

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION.

In Re: Petition for authority) DOCKET NO. 960789-EI
to implement proposed) ORDER NO. PSC-96-1219-FOF-EI
commercial/industrial service) ISSUED: September 24, 1996
rider on pilot/experimental)
basis 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

ORDER APPROVING COMMERCIAL/INDUSTRIAL SERVICE RIDER
TARIFF AND PILOT STUDY IMPLEMENTATION PLAN
FOR GULF POWER COMPANY

BY THE COMMISSION:

On September 27, 1995, in Docket No. 951161-EI, Gulf Power Company (Gulf) petitioned for approval of a 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. 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 schedules. An existing customer would be required to demonstrate to Gulf that without the negotiated contract, the customer would leave Gulf's system, or would not expand existing load on Gulf's system. A new customer would be required to demonstrate to Gulf that the customer would not locate on Gulf's system in the absence of the negotiated contract. Gulf proposed to use the incremental cost to serve the customer as the price floor for contract negotiations. If Gulf and the customer agreed on the price and other terms and conditions, they would execute a Contract Service Agreement (CSA).

An evidentiary hearing was held on March 7-8, 1996. At our June 11, 1996 Agenda conference, we voted to deny approval of the tariff. Order No. PSC-96-0845-FOF-EI, issued July 2, 1996.

Although we rejected the rate schedule as it had then been proposed, we supported the concept of implementing a discount rate

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program on an experimental or pilot basis. With that direction, on June 28, 1996, Gulf filed a Petition For Authority to Implement Proposed Commercial/Industrial Service Rider On A Pilot/Experimental Basis and Docket No. 960789-EI was opened. In addition to the tariff, Gulf filed a Pilot Study Implementation Plan which Gulf believed addressed our concerns with the original proposal.

At the July 30, 1996 Agenda conference, Gulf voluntarily withdrew the June 28 Implementation Plan and Tariff. One of the critical comments raised by Commissioners was that while Gulf did file a revised implementation plan, it did not make corresponding changes to the tariff.

On August 20, 1996, Gulf submitted two alternative example tariffs and implementation plans for our consideration. The first alternative is similar to the proposal Gulf submitted on June 28, 1996. Gulf added language in the implementation plan regarding the inclusion of recovery clauses in the price floor. In addition, Gulf made changes in the tariff language to incorporate specific information on the length and size limitations that was previously contained only in the Implementation Plan. The second alternative removed significant language on rate case review and overearnings prudence review triggering conditions and added a 60-day limitation on the Commission's ability to review any contract. We find that the first Implementation Plan and tariff, which are attached to this order as Attachment 1, should be approved. We specifically find that a 60-day limitation on Commission review of contracts proposed in the second example tariff to be an unnecessary restriction on the Commission's responsibility to protect the general body of ratepayers. In addition, we find that the Implementation Plan and tariff are equally applicable for each potential CISR customer. Terms, definitions and conditions contained therein may not be altered or waived without explicit Commission approval.

With respect to limiting the availability of the tariff, Gulf has made several modifications. Gulf now proposes to limit the availability of the CISR to eligible customers until one of three conditions has occurred: (1) total capacity subject to the CSA reaches 200 megawatts of connected load; (2) the Company has executed twelve CSAs or; (3) 48 months have passed from the tariff's effective date. In addition, Gulf has committed that a CSA will not be offered to shift existing load currently being served by another Florida electric utility pursuant to a tariff schedule away from that utility to Gulf.

We found that Gulf's original proposal (Docket No. 951161-EI) was vague as to the procedure the Company intended to follow in determining whether to offer a CSA to a eligible customer and the level of management required to approve a CSA. Under Gulf's current proposal, each CSA will require the approval of members of Gulf's executive management council which consists of the president and vice presidents. Before a CSA is executed, it must be expected to produce a positive contribution to the Company's fixed costs. The determination of whether a customer is "at-risk" of leaving Gulf's system, or not locating on Gulf's system, is a difficult task. Gulf accepts the full burden of proof in demonstrating to us that any customer receiving a negotiated contract was truly at risk as defined in the tariff and Implementation Plan.

Gulf's original proposal did not define the incremental cost to serve the "at-risk" customer and did not provide guidelines for determining customer specific incremental cost. Because of this, we believed that some costs of serving an at-risk customer would be omitted from Gulf's incremental cost analysis and would thus, be borne by Gulf's general body of ratepayers through the cost recovery clauses. To address these concerns, Gulf now proposes that all revenues received from executed CSAs shall be allocated first to all applicable cost recovery clauses at the rate which the customer would have been charged in the absence of the CISR. This allocation will ensure that at a minimum, the revenue associated with the cost-recovery clauses for true-up purposes will be the same with CSAs as it would be without CSAs.

Gulf's proposal does not require that we approve each CSA. The Company, however, will file quarterly reports and the Commission may initiate a prudence review of any CSA upon it's own motion. Individual CSA's between Gulf and participating customers will be subject to review for compliance with the terms and conditions of the CIS rider and implementation plan if specifically requested by the Commission. For those CSAs which the Commission and/or our staff desire review, Gulf will submit the CSA along with the supporting analyses and documents upon which Gulf relied in its determination that the CSA was necessary. In the event Gulf requests an increase in its base rates, each CSA will be fully reviewable by us. Gulf will include in its monthly surveillance reports, the difference between the revenues that would have been produced by Gulf's standard tariff rates and the revenues that are produced by each CSA. If the difference in revenues resulting from the CSAs causes Gulf's achieved jurisdictional return on equity to exceed the top of the Company's authorized range, we will review each CSA. These reviews will include our evaluation of whether Gulf's decision to enter into each CSA was prudent.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Power Company's Limited Availability Experimental Rate Commercial/Industrial Service (Optional Rider) and Pilot Study Implementation Plan as shown in Attachment 1 are hereby approved, effective September 3, 1996. It is further

ORDERED that if a protest is filed in accordance with the requirements set forth below, the tariff shall remain in effect with any increase in revenues held subject to refund pending resolution of the protest. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 24th day of September, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(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.

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The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), 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 15, 1996.

In the absence of such a petition, this order shall become final on the day subsequent to the above date.

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 on the date described above, any party adversely 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 date this Order becomes final, 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.

**Gulf Power Company
Commercial/Industrial Service Rider
Pilot Study Implementation Plan
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Gulf Power

In order to give the Florida Public Service Commission and Gulf Power Company the opportunity to study the impacts and effects of a trial implementation of the Company's proposed Commercial and Industrial Service ("CIS") Rider under "real world" conditions, the following conditions are suggested for a Pilot Study Implementation Plan:

- Sunset provision:** The CIS Rider would initially be scheduled to be closed to further subscription by eligible customers when one of three conditions has occurred: (1) The total capacity subject to executed Contract Service Arrangements ("CSAs") reaches 200 megawatts of connected load;¹ (2) The Company has executed twelve CSAs with eligible customers under the CIS Rider;² or (3) Forty-eight months has passed from the initial effective date.³ The period defined by these conditions is the pilot study period. This sunset provision can be removed by the Commission at any time upon good cause having been shown by the Company based on data achieved during the pilot study period.
- Availability:** In addition to the other limitations on availability contained in the Company's original proposed CIS Rider, Gulf would limit its use of the rider so that a CSA will not be offered to a customer in order to shift existing load currently being served by a Florida electric utility pursuant to a tariff rate schedule on file with the FPSC away from that utility to Gulf Power.
- Approval level:** Before any CSA can be executed by the Company, it must first be reviewed and approved by the members of Gulf Power's executive management council (the Company's president and vice presidents). Prior to execution, each CSA must be expected to produce a positive contribution to the Company's fixed costs. The incremental costs on which each CSA is evaluated shall be determined in a manner consistent with the method for identification and quantification of such costs both for use in the Company's evaluation of conservation and demand side management programs for cost effectiveness and the Company's selection of cost-effective supply side resources.
- Revenue Allocation:** Any revenues received by the Company pursuant to a CSA shall be allocated first to the various applicable cost-specific cost recovery clauses so that the revenues associated with the respective cost recovery clauses for true-up purposes will be the same with the CSA as they would be without the CSA.
- Required reports:** In addition to the information described in paragraph 15 of Gulf's original petition in Docket No. 951161-EL, the Company would be required to file the following information with the Commission in accordance with the Commission's procedures for handling confidential information:
- a brief description of all CSAs executed during the quarter, including the applicable rates, charges, and contract period involved.
 - for each CSA executed during the quarter, a summary of the justification for the offering.
 - on an annual basis, the cumulative total of revenues associated with all CSAs executed by the Company.

¹As a frame of reference, Gulf's eight largest industrial customers have a coincident peak load of approximately 200 megawatts.

²Gulf's experimental/pilot real time pricing program has a maximum subscription limit of twelve customers.

³Gulf's experimental/pilot real time pricing program has a scheduled forty-eight month study period.

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Commercial/Industrial Service Rider
Pilot Study Implementation Plan
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Gulf Power

Regulatory review: Each executed CSA shall be fully reviewed by the Commission under conditions that protect the confidentiality of proprietary information, when either of two triggering events occur. The first possible triggering event is a request by Gulf for a base rate increase. The second possible triggering event would result from conditions identified through the Commission's monthly surveillance reporting system discussed more fully in the following paragraph. This Commission review is to commence immediately following the occurrence of the triggering event. The period for review shall be as long as necessary for the Commission's staff to conduct all reasonable discovery needed to evaluate the prudence of Gulf's decision to execute each CSA then in existence. For this review by the Commission, Gulf will continue to have the burden of proof. At the conclusion of this regulatory review, if Gulf has not demonstrated to the Commission's satisfaction that Gulf's decision to enter into any particular CSA under review was a prudent choice made in the best interests of Gulf's general body of customers, then the difference between the revenues that would have been produced by Gulf's standard tariff rates and the revenues that will be produced by the CSA will be imputed to the Company as though this amount was actually received by Gulf from the CSA customer and will be taken into account by the Commission in regards to any adjustment in the Company's base rates, whether in a rate case or in an over earnings review as noted below.

Upon the execution of a CSA, the Commission's monthly surveillance reporting system will be enhanced to include a requirement that Gulf shall identify and report, for all executed CSAs, the difference between the revenues that would have been produced by Gulf's standard tariff rates and the revenues that are produced by each executed CSA. This additional information would be set forth on a separate page so that the information can be filed subject to the Commission's procedures for handling confidential and proprietary information. If the difference so reported, when added to the Company's actual revenues, would cause Gulf's achieved jurisdictional return on equity ("ROE") to exceed the top of the Company's authorized range, the full review of the Commission discussed above will be triggered. The amount of such identified difference that would cause Gulf's achieved jurisdictional return on equity ("ROE") to exceed the top of the Company's authorized range will be held subject to refund as possible over earnings pending completion of the Commission's review.

GULF POWER COMPANY

RATE SCHEDULE C18 Limited Availability Experimental Rate Commercial/Industrial Service

(Optional Rider)

AVAILABILITY - Available, at the Company's option, to non-residential customers currently taking service, or qualified to take service, under the Company's Rate Schedules applicable to loads of 500 KW or greater. Customers desiring to take service under this rider must make a written request. Such request shall be subject to the Company's approval, with the Company under no obligation to grant service under this rider.

This rider will be closed to further subscription by eligible customers when one of three conditions has occurred: (1) The total capacity subject to executed Contract Service Arrangements ("CSAs") reaches 200 megawatts of connected load; (2) The Company has executed twelve CSAs with eligible customers under this rider; or (3) Forty-eight months has passed from the initial effective date. The period defined by these conditions is the pilot study period. This limitation on subscription can be removed by the Commission at any time upon good cause having been shown by the Company based on data and experience gained during the pilot study period.

Gulf Power is not authorized by the Florida Public Service Commission to offer a CSA under this rate schedule in order to shift existing load currently being served by a Florida electric utility pursuant to a tariff rate schedule on file with the Florida Public Service Commission away from that utility to Gulf Power.

APPLICABILITY - Service provided under this optional rider shall be applicable to all, or a portion of, the Customer's existing or projected electric service requirements which would not be served by the Company but for the application of this rider and which would otherwise qualify for such service under the terms and conditions set forth herein. Such load (Qualifying Load) shall be determined by the Customer and the Company. Service furnished hereunder shall not be shared with or resold to others.

Two categories of Qualifying Load shall be recognized: Retained Load (existing load at an existing location) and New Load (all other Qualifying Load). Qualifying Load must be served behind a single meter and must equal or exceed a minimum level of demand determined from the following table:

Retained Load:	For Customers whose highest metered demand in the past 12 months was less than 10,000 KW, the minimum Qualifying Load would be the greater of 500 KW or 20% of the highest metered demand in the past 12 months; or
	For Customers whose highest metered demand in the past 12 months was greater than or equal to 10,000 KW, the minimum Qualifying Load would be 2,000 KW.
New Load:	1,000 KW of installed, connected demand.

Any Customer receiving service under this rider must provide the following documentation, the sufficiency of which shall be determined by the Company:

1. Legal attestation by the Customer (through an affidavit signed by an authorized representative of the Customer) to the effect that, but for the application of this rider to the New or Retained Load, such load would not be served by the Company;
2. Other documentation, as requested by the Company, demonstrating that there is a viable economic alternative (excluding alternatives in which the Company has an ownership or operating interest) to the Customer's taking electric service from the Company; and

GULF POWER COMPANY

3. In the case of existing Customers, an agreement to provide the Company with a recent energy audit of the Customer's physical facility (the Customer may have the audit performed by the Company at no expense to the Customer) which provides sufficient detail to provide reliable cost and benefit information on energy efficiency improvements which could be made to reduce the Customer's cost of energy in addition to any discounted pricing provided under this rider.

CHARACTER OF SERVICE - This optional rider is offered in conjunction with the rates, terms, and conditions of the tariff under which the Customer takes service and affects the total bill only to the extent that the negotiated rates, terms, and conditions differ from the rates, terms, and conditions of the otherwise applicable rate schedules as provided for under this rider.

MONTHLY CHARGES - Unless specifically noted in this rider or within the Contract Service Arrangement, the charges assessed for service shall be those found within the otherwise applicable rate schedules.

Additional Customer Charge: \$250.00

Demand/Energy Charges: Any negotiated Demand and/or Energy Charges, or the procedure for calculating the negotiated charges, under this rider shall be set forth in the Contract Service Arrangement and shall recover all incremental costs the Company incurs in serving the Customer's Qualifying Load plus a contribution to the Company's fixed costs.

Provisions and/or Conditions Associated with Monthly Charges: Any negotiated provisions and/or conditions associated with the Monthly Charges shall be set forth in the Contract Service Arrangement and may be applied during all or a portion of the term of the Contract Service Arrangement. These negotiated provisions and/or conditions may include, but are not limited to, a guarantee by the Company to maintain the level of either the Demand and/or Energy Charges negotiated under this rider for a specified period, such period not to exceed the term of the Contract Service Arrangement.

SERVICE AGREEMENT - Each Customer shall enter into a Contract Service Arrangement ("CSA") with the Company to purchase the Customer's entire requirements for electric service at the service locations set forth in the CSA. For purposes of the CSA, "the entire requirements for electric service" may exclude certain electric service requirements served by the Customer's own generation as of the date shown on the CSA. The CSA shall be considered a confidential document. The pricing levels and procedures described within the CSA, as well as any information supplied by the Customer through an energy audit or as a result of negotiations or information requests by the Company and any information developed by the Company in connection therewith is considered confidential, proprietary information of the parties. If requested, such information shall be made available for review by the Florida Public Service Commission and its staff only and such review shall be made under the confidentiality rules of the Commission.

SERVICE UNDER THIS RATE SCHEDULE IS SUBJECT TO RULES AND REGULATIONS OF THE COMPANY AND THE FLORIDA PUBLIC SERVICE COMMISSION.

ISSUED BY: Travis Bowden

EFFECTIVE: SEP 3 1996