's production. Once the 86 MW cogeneration unit is completed, Monsanto will provide the electrical input to these pieces of equipment. The question arises whether Monsanto would be making retail sales of electricity to Niject and Praxair.

The lease agreements with Niject and Praxair respectively, provide for Monsanto to operate both facilities and utilize the outputs for Monsanto's purposes. Monsanto will pay Niject and Praxair a monthly rental charge regardless of the level of output from the compressed air and nitrogen facilities. These lease agreements do not constitute a transfer of ownership of a product between the participating companies. This is the key issue in

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determining a retail sale. Monsanto is paying rent for the right to operate the equipment and to utilize the output as part of its overall process. Therefore a retail sale does not occur under this arrangement and Monsanto would not be considered a utility.

Confidential Information

Pursuant to discovery staff conducted, Gulf requested confidential classification of three interrogatory responses. The Commission issued Order No. PSC-93-0235-CFO-EQ denying Gulf's request for confidential classification. However, Gulf has subsequently filed a motion for reconsideration and oral argument which temporarily prevents disclosure of the information contained in the interrogatory responses. Staff has relied on these interrogatory responses in developing its recommendation, but will not directly refer to the information in question in this writing.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve Gulf Power Company's petition for approval of the proposed negotiated contract for firm capacity and energy from Monsanto Company?

RECOMMENDATION: Yes. Staff recommends the proposed contract be approved and that Gulf be permitted to recover the costs of the contract through the Commission's periodic review of fuel and purchased power costs. Staff also recommends that a copy of the executed Gulf/Monsanto contract, as well as a copy of the executed lease agreements between Monsanto and Niject, and Monsanto and Praxair, be filed with the Commission within six months from the date the proposed agency action order becomes final and effective.

STAFF ANALYSIS: Section 25-17.082, Florida Administrative Code, requires electric utilities to purchase electricity produced and sold by qualifying facilities (QFs) at rates which have been agreed upon by the utility and qualifying facility, or at the utility's published tariff rate.

Section 25-17.0832(2), Florida Administrative Code, states that in reviewing a negotiated firm capacity and energy contract for purposes of cost recovery, the Commission shall consider the following factors that affect the purchasing utility's general body of retail and wholesale customers:

- a. Whether the additional firm capacity and energy is needed by the purchasing utility and by Florida utilities from a statewide perspective; and
- b. The present worth of utility's payments for firm capacity and energy to the QF over the life of the contract are projected to be no greater than the present worth of the year-by-year deferral of the construction and operation of generation by the purchasing utility over the life of the contract; or the present worth of other capacity and energy costs that the contract is designed to avoid; and
- c. To the extent that annual firm capacity and energy payments made to the QF in any year exceed that year's annual value of deferring the construction and operation of generation by the purchasing utility or other capacity and energy related costs, whether the contract contains provisions to ensure repayment of such payments exceeding that year's value of deferring that capacity in the event that the QF fails to deliver firm capacity and energy pursuant to the negotiated contract; and

- d. Considering the technical reliability, viability and financial stability of the QF, whether the contract contains provisions to protect the purchasing utility's ratepayers if the QF fails to deliver firm capacity and energy as specified by the contract.

Staff's analysis of the Monsanto contract with respect to the four requirements of Section 25-17.0832(2), Florida Administrative Code, is presented below.

a. Need for Power

Monsanto's expansion of its cogeneration capacity with the addition of the 86 MW unit will allow Monsanto to self-serve its electrical needs. This action has the effect of removing approximately 60 MW from Gulf's system and obviating the previously identified need for power in 1995. A need for capacity in 1996 was identified and became the basis for negotiation of the proposed contract.

b. Cost-Effectiveness

The proposed contract provides for capacity payments commencing in June 1996, which is premised on the deferral of a CT Gulf otherwise plans for construction in June 1996. The contract runs through May 2005.

Staff's analysis indicates that the present value of Gulf's payments to Monsanto for firm capacity and energy will be no greater than the present worth of the value of a year-by-year deferral of Gulf's avoided costs. Because a portion of the information used to make this determination is under a confidentiality constraint, staff is unable to disclose the level of savings to Gulf and its ratepayers. However, there is projected to be a savings to Gulf as a result of this proposed contract.

c. Security for Early Payments

Monsanto will not receive early capacity payments from Gulf, however, the payment for the first year of the proposed contract is projected to exceed Gulf's avoided capacity costs. In order to protect Gulf's ratepayers in the event of non-performance, the contract contains three performance reviews in the first year. If Monsanto fails to meet the performance requirements in the first three months of operation, Monsanto will be required to refund \$206,250 plus interest.

d. Security Against Default

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The contract contains security to protect Gulf's ratepayers in the event Monsanto fails to deliver firm capacity and energy as required in the proposed contract. Monsanto pledges \$420,000 as security that it will deliver the committed capacity to Gulf on June 1, 1996. The proposed contract calls for the refund of capacity payments during any contract year in which Monsanto fails to deliver capacity in the agreed upon manner.

In conclusion, the negotiated contract between Gulf and Monsanto is a viable generation alternative for the following reasons:

1. The capacity and energy generated by Monsanto is needed by Gulf and Florida's utilities;
2. The contract appears to be cost-effective to Gulf's ratepayers;
3. Gulf's ratepayers are reasonably protected from default by the terms of the contract; and
4. The contract meets all the requirements and rules governing qualifying facilities.

For these reasons staff recommends that the contract between Gulf Power Company and Monsanto Company be approved by the Commission and that Gulf be permitted to recover the costs of the contract through the Commission's periodic review of fuel and purchased power costs. Staff would also recommend that if the Commission approves the proposed contract, that copies of the executed contract be filed with the Commission within six months from the date the proposed agency action order becomes final and effective. In addition, since the unexecuted lease agreements between Monsanto and Niject, and Monsanto and Praxair, respectively, are critical to the decision in this case, complete copies of the executed agreements should be filed with the Commission within six months from the date the proposed agency action order becomes final and effective.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed if no timely protests are filed.

STAFF ANALYSIS: If no protests are filed within 21 days of the issuance of the order, this docket should be closed.