

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In the Matter of :
: DOCKET NO. 931044-EI
Petition for Authority :
to Implement Replacement Rate: :
Schedule for Standby Electric: :
Service by Gulf Power Company: :

PROCEEDINGS: PREHEARING CONFERENCE
BEFORE: COMMISSIONER SUSAN F. CLARK
Prehearing Officer
DATE: Monday, July 11, 1994
TIME: Commenced at 9:30 a.m.
Concluded at 10:05 a.m.
PLACE: Florida Public Service Commission
Room 106
101 East Gaines Street
Tallahassee, Florida
REPORTED BY: SYDNEY C. SILVA, CSR, RPR
Official Commission Reporter



DOCUMENT NUMBER-DATE
06853 JUL 11 94
FPSC-RECORDS/REPORTING

1 APPEARANCES:

2 TERESA E. LILES, Beggs & Lane, Post Office Box
3 12950, Pensacola, Florida 32576-2950, Telephone No.
4 (904) 432-2451, appearing on behalf of Gulf Power
5 Company.

6 VICKI GORDON KAUFMAN, McWhirter, Reeves,
7 McGlothlin, Davidson and Bakas, 315 South Calhoun
8 Street, Suite 716, Tallahassee, Florida 32301, Telephone
9 No. (904) 222-2525, appearing on behalf of Monsanto
10 Company, Stone Container Corporation, and Champion
11 International Corporation (Industrial Intervenors).

12 SHEILA L. ERSTLING, Florida Public Service
13 Commission, 101 East Gaines Street, Tallahassee, Florida
14 32399-0863, Telephone No. (904) 877-2740, on behalf of
15 Commission Staff.

16

17 ALSO PRESENT:

18 JIM THOMPSON, Gulf Power Company.

19

20

21

CERTIFICATE OF REPORTER

17

22

23

24

25

PROCEEDINGS

(Hearing convened at 9:30 a.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMISSIONER CLARK: Call the prehearing to order. Read the notice.

MS. ERSTLING: By notice issued July 1, 1994, this time and place was set for a prehearing conference in Docket No. 931044, in re petition for authority to implement a replacement rate schedule for standby electric service by Gulf Power. The purpose of the prehearing conference is fully set out in the notice.

COMMISSIONER CLARK: I'll take appearances.

MS. LILES: Teresa Liles, Beggs and Lane, Post Office Box 12950, Pensacola, Florida, 32501, representing Gulf Power Company.

MS. KAUFMAN: Vicki Gordon Kaufman, McWhirter, Reeves, McGlothlin, Davidson and Bakas, 315 South Calhoun Street, Suite 716, Tallahassee, 32301, appearing on behalf of Monsanto, Stone Container Corporation and Champion International, known as the Industrial Intervenors.

MS. ERSTLING: Sheila L. Erstling, 101 East Gaines Street, Fletcher Building, Tallahassee, Florida, 32301. I'm appearing on behalf of the Staff.

COMMISSIONER CLARK: Do we have some preliminary matters to take up?

1 MS. ERSTLING: Yes, Commissioner Clark. Gulf
2 Power has filed a motion for relief from extraordinary
3 notice requirement and a request for oral argument on
4 its motion. If it meets with your approval, I believe
5 that oral argument will not be necessary.
6 Unfortunately, in the order establishing procedure No.
7 PSC-94-0727-PCO-E1 issued June 13, 1994, a scrivener's
8 error occurred in the noticing requirements in Rule
9 25-22.04066, Florida Administrative Code, was cited
10 instead of Rule 25-22.0405(4), which provides for notice
11 by mail or newspaper publication at the Commission's
12 discretion.

13 I have reviewed their motion with the Staff
14 and we agree that notice to the general body of
15 ratepayers is unnecessary and that the notice provided
16 by the Commission in the Florida Administrative Law
17 Weekly is sufficient except that we would ask that they
18 notice the class of customers receiving the service as
19 required by Rule 25-22.04384(c).

20 COMMISSIONER CLARK: That requires first class
21 notice to those five customers?

22 MS. ERSTLING: To those five customers.

23 COMMISSIONER CLARK: And you have no
24 recommendation on the requirement of a newspaper
25 advertisement?

1 MS. ERSTLING: No. We thought about it
2 originally and thought that perhaps because of the
3 Southern Company IIC it should be necessary, but Staff
4 has advised me that they have an opportunity to review
5 the prudence of their expenditures in another docket, so
6 this would not be necessary.

7 COMMISSIONER CLARK: Let me ask one question
8 of the Company. If I allow Issue 3, would it be correct
9 that there are some customers that under Gulf's proposal
10 are not eligible for the rate and Issue 3 is a question
11 as to whether it would be appropriate for other
12 customers? Is that correct?

13 MS. LILES: Commissioner, I perhaps would like
14 to let Mr. Thompson speak to that. It is my
15 understanding that we had reached some modifications to
16 our tariff as filed that would have taken care of the
17 situation that Staff was concerned about, but I believe
18 that Mr. Thompson could probably explain that a little
19 better than I can.

20 COMMISSIONER CLARK: Okay. Mr. Thompson?

21 MR. THOMPSON: Yes, ma'am. I'm Jim Thompson
22 with Gulf Power Company also.

23 It wouldn't be that there are none of our
24 customers that are eligible for standby service or are
25 eligible for SBS, all of our current standby customers

1 are accommodated on rate SBS.

2 COMMISSIONER CLARK: All five of them?

3 MR. THOMPSON: All five, yes, ma'am.

4 COMMISSIONER CLARK: Now, with respect to
5 Issue 3, is that asking a question as to whether it
6 should be available to other customers?

7 MR. THOMPSON: It is my understanding that
8 that's not exactly the question that's being asked or
9 being raised in Issue 3. The question I believe in
10 Issue 3, Commissioner, is not whether or not other
11 customers would be accommodated under SBS but under
12 which portion or which specific version within rate SBS,
13 which column, if you will, on the tariff sheet they
14 would be accommodated in.

15 COMMISSIONER CLARK: Here's my question. I'm
16 just concerned that if this issue raises the possibility
17 that there is another customer affected, I want to make
18 sure that customer is noticed.

19 MS. LILES: Commissioner, I believe that that
20 customer would be one of the five customers that is
21 within the affected class.

22 COMMISSIONER CLARK: Is that correct,
23 Mr. Thompson?

24 MR. THOMPSON: May I have just a second,
25 please?

1 COMMISSIONER CLARK: Sure. (Pause)

2 Why doesn't you turn off your microphones?

3 MS. LILES: Thank you, Commissioner. (Pause)

4 MR. THOMPSON: Thank you, Commissioner.

5 It wasn't real clear to us whether the concern
6 in the minds of the Commission Staff that raised Issue
7 No. 3, it wasn't real clear to us whether the concern
8 was that -- or where would another customer that would
9 come to us wanting standby service -- whether that other
10 customer is an existing customer who became a
11 cogenerator and therefore required standby service or
12 some new customer altogether that moved into our area
13 and was a cogenerator needing standby service, which
14 version or which column on SBS that customer would go
15 in; or whether the concern that precipitated the issue
16 was where one of the five customers that we have now --
17 which column they are being served under or priced at on
18 rate SBS, or both of those, or some other.

19 COMMISSIONER CLARK: All right. I have read
20 through the -- first of all, let me just leave that
21 pending for a moment and let me make it clear that Gulf
22 is relieved of the requirement of a general mailing or
23 advertising in the newspaper. You must notice the five
24 customers affected by first class mail.

25 Now, let's turn to the prehearing order. I

1 have read the prehearing order. Are there any changes
2 by any of the parties?

3 MS. LILES: Commissioner, we will be prepared
4 to file rebuttal testimony later on today. Mr. Howell
5 will be filing rebuttal testimony addressing Issue No. 1
6 as it has been identified; Mr. Thompson is filing
7 rebuttal testimony pertaining to Issues 1, 2 and 4 of
8 this docket.

9 COMMISSIONER CLARK: All right. So they need
10 to be added.

11 MS. LILES: That's correct.

12 COMMISSIONER CLARK: Staff, will you make that
13 addition of the names of the rebuttal testimony and the
14 issues they will be addressing?

15 MS. LILES: Commissioner, I don't know if this
16 is the appropriate time or not. In the agenda
17 conference when this docket was first brought before the
18 Commission, the customers were allowed to testify first,
19 and we believe that's the appropriate way to handle it.
20 In the prehearing order, the witnesses were listed with
21 Gulf's witnesses appearing first; and with your consent,
22 we would like to reverse that so that the industrial
23 intervenors actually testify first at the hearing.

24 COMMISSIONER CLARK: Well, it's Gulf's tariff;
25 you have the burden of showing the tariff is

1 appropriate.

2 MS. LILES: I understand.

3 COMMISSIONER CLARK: On the other hand, I
4 don't think it matters because you are both on the same
5 side.

6 Staff, what comments would you have with
7 respect to allowing the industrial customers to testify
8 first?

9 MS. ERSTLING: I don't think that would
10 present any real problem in this issue.

11 COMMISSIONER CLARK: Okay. Is that request
12 based on the fact their testimony is going to be pretty
13 short? Why do you want them to go first?

14 MS. LILES: We just feel it worked very well
15 in the agenda conference. We have worked very closely
16 with the customers in developing this rate; and I think
17 to hear their perspective at the outset of this hearing
18 would assist the Commission in making a decision.

19 COMMISSIONER CLARK: Let me present this to
20 you. As a Commissioner, it may be easier for me to
21 understand it and to sort of get an idea of what's at
22 issue if we hear from Gulf first, the witness that takes
23 us through the tariff, and then we can understand why
24 the customers think it's a good idea. I'm not sure -- I
25 would like to get my bearings as to the particulars of

1 the tariff.

2 MS. LILES: I think in this instance,
3 Commissioner, it is probably a little different than the
4 tariffs that are usually brought before you. And the
5 tariff was changed really at the request, so to speak,
6 of the customers; it was the customers who came to us
7 and said, "We perceive a problem with the tariff the way
8 it's working at the present and this is what we would
9 like to address." Based on that, we've worked with them
10 for some time and came up with the tariff that's before
11 the Commission now; and I think hearing their
12 perspective at the outset of the hearings might be
13 helpful.

14 COMMISSIONER CLARK: Ms. Kaufman?

15 MS. KAUFMAN: We don't have any objection to
16 preceding Gulf.

17 COMMISSIONER CLARK: Okay. You can show the
18 industrial customers will testify first, and then Gulf,
19 and then Staff. And I'm not concerned about the order
20 of it, you all can work out the order.

21 MS. LILES: Commissioner, one final remark
22 while we're on the order of witnesses and the witnesses
23 in general. We think it might be helpful for Mr. Howell
24 and Mr. Thompson to testify as a panel because their
25 testimony will overlap in some instances. We just

1 wanted to bring that to your attention.

2 COMMISSIONER CLARK: Staff, is there any
3 objection to allowing them to testify as a panel?

4 MS. ERSTLING: As long as we're assured that
5 Mr. Howell is only answering Issue No. 1 and is confined
6 to that issue only, then I don't think there should be
7 any problem with that.

8 COMMISSIONER CLARK: Okay. I mean, what does
9 that matter? If he happens to have information on 2 or
10 4, you would want to question him, wouldn't you?

11 MS. ERSTLING: Probably, if it was sufficient.

12 COMMISSIONER CLARK: All right, show them
13 appearing as a panel.

14 MS. LILES: Thank you.

15 COMMISSIONER CLARK: Ms. Kaufman?

16 MS. KAUFMAN: Commissioner, the industrial
17 intervenors will be filing rebuttal testimony as well of
18 Mr. Pollack and Mr. Brueggemeier, and we'll file that by
19 close of business today.

20 COMMISSIONER CLARK: All right. Do you want
21 the same order, industrial customers and Gulf in the
22 rebuttal?

23 MS. LILES: That would be satisfactory.

24 COMMISSIONER CLARK: Let's show it in the same
25 order then. It will be industrial customers and then

1 Gulf in the rebuttal testimony. Anything else,
2 Ms. Kaufman?

3 MS. KAUFMAN: No, Commissioner.

4 COMMISSIONER CLARK: I understand there's a
5 controversy about Issue 3; and as I understand it, it
6 appears to be a rate discrimination issue?

7 MS. ERSTLING: Yes, I believe that is exactly
8 correct.

9 COMMISSIONER CLARK: And I recall discussion
10 at agenda on this point and I think it is appropriate to
11 explore it in the hearing. Because if there are any
12 other deficiencies in this tariff, I want to know about
13 them and I think you had better be prepared to address
14 Staff's concerns with respect to that. So therefore, I
15 will allow Issue 3 to remain in there.

16 Now, I want to take a ten-minute break and I
17 would like you to meet with Staff to see if including
18 this issue requires us to inform any other customer that
19 they may be affected by it if the Commission would
20 choose to find that the Staff's position on this is
21 appropriate. And I'll be back at 10:00.

22 MS. LILES: Thank you.

23 (Brief recess.)

24 - - - - -

25 COMMISSIONER CLARK: I call the hearing back

1 to order.

2 Has there been a discussion on Issue 3 and
3 whether or not there are other potentially affected
4 customers that need to be notified?

5 MS. ERSTLING: Yes, Commissioner Clark, we
6 have discussed it and we have come to a conclusion there
7 is a potential of four or five customers, other
8 customers, who could possibly fall into that class later
9 on, become cogenerators. The utility has agreed to
10 notice those four or five other customers that might be
11 involved as well.

12 COMMISSIONER CLARK: All right. I would like
13 to request that you notice them as soon as possible in
14 the event that they would like to intervene in this
15 docket. Is there a need for us to review the notice
16 that might go out? I realize it has to be somewhat
17 artfully drawn so that there is no -- that it is an
18 issue we're looking into but it by no means --

19 MS. LILES: Commissioner, it would be our
20 suggestion that we simply use the notice that was
21 published in the Florida Administrative Weekly by the
22 Commission Staff and submit that on behalf of Gulf Power
23 to those customers.

24 COMMISSIONER CLARK: Okay. If that's okay
25 with the Staff, we'll let that notice go. If there is a

1 need to revise it in any way, please work with the
2 Company. If you can't resolve it, let me know.

3 Is there anything else that we need to resolve
4 at this point?

5 MS. LILES: Commissioner, on Issue 3, since
6 that is going to be an issue, there is no testimony in
7 the record so far on that issue. I'm not sure how you
8 want to handle that. Obviously, you have some concerns
9 and want to hear some discussion on that issue, whether
10 we should be allowed to file some supplemental testimony
11 or whether you simply want to expand the opportunity to
12 question the witnesses at the hearing.

13 COMMISSIONER CLARK: No, I think it would be
14 appropriate to file supplementary direct testimony on
15 the issue.

16 MS. LILES: We will be prepared to do that.

17 COMMISSIONER CLARK: I understand the hearing
18 is August 1st. Is there a suggestion as to what date
19 that supplemental testimony should be provided?

20 MS. ERSTLING: Since we're only dealing with
21 one issue and the intervenors have filed some testimony
22 on that --

23 MS. KAUFMAN: We have.

24 MS. ERSTLING: -- so they've already done
25 that; however, the Company has not filed testimony on

1 that. I suggest you give the Company a week; that way,
2 we all then can prepare for the hearing and our cross
3 examinations.

4 COMMISSIONER CLARK: Right. Then I will give
5 the Company until, today is the 10th?

6 MS. LILES: 11th.

7 COMMISSIONER CLARK: Until close of business
8 on July 18 to file supplemental direct testimony on
9 Issue 3.

10 MS. LILES: Thank you, Commissioner.

11 MS. KAUFMAN: Commissioner, if we could go
12 back to the order of witnesses for a moment?

13 COMMISSIONER CLARK: Yes.

14 MS. KAUFMAN: While we were on break, I had
15 some discussion with Ms. Liles. And as I said, we don't
16 object to the industrial customers going first; but
17 Mr. Pollack, who is listed there as the first witness,
18 he is not a customer, he's an expert witness, so we
19 would suggest that he be the last witness of the
20 industrial intervenors and that the actual four
21 customers go first, and the same on rebuttal.

22 COMMISSIONER CLARK: All right. That's fine
23 with me. And if you will get with Staff to reflect the
24 correct order of witnesses, I would appreciate it.

25 MS. KAUFMAN: Thank you.

1 COMMISSIONER CLARK: Is there anything else we
2 need to take up?

3 MS. ERSTLING: No, Commissioner, I believe
4 that that's finished.

5 COMMISSIONER CLARK: Okay. This prehearing is
6 adjourned.

7 (Prehearing conference concluded at 10:05
8 a.m.)

9 - - - - -

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 F L O R I D A)
:
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, SYDNEY C. SILVA, CSR, RPR, Official Commission
4 Reporter,

5 DO HEREBY CERTIFY that the Prehearing Conference
6 in Docket No. 9301044-EI, was heard by the Florida Public
7 Service Commission at the time and place herein stated;
8 it is further

9 CERTIFIED that I stenographically reported the
10 said proceedings; that the same has been transcribed
11 under my direct supervision, and that this transcript,
12 consisting of 16 pages, constitutes a true transcription
13 of my notes of said proceedings.

14 DATED this 11th day of July, 1994.

15
16
17
18
19
20
21
22
23
24
25

Sydney C. Silva
SYDNEY C. SILVA, CSR, RPR
Official Commission Reporter
(904) 488-5981

STATE OF FLORIDA)
:
COUNTY OF LEON)

The foregoing certificate was acknowledged
before me this 11th day of July, 1994, by
SYDNEY C. SILVA, who is personally known to me.

Patricia A. Church
PATRICIA A. CHURCH
Notary Public - State of Florida
My Certificate No. CC 90785
Notary Public, State of Florida
My Commission Expires April 20, 1995
Bonded Thru Troy Fain - Insurance Inc.