

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to establish an) DOCKET NO. 930613-EI -
environmental cost recovery) ORDER NO. PSC-93-1283-FOF-EI
clause pursuant to Section) ISSUED: September 2, 1993
366.825, Florida Statutes, by)
Gulf Power Company.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING REQUEST BY GULF POWER COMPANY
TO COLLECT REVENUES THROUGH IMPLEMENTATION OF PROPOSED
ENVIRONMENTAL COST RECOVERY FACTORS EFFECTIVE OCTOBER 1, 1993

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On June 22, 1993 Gulf Power Company (Gulf) filed a petition to establish an environmental cost recovery (ECR) clause pursuant to Section 366.8255, Florida Statutes. Gulf requested that its petition be considered during the fuel adjustment hearings scheduled for August 18-19, 1993. Gulf also requested it be allowed to implement initial ECR factors concurrently with new fuel cost recovery factors that will become effective October 1, 1993. The Commission has scheduled a hearing to consider Gulf's petition on December 8-9, 1993. Because Gulf wants to begin recovering environmental costs on October 1, 1993, the company filed a motion for authorization to implement ECR factors prior to the hearing and decision.

Gulf seeks to collect revenues through the implementation of the proposed environmental cost recovery factors beginning with the cycle 1 meter readings scheduled for September 29, 1993 (the first October billing cycle). We find that Gulf's request for recovery of incurred and projected environmental compliance costs beginning

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October 1, 1993, should be and is hereby denied. Gulf's request for early recovery does not comply with Section 366.8255, Florida Statutes, which requires a finding of prudence before cost recovery can occur. Gulf requested that it be allowed to implement its proposed environmental cost recovery factors prior to a scheduled hearing and to our decision on the merits of Gulf's petition. That hearing is set for December 8-9, 1993. Gulf is asking us to require the company's ratepayers to pay for environmental costs that the company has not demonstrated to be reasonable, necessary or prudent. There are policy issues that should be addressed at the hearing; such as whether only new project costs not included in the company's last rate case should be allowed to be recovered or whether the company should recover costs associated with projects included in its last rate case; and how the environmental costs should be allocated. We believe that Gulf's request for recovery is premature.

The Commission's resolution of policy issues and decision on the necessity and prudence of incurred and projected environmental costs prior to recovery of these costs complies with Section 366.8255, Florida Statutes, represents good regulatory practice, and is requisite prior to allowing the company to recover these costs from its ratepayers. Our decision concerning Gulf's ability to recover environmental compliance costs will be based on the evidence that will be presented during the hearing set for December 8-9, 1993.

Accordingly, we find that Gulf shall not be authorized to collect revenues through environmental compliance cost recovery factors prior to a showing that they are necessary or prudent.

Since a hearing has already been scheduled for December 8-9, 1993, the issue of whether the Commission should schedule proceedings to address the merits of Gulf's petition in this docket through hearings and a decision by the Commission prior to the end of calendar year 1993 is moot.

Since we have found that Gulf shall not be authorized to collect revenues through the environmental cost recovery factors on October 1, 1993, prior to the formal hearing, the following issues do not need to be decided at this time: 1) for what period of time should the factor be in effect; 2) should the collections be subject to refund and true-up; and 3) how the costs should be allocated to the various rate classes.

Ordinarily after agenda conference, the Commission issues a notice of proposed agency action, permitting a person whose substantial interests are affected to file a request for a Section 120.57, Florida Statutes, hearing within 21 days after the date of the issuance of the order. Rule 25-22.029(2), Florida Administrative Code, provides that for good cause shown, the Commission may shorten the time for requesting a Section 120.57 hearing to 14 days from the issuance of the notice.

We find that, in order to decide the issue prior to the beginning of the requested recovery date of October 1, 1993, should our decision be protested by any person whose substantial interests are affected, a hearing date could be established and the contested issues resolved prior to October 1, 1993, with the 14-day protest period. If a hearing is requested, the hearing will be set for September 28, 1993. Thus, we find that there is good cause to provide a 14-day protest period.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request by Gulf Power Company to collect revenues through the implementation of the proposed environmental cost recovery factors beginning with cycle 1 meter readings scheduled for September 29, 1993 is hereby denied. It is further

ORDERED that any protest of this Order shall be filed pursuant to the requirements set forth below. It is further

ORDERED that if no protest is filed within 14 days of the date of the issuance of this Order, this Order shall become final. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 2nd day of September, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Hizon

Chief, Bureau of Records

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 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on September 16, 1993.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.