



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: OCTOBER 4, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF AUDITING AND FINANCIAL ANALYSIS (MAUREY, SAMAAAN) *W*
DIVISION OF ELECTRIC AND GAS (KUMMER) *COL*
DIVISION OF LEGAL SERVICES (ELIAS) *RVE*

RE: DOCKET NO. 991487-EI - PROPOSAL OF GULF POWER COMPANY FOR PROSPECTIVE REDUCTION TO AUTHORIZED RETURN ON EQUITY. *ALM*
1998
JOJ

AGENDA: 10/05/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\AFA\WP\991487.RCM
ATTACHMENT IS AVAILABLE

CASE BACKGROUND

Staff met with Gulf Power Company (Gulf or the Company) and the Office of Public Counsel (OPC) in December 1998 and January 1999, to discuss staff's concerns with the Company's authorized return on equity (ROE) and the treatment of certain regulatory assets. Staff, the Company, and OPC also had conference calls in January and February 1999. Staff initiated the meetings with OPC and the Company after the Commission's decision at the December 1, 1998 Agenda Conference, to accept Florida Power and Light's (FPL) proposal to reduce its authorized ROE.

DOCUMENT NUMBER-DATE

11943 OCT-4 99

FPSC-RECORDS/REPORTING

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On March 2, 1999, Gulf filed a petition for approval of an incentive revenue sharing mechanism. At the April 20, 1999, Agenda Conference, the Commission approved a three year regulatory incentive plan for Gulf. Order No. PSC-99-1047-PAA-EI, issued on May 24, 1999, was protested by the Coalition for Equitable Rates (Coalition) on June 14, 1999. On July 22, 1999, OPC filed a Petition for a Full Revenue Requirements Rate Case for Gulf Power Company.

In Docket No. 990947-EI, on October 1, 1999, OPC, Gulf, the Florida Industrial Power Users Group (FIPUG), and the Coalition filed a Stipulation and Settlement (Stipulation) that resolves the issues raised in this docket. Also on October 1, 1999, in Docket No. 991487-EI, Gulf filed a Request for Approval of Prospective Reduction to Authorized Return on Equity.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve Gulf Power Company's Request for Approval of Prospective Reduction to Authorized Return on Equity? (Attachment A)

RECOMMENDATION: Yes, Gulf's request should be approved. (MAUREY, SAMAN, ELIAS)

STAFF ANALYSIS: In its petition in Docket No. 991487-EI, Gulf requests the Commission approve its unilateral request for a prospective reduction in the Company's authorized return on equity (ROE) range. Although the parties to the Stipulation and Settlement (Stipulation) filed in Docket No. 990947-EI were not able to reach an agreement on a new authorized ROE range for the Company, the Stipulation expressly allows Gulf to voluntarily agree to lower its authorized ROE on a prospective basis for the term of the Stipulation. All of the parties to the Stipulation have agreed that they will not object to or otherwise seek to modify Gulf's voluntary reduction.

In its petition, Gulf proposes that effective on the Implementation Date and for the period through the Expiration Date as defined in the Stipulation, the Company's authorized ROE range will be 10.5% to 12.5% with a midpoint of 11.5% for all regulatory purposes. The Company's current ROE range of 11.0% to 13.0% with a midpoint of 12.0% was approved in Order No. PSC-93-0771-FOF-EI issued May 20, 1993.

With regard to the proposed ROE of 11.5%, staff believes that this return is near the top of the range of reasonableness for Gulf. While this return is not what staff would testify to had this matter gone to hearing, this change is a movement in the right direction. In the interest of regulatory efficiency and cost savings, staff recommends the Commission approve an authorized ROE range of 10.5% to 12.5% with a midpoint of 11.5% for any and all regulatory purposes for the term of the Stipulation as requested by Gulf.

Gulf asks that the Commission approve its proposed unilateral reduction as final agency action. In its request, Gulf states:

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In Order No. 18340 issued October 26, 1987 in Docket No. 870890-EI, the Commission accepted a similar proposal by Gulf Power through the issuance of a final Order without the necessity of a hearing. As part of this proposal, Gulf Power Company requests that the Commission issue a final order in the same manner that was used by the Commission in Docket No. 870890-EI.

Staff does not believe Gulf's request comports with the requirements of Florida Administrative Law. It is axiomatic that before an agency subject to the requirements of Chapter 120, Florida Statutes, takes final action, it must afford persons whose substantial interests are affected a point of entry to an administrative hearing. Staff believes that a decision to lower a utility's ROE for all regulatory purposes (as proposed here by Gulf) is final action. Thus, persons whose substantial interests are affected have a right to a hearing. Gulf's request is not consistent with that right.

The instant case is distinguishable from that referenced by Gulf in its petition. By Order No. 18430, issued October 26, 1987, in Docket No. 870890-EI, the Commission approved a unilateral proposal to reduce ROE in connection with the tax savings rule and the calculation of Allowance for Funds Used During Construction (AFUDC) rates to be effective in 1988. Staff believes that the two actions described in that Order are of an interim and/or preliminary nature, with a point of entry available in a subsequent proceeding. That is not the case with the instant proposal. Curiously, it appears that Order No. 18430 was issued without any Notice of Further Proceedings or Judicial Review. Thus, the characterization of that Order as a final order is debatable.

Staff recognizes that the parties in Docket No. 990947-EI have, by the stipulation in that docket, waived any right to challenge or modify Gulf's voluntary ROE reduction. However, there may be other persons whose substantial interests are affected who have a right to a hearing on Gulf's proposal. Accordingly, this request, if approved, should be issued as proposed agency action.

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ISSUE 2: Should Docket No. 991487-EI be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected files a request for a Section 120.57(1), Florida Statutes, hearing within 21 days of the order, the order will become final and effective upon the issuance of a consummating order. Because no further action will be required, this docket should be closed.
(ELIAS)

STAFF ANALYSIS: Yes. If no person whose substantial interests are affected files a request for a Section 120.57(1), Florida Statutes, hearing within 21 days of the order, the order will become final and effective upon the issuance of a consummating order. Because no further action will be required, this docket should be closed.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposal of Gulf Power)
Company for prospective reduction) Docket No. _____
to authorized return on equity.) Date filed: October 1, 1999
_____)

**GULF POWER COMPANY'S REQUEST FOR APPROVAL OF PROSPECTIVE
REDUCTION TO AUTHORIZED RETURN ON EQUITY**

Gulf Power Company ("Gulf Power", "Gulf", or "the Company"), by and through its undersigned attorneys, and as referenced in the Stipulation and Settlement filed in 990947-EI, hereby requests the Florida Public Service Commission ("Commission") to approve this unilateral request for approval of prospective reduction in the Company's authorized range for return on equity. In support of this request, the Company states:

1. Gulf is a corporation with its headquarters located at 500 Bayfront Parkway, Pensacola, Florida 32501. The Company is an investor-owned electric utility operating under the jurisdiction of this Commission. Notices and communications with respect to this docket should be addressed to:

Jeffrey A. Stone
Russell A. Badders
Beggs & Lane
P. O. Box 12950
Pensacola, FL 32576-2950

Susan D. Ritenour
Assistant Secretary and
Assistant Treasurer
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780

2. In Docket No. 990244-EI, the Company petitioned the Commission for approval of proposed plan for an incentive revenue sharing mechanism that would have addressed certain regulatory issues including a reduction to the Company's authorized return on equity. Docket No. 990250-EI was opened as an investigation into the earnings and authorized return on equity of Gulf Power Company.

Gulf's proposal was denied and an alternative regulatory incentive plan for Gulf Power Company was proposed by the Commission in Order No. PSC-99-1047-PAA-EI. That order was the subject of a Petition on Proposed Agency Action filed by the Coalition for Equitable Rates ("Coalition"). Docket No. 990947-EI was opened for the purpose of addressing the Office of Public Counsel's petition for a full revenue requirements rate case for Gulf Power Company.

3. Comprehensive settlements of the issues raised or pending in the foregoing dockets have been reached by the parties thereto as reflected in the Stipulation and Settlement in Docket No. 990947-EI and the Joint Request filed in Docket Nos. 990250-EI and 990244-EI (collectively the "settlement agreements"). As a result of the settlement agreements and subject to the approval of the Commission, the Stipulation and Settlement in Docket No. 990947-EI is to be implemented in lieu of a full revenue requirements rate case for Gulf Power Company and in lieu of the regulatory incentive plan for Gulf Power previously proposed as set forth in Section III of and Attachment A to Order No. PSC-99-1047-PAA-EI or any other regulatory plan that may otherwise result from activities in Docket No. 990250-EI. Although the parties to the settlement agreements were not able to reach agreement on a new authorized return on equity range for the Company, nothing in the settlement agreements is intended to prevent Gulf Power from voluntarily agreeing to lower its authorized return on equity range on a prospective basis for the term extending from the Implementation Date (as defined in the Stipulation and Settlement) through the Expiration Date (as defined in the Stipulation and Settlement). All of the parties to

the Stipulation and Settlement in Docket No. 990947-EI have agreed that they will not object to or otherwise seek to modify Gulf Power's voluntary reduction herein proposed.

4. In consideration of the Commission's proposed reduction to the Company's authorized range for return on equity originally set forth in Order No. PSC-99-1047-PAA-EI, and in an effort to facilitate Commission approval of the settlement agreements, Gulf Power hereby unilaterally proposes to lower its authorized range on return on equity as follows:

Effective on the Implementation Date of the Stipulation and Settlement in Docket No. 990947-EI, Gulf Power's authorized return on equity range on a prospective basis for the term extending from the Implementation Date through the Expiration Date as defined in the Stipulation and Settlement will be 10.50% to 12.50% with a midpoint of 11.50% for all regulatory purposes.

5. The voluntary reduction proposed herein constitutes a voluntary relinquishment of an entitlement to use the existing authorized return on equity range of 11.0% to 13.0% with a midpoint of 12.0% for such purposes as the calculation of revenue requirements in the Environmental Cost Recovery Clause and the calculation of the Allowance for Funds Used During Construction ("AFUDC"). In Order No. 18340 issued October 26, 1987 in Docket No. 870890-EI, the Commission accepted a similar proposal by Gulf Power through the issuance of a final order without the necessity of a hearing. As part of this proposal, Gulf Power Company requests that the Commission issue a final order in the same manner

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ATTACHMENT A
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that was used by the Commission in Docket No. 870890-EI.

6. In order to allow Gulf's proposed reduction to its authorized return on equity range to be implemented with the Stipulation and Settlement in Docket No. 990947-EI, Gulf expressly requests the Commission to take final agency action on this proposal at the earliest possible Commission Conference at which the Stipulation and Settlement in Docket 990947-EI and the termination and closure of Docket 990250-EI as required therein will be considered by the Commission.

WHEREFORE, Gulf Power Company respectfully requests the Commission to approve and authorize implementation of the Company's unilateral proposal for a reduction to the Company's authorized range for return on equity to be applied prospectively as stated herein.

Respectfully submitted the 1st day of October 1999.

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