

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Determination of ) DOCKET NO. 950917-EI  
appropriate treatment of ) ORDER NO. PSC-95-1155-FOF-EI  
revenues and costs associated ) ISSUED: September 18, 1995  
with experimental Real Time )  
Pricing rate schedule of Gulf )  
Power Company. )  
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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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ON REAL TIME PRICING RATES

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 substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

On February 7, 1995, we approved Gulf Power Company's (Gulf) proposed real time pricing (RTP) rate schedule in Docket No. 941102-EI. The rate was filed as an experimental rate available only to Gulf's largest customers. It is set to expire on December 31, 1998.

At our August 1, 1995, agenda conference we voted to accept Gulf's proposal regarding potential overearnings for the calendar year 1995 in Docket No. 950837-EI. In that proposal, Gulf agreed to cap its earnings at the level of 12.75% return on equity (ROE), with any revenues in excess of this amount to be deferred pending our decision on their appropriate disposition. The proposal also included a provision stating that the calculation of achieved ROE

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would be adjusted pursuant to any final order regarding the disposition of the total costs incurred by Gulf to provide service under its RTP rate schedule.

This Order addresses the treatment of the RTP costs for the purposes of determining any overearnings by Gulf. We hold that costs of Gulf's experimental Real Time Pricing program shall be reported "above the line" for surveillance purposes. We further hold that staff shall continue to monitor the impact of costs on Gulf's regulated earnings. The reasons for our decision are set out below.

#### DECISION

Gulf filed the RTP rate schedule as an experimental rate, which will be in effect until December 31, 1998. The rate is available only to its largest (2,000 kw or higher) customers. Gulf maintains that the RTP rate is a conservation program that will yield significant peak demand reduction savings. In Gulf's petition for approval of the program, it stated that the purpose of the program is to determine whether "customer response to the pricing initiative will produce a cost-effective reduction in the growth of peak demand on the Company's system."

Florida Power and Light (FPL) was the first utility to petition for approval of a conservation RTP rate schedule in Docket No. 940423-EI. Several workshops were held to discuss the appropriateness of treating RTP as a conservation program. A hearing was set because there was significant disagreement over FPL's proposal. We were concerned with FPL's characterization of RTP as a conservation program and its proposal to recover both program costs and net revenue balances through the ECCR clause. In subsequent negotiations with our staff, FPL agreed to modify its proposal to satisfy these concerns and agreed to hold the ratepayers harmless while the experiment was being conducted, thereby avoiding a hearing.

In the workshop where Gulf presented its proposed RTP rate, concerns continued about whether RTP programs such as Gulf's and FPL's are merely mechanisms that allow the utilities to position themselves for increasing competition by offering lower rates to their large industrial customers. One interpretation of Gulf's petition is that, by not seeking cost recovery, the remaining ratepayers would not absorb any of the costs associated with the experimental RTP rate schedule until the company successfully demonstrates that its RTP rate is a cost-effective conservation program.

As a condition for approval of the RTP rate schedule, Commission Order No. PSC-95-0256-FOF-EI required Gulf to provide quarterly reports stating the total cost of the RTP program. The total cost of the program consisted of two components: the revenue shortfall or gain associated with the rate, and any administrative costs associated with the experiment. The revenue shortfall or gain is the difference between what the customer would have paid under its otherwise applicable tariffed rate and the experimental rate. In addition, Gulf was required to show the impact of these costs on earnings.

To date, Gulf has submitted its first two quarterly reports that cover the period from the effective date of the rate on February 23, 1996, through the end of June, 1995. These reports show that the revenue shortfall of the six participating RTP customers was approximately \$975,000. This shortfall, combined with the \$2,280 in administrative expenses, results in an 18-basis point reduction in regulated ROE. On an annualized basis, conservative estimates indicate that this represents a 36-basis point reduction in ROE.

One argument is that, for the purposes of the determination of any overearnings, these very substantial costs should be reported "below the line." If Gulf experiences overearnings, this treatment will insure that the general body of ratepayers will not absorb the costs of the experimental rate, just as they are not required to pay these costs through the ECCR clause.

In Order PSC-950256-FOF-EI, which approved Gulf's RTP rate schedule, we created a mechanism to monitor the costs associated with offering the RTP rate schedule and its impact on Gulf's earnings. The Order did not explicitly recognize that such expenses should be booked "below the line." In this particular case, because of the resulting ambiguity, we hold that Gulf's actual revenues shall be booked "above the line." We have directed staff, however, to continue to monitor the impact that these costs have on Gulf's regulated earnings to ensure that Gulf does not use this rate schedule to manipulate a potential overearnings situation. We thereby reserve the right to review this matter again.

Based on the foregoing, it is

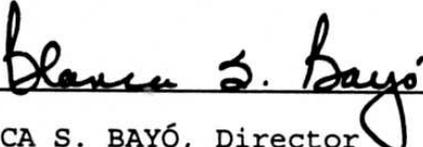
ORDERED by the Florida Public Service Commission that costs of Gulf Power Company's experimental Real Time Pricing program (as those costs are defined in Order PSC-95-0256-FOF-EI) shall be reported "above the line" for surveillance purposes. It is further

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ORDERED that staff shall continue to monitor the impact of costs on Gulf's regulated earnings. It is further

ORDERED that if no substantially affected person timely files a protest during the twenty-one day protest period, this docket should be closed.

By ORDER of the Florida Public Service Commission, this 18th day of September, 1995.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

MTR

DISSENT: Commissioner Susan F. Clark and Commissioner Diane K. Kiesling dissent from this decision.

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

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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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 9, 1995.

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 substantially 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.