

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of ) DOCKET NO. 951161-EI  
proposed optional ) ORDER NO. PSC-96-0845-FOF-EI  
Commercial/Industrial Service ) ISSUED: July 2, 1996  
Rider by Gulf Power Company. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
J. TERRY DEASON  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

FINAL ORDER DENYING TARIFF

BY THE COMMISSION:

INTRODUCTION

On September 27, 1995, Gulf Power Company (Gulf) filed a petition for a proposed Commercial/Industrial Service Rider (CISR or CIS-rider) tariff. The rider would allow Gulf the flexibility to enter into negotiated contracts with customers who meet certain eligibility requirements. Gulf proposes to use the incremental cost to serve the customer as the price floor for the negotiations.

The tariff would be available to large customers who are currently served or eligible to be served under Gulf's LP, LPT, PX, PXT, SBS, or RTP rates. Existing customers must have greater than 500 kw of maximum monthly demand or add at least 1,000 kw of connected load. New customers must have at least 1,000 kw of connected load. If Gulf and the customer are able to agree on the price and other terms and conditions, they would execute a Contract Service Agreement (CSA). Gulf requests that the terms and conditions of these CSAs be treated as confidential.

In order to be eligible for the rider, a customer would be required to demonstrate to Gulf's satisfaction that without the negotiated contract, the customer would leave Gulf's electric system and procure electric service from another source. The rider would require an affidavit from the customer stating the customer's intention to leave Gulf's system. The rider would also require the customer to provide Gulf with the results of a recent energy audit.

DOCUMENT NUMBER-DATE

07050 JUL-28

FPSC-REG. DIV. REPORTING

The Florida Industrial Power Users Group (FIPUG) and Legal Environmental Assistance Foundation (LEAF) intervened in this docket. Both FIPUG and LEAF have entered into stipulations with Gulf. A formal evidentiary hearing was held on March 7-8, 1996. The parties filed post-hearing briefs on the issues raised at the hearing. At our June 11, 1996 agenda conference, we denied Gulf's proposed tariff. Our reasons for that decision are set out below.

#### DECISION

Gulf argues that many existing customers and potential customers are increasingly exploring alternatives to taking electric service from the local electric utility supplier. Gulf states that as a result, it faces growing pressure to offer greater value at lower prices. To compete for "at-risk" load, Gulf argues that it must be able to quickly respond with prices and custom tailored services to meet the expectations of the customer.

Gulf's main argument in support of its tariff is that all customers will benefit from this proposal because at-risk load, once it is lost, no longer produces any revenue contribution towards fixed costs. Gulf argues that if it can retain a customer on its system, then all customers benefit from that customer's continued contribution to fixed costs. Gulf's argument is true only if (1) a customer is truly "at-risk", (2) Gulf accurately identifies incremental costs, and (3) the negotiated price exceeds incremental costs. The value of Gulf's proposal depends upon: (1) the accurate assessment of at-risk load, and (2) the accurate quantification of incremental cost. As proposed, the company will make these assessments without Commission approval of the contracts. Because Gulf has asked for such discretion, it is important that Gulf establish reasonable safeguards and standards to ensure that negotiated contracts are offered only when necessary.

We agree that the electric industry is facing increased competitive pressures that need to be addressed. We believe, however, that a more carefully structured tariff than that proposed by Gulf is required. We find the procedures proposed by Gulf for administering the tariff are insufficient to justify a departure from offering electric service based on standard tariff rates; therefore, we deny the tariff.

I. Accurate assessment of at-risk load

Pursuant to Gulf's proposal, a potential CISR customer must provide an affidavit and other documentation to demonstrate, to Gulf's satisfaction, that the customer has a viable economic alternative to standard tariff service from Gulf. This aspect of Gulf's proposal raises several concerns.

Gulf's proposal is not as well thought out as it needs to be to gain our approval. Gulf witness Kilgore testified that "there are a lot of elements of service besides price that would -- that are likely to lead to a different rate offering to the customer." Gulf's CIS rider tariff, however, does not provide standards to show how different rate offerings will be made. In addition, Gulf witness Young conceded that "detailed procedures had not yet been nailed down." Gulf's only justification for the tariff's lack of detailed standards is that it needs "flexibility."

A further example of the vagueness of Gulf's proposal involved the level of management which would be required to approve a CSA contract. Mr. Young again stated that there had not been a detailed discussion or detailed decision made on the individuals within Gulf who will make these determinations.

Gulf argues that it has no incentive to apply this tariff to load that is not "at risk" and that its "reasoned judgement" and "customer relations network" will ensure that only load that is truly "at-risk" will obtain a CSA contract. Gulf, however, failed to describe any specific steps it would take in applying its reasoned judgement.

Gulf also argues that it has an incentive to correctly identify at-risk status because of a future Commission review and possible imputation of revenues. It was not clear as to whether or not Gulf would seek recovery from ratepayers of the difference between standard tariff rates and negotiated rates. Mr. Kilgore testified that the difference was "fictitious." Gulf witness Merilatt testified, however that Gulf does intend to recover this difference. In addition, Gulf has proposed no guidelines for the Commission to evaluate the prudence of CSA contracts.

We find that Gulf's proposed procedures are too scant to evaluate. Because the proposal is vague, we are concerned as to whether the risk of lost revenues is adequately shared by both Gulf's shareholders and ratepayers. Detailed procedures and standards are especially crucial in this case because Gulf will be the one to make the determination of at-risk status and to determine incremental costs. Under Gulf's proposal, the Commission

would not pre-approve the contracts. Given these circumstances, the public interest requires more than Gulf's promise that it can accurately identify at-risk customers.

## II. Accurate quantification of incremental cost

We find that Gulf has not demonstrated that its CISR proposal can ensure accurate measurement of incremental costs to serve "at-risk" customers. Gulf proposes to use the same Rate Impact Measurement (RIM) test for its CISR as it does for Demand Side Management (DSM) programs. Gulf argues the RIM test permits inclusion of all the component costs and benefits necessary to analyze the cost-effectiveness of each potential contract. Under the CISR proposal, a contract passing the RIM test would be in the best interests of Gulf's customers.

RIM may be an appropriate methodology; however, there are two critical flaws to Gulf's proposed use of that methodology. The first is the verification of an "at-risk" customer as discussed above. Even if one were to assume that an "at-risk" customer could be properly identified, Gulf's proposal is still insufficient because it does not define the incremental cost to serve the "at-risk" customer and does not provide guidelines for determining that customer specific incremental cost.

Gulf's proposal does not identify the appropriate capacity costs required to serve the "at-risk" customer. Capacity costs represent the costs of generation needed to serve the "at-risk" customer. Gulf proposes to use system incremental values rather than customer specific incremental values. Mr. Merilatt testified that using system incremental values is appropriate because a peak kW of a customer and a peak kW of the system are the same. This is not correct. If an "at-risk" customer has a load factor that is higher than Gulf's avoided unit, then the customer would also require the use of some existing system capacity to serve its load. This capacity would be provided from either Gulf's existing units or from increased Intercompany Interchange Contract (IIC) purchases from other operating companies within the Southern Company. Gulf's own analysis shows that a 100 mW increase in load could increase IIC payments by as much as \$9 million annually. These costs would be passed on to all ratepayers through Gulf's Capacity Cost Recovery Factor. It is unclear whether Gulf's proposal would include any embedded system costs or changes in IIC payments in its cost-effectiveness test.

Gulf also proposes to use system incremental values in the cost-effectiveness analysis of incremental transmission and distribution (T&D) costs. This creates the same problem as with generation costs in that the customer may require the use of some embedded T&D plant.

In addition, it appears that Gulf's proposed methodology would not capture increased environmental compliance costs. An individual customer's load factor may also influence emissions differently than that of the system's load factor. Any short-term compliance costs would be borne by all of Gulf's ratepayers through the Environmental Compliance Cost Recovery Clause.

It is also unclear as to whether Gulf's methodology would consider the costs of common facilities. While these costs are difficult to determine, they are a real cost of service that must be recognized. To ignore these costs would result in the miscalculation of the incremental costs to serve the "at-risk" customer.

Furthermore, each negotiated contract could have a different term and use a different avoided unit for the incremental cost analysis. Gulf has not shown how short-term contracts would affect the long term decisions of when and what type of capacity to build. Gulf's CISR could be used for load building, which would accelerate the need for capacity. An accelerated need for capacity would also affect the cost effectiveness of Gulf's DSM programs. Gulf proposes to address these problems through its "normal IRP process." However, in Order No. PSC-94-1313-FOF-EG, Gulf's planning process was found to be deficient and inadequate in the manner in which Gulf modeled the interaction between DSM programs and supply-side options. Mr. Merilatt testified that he did not know if anything had changed in Gulf's planning process since that time.

### III. Other issues

There were several issues identified for resolution at the hearing that we decline to address at this time. The issue of whether it is appropriate to use incremental cost to serve a CISR customer as the price floor for negotiated contracts was raised. Given our decision to deny the proposed tariff, we decline to address this issue. We note that the question of what is an appropriate floor should be included in any rate discount proposal. We find there is insufficient evidence in the record to resolve the issue of whether Gulf's CISR tariff is unduly discriminatory. In addition, we find that the issues relating to Gulf's request for



confidential treatment of the CISR contracts and the reporting of revenue losses on Gulf's surveillance reports are moot.

Because of our decision to deny the tariff, it is not necessary for us to decide several additional issues. These issues relate to whether Gulf's proposal would result in influencing the non-electric marketplace; and whether the proposal is consistent with the economic development statute and rules, the statutory requirement to promote cost-effective cogeneration and the Florida Energy Efficiency Conservation Act. It is also not necessary for us to decide the issue of whether a comparison of Gulf's proposal to flexible pricing arrangements in the telecommunications and natural gas industries is appropriate.

#### CONCLUSION

In summary, we find that Gulf failed to provide sufficient evidence to justify that its proposed CISR tariff is in the public interest. The procedures proposed by Gulf are inadequate to ensure that the CISR tariff would only be offered to customers who are truly "at risk" and that any resulting contract would be cost-effective. In addition, the procedures proposed vest total discretion in Gulf to define incremental costs and to negotiate the price offered without meaningful oversight by this Commission. We recognize, however, that because of increasing competitive pressures, utilities may need the option to offer flexible pricing arrangements in lieu of standard tariff service. Therefore, we will initiate a generic investigation to address tariffs designed to retain customers on the system or attract customers to the system through flexible pricing.

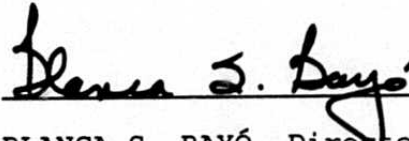
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Power Company's Petition to approve its Commercial/Industrial Service Rider is denied. It is further

ORDER NO. PSC-96-0845-FOF-EI  
DOCKET NO. 951161-EI  
PAGE 7

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 2nd  
day of July, 1996.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

VDJ

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/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 after the issuance 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.