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ORIGINAL



November 2, 1999

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0870

Dear Ms. Bayo:

RE: Docket No. 980643-EI

Enclosed are an original and fifteen copies of Gulf Power Company's Comments on the proposed rule changes to cost allocation and affiliated transactions.

Sincerely,

Susan D. Ritenour
Assistant Secretary and Assistant Treasurer

(AFA)	<u> </u>	<i>Revel</i>
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OTH	<u> </u>	

Enclosure

cc: Beggs and Lane
Jeffrey A. Stone, Esquire

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GULF POWER COMPANY

Comments on the draft of possible rule changes regarding cost allocation procedures for investor-owned electric utilities attached to Memorandum dated October 12, 1999

Docket No. 980643-EI

November 3, 1999

General Comments

Gulf's position remains that the proposed rule amendments are unnecessary and rulemaking changes should not proceed unless the Commission can clearly demonstrate the benefits. As stated in previous comments, the Commission has authority to review affiliated transactions at any time and has exercised that right. Staff has made numerous improvements in the current draft; however, the asymmetrical pricing requirements could discourage the most economical transactions, resulting in increased costs to utility ratepayers. Also, the proposed rule should not apply to transactions with regulated affiliates and parent/service companies regulated by the Securities and Exchange Commission (SEC). The pricing policy between a utility and affiliates of a registered holding company are already regulated by the SEC pursuant to the Public Utility Holding Company Act of 1935 (PUHCA) which requires transactions to be made at cost. Transactions between parent/service companies and regulated utility affiliates are for the benefit of the utility ratepayer, not ventures into unregulated businesses.

Although Gulf does not believe the proposed rule amendments are necessary, the Company offers the following suggested revisions and comments, which are not inclusive and do not preclude future comments:

Purpose

The purpose of this rule is to establish cost allocation requirements to ensure proper accounting for affiliate transactions and utility nonregulated activities so that these transactions and activities are not subsidized by utility rate payers. This rule is not applicable to affiliate transactions for purchase of fuel and related transportation services which are subject to Commission review and approval in cost recovery proceedings or to affiliate transactions involving a utility affiliate of a registered holding company as defined by the Public Utility Holding Company Act of 1935 (PUHCA).

Explanation

Affiliate transactions involving a regulated utility that is part of a registered holding company and other utility affiliates and/or the service company subsidiaries of the registered holding company benefit the regulated ratepayer by sharing common resources. For instance, the Southern Company utility affiliates exchange parts and

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Coding: Words underlined are additions; words ~~struck through~~ are deletions from the draft attached to the October 12, 1999 Memorandum; words in *italics* are comments.

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materials for power plants, transmission systems and distribution facilities at cost. In addition, affiliated utility companies typically assist each other in emergency storm restorations at cost. Requiring these type transactions to be subject to asymmetrical pricing is not appropriate. These transactions between utilities and other utility affiliates and/or the service company subsidiaries of the registered holding company are not for diversification into unregulated ventures and should not be held to the proposed provisions of this rule.

(3) Non-Tariffed Affiliate Transactions

- (a) The purpose of subsection (3) is to establish requirements for non-tariffed affiliate transactions impacting regulated activities. Affiliate transactions of a registered holding company as defined by the Public Utility Holding Company Act of 1935 (PUHCA) are excluded from the scope of sections (b), (c), and (d).

Explanation

Gulf disagrees with the asymmetrical pricing policy in section 3 (b) (c) and (d). Asymmetrical pricing discourages the most efficient use of resources. As pointed out by EEI, "the asymmetric treatment of the unregulated affiliate that requires the 'lower of market or fully allocated cost' for transactions in the opposite directions cannot be justified". This treatment could discourage the efficient use of resources between the utility and non-regulated affiliate. EEI suggests the use of an affiliate transfer pricing policy that protects the consumers of regulated services while promoting efficient use of utility and affiliate resources. In addition, Gulf believes that parent/service company and affiliate transactions involving affiliates of a registered holding company should be excluded from the scope of section (3) (b), (c), and (d) as these transactions are for the benefit of utility ratepayers and are regulated by the SEC under PUHCA. PUHCA requires transactions between the affiliates of a registered holding company to be priced at cost. Service companies of a registered holding company provide specialized and administrative services to affiliates that are for the benefit of the regulated utility, not non-regulated ventures.

- (d) When an asset used in regulated operations is transferred from a utility to a nonregulated affiliate, the utility ~~must~~ shall charge the affiliate the greater of market or net book value. Except, a utility may transfer assets at less than net book value if doing so would benefit regulated operations. When an asset to be used in regulated operations is transferred from a nonregulated affiliate to a utility, the utility ~~must~~ shall record the asset at the lower of market or net book value. Except, a utility may record transferred assets at more than net book value if doing so would benefit regulated operations. If the utility charges less than net book value or records the asset at more than net book value, the utility must maintain documentation to support and justify doing so would benefit regulated operations. An independent appraiser must verify the market value of a transferred asset with a net book value greater than \$1,000,000.

Explanation

This exception is similar in function to one provided in staff's draft of subsection (3)(c).

- (e) Each regulated affiliate involved in affiliate transactions must maintain all underlying data concerning the affiliate transaction for at least three years after the affiliate transaction is complete. This paragraph does not relieve a regulated affiliate from maintaining records under otherwise applicable record retention requirements.

Explanation

Commission does not have the authority to impose rules on non-regulated affiliates. In addition, non-regulated affiliates should not be subject to more regulatory requirements than non-affiliated vendors.