

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Gulf Power
Company for approval of
prospective reduction to
authorized return on equity.

DOCKET NO. 991487-EI
ORDER NO. PSC-99-1970-PAA-EI
ISSUED: October 8, 1999

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING GULF POWER COMPANY'S
REQUEST FOR REDUCTION TO AUTHORIZED RETURN ON EQUITY

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.

By Order No. PSC-99-1047-PAA-EI, issued on May 24, 1999, in
Docket No. 990250-EI, we approved a three year regulatory incentive
plan for Gulf Power Company (Gulf or the Company). This Order
addressed, among other things, Gulf's regulatory assets and
authorized return on equity (ROE). Order No. PSC-99-1047-PAA-EI
was protested by the Coalition for Equitable Rates (Coalition) on
June 14, 1999. On July 22, 1999, the Office of Public Counsel
(OPC) filed a Petition for a Full Revenue Requirements Rate Case
for Gulf Power Company. This Petition was assigned Docket No.
990947-EI.

DOCUMENT NUMBER-DATE

12250 OCT-89

FPSC-RECORDS/REPORTING

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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 resolved all the issues raised in that Docket and in Docket No. 990250-EI. We approved the Stipulation at the October 5, 1999, agenda conference. Also on October 1, 1999, Gulf filed the instant Request for Approval of Prospective Reduction to Authorized Return on Equity.

In its petition, 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 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 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.

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.

The proposed ROE midpoint of 11.5% might not be the midpoint that would be approved after a hearing. However, the benefits to customers of a lower ROE are numerous. This unilateral reduction is a movement in a direction favorable to the ratepayers. In the interest of regulatory efficiency and cost savings, we approve an authorized ROE range of 10.5% to 12.5% with a midpoint of 11.5% for

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Gulf Power Company for any and all regulatory purposes for the term of the Stipulation.

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

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.

We do 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. 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 Rule 25-14.003, Florida Administrative Code (the tax savings rule), and the calculation of Allowance for Funds Used During Construction (AFUDC) rates to be effective in 1988. 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. 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.

We recognize that the parties in Docket No. 990947-EI have, by the stipulation in that docket, waived any right to challenge or

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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, we approve this request as proposed agency action.

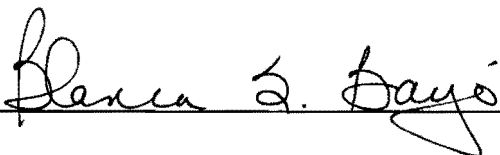
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gulf Power Company's Request for Reduction to Authorized Return on Equity is approved.

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. 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 8th day of October, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, 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 29, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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.