

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power) DOCKET NO. 920001-EI
Cost Recovery Clause and) ORDER NO. PSC-92-1361-FOF-EI
Generating Performance Incentive) ISSUED: 11/24/92
Factor.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY

ORDER GRANTING STAY

BY THE COMMISSION:

As part of our continuing review of fuel and purchased power cost recovery, we held our semi-annual hearing in Docket No. 920001 on August 12, 1992. One of the subjects we considered in that hearing was the utilities' implementation of the new Capacity Cost Recovery Factor established by Order No. 25773 in Docket No. 910794-EQ, the generic investigation of the proper recovery of purchased power capacity cost by investor-owned electric utilities.

Gulf Power Corporation requested recovery of the capacity costs associated with Gulf's participation in the Southern Electric System's Intercompany Interchange Contract (IIC). Gulf also requested that the revenues associated with Gulf's Long-Term Non-Firm Contract with Florida Power Corporation be considered only in connection with its recovery of the IIC costs. We denied Gulf's request for recovery of its purchased power costs from the IIC contract and required the revenues from its contract with Florida Power Corporation to be reflected in Gulf's capacity cost recovery factor. Final Order No. PSC-92-1001-FOF-EI memorializing that decision was issued on September 17, 1992.

Gulf filed a Motion to Stay the implementation of the Commission's decision and a Motion for oral argument on September 11, 1992. Gulf requested that it be permitted to recover the capacity costs of the IIC contract, with the revenues from the Florida Power Corporation contract netted against the costs, subject to refund with interest, pending judicial review. In the alternative, Gulf asked that a capacity factor of zero should be established for Gulf until this matter is fully resolved.

The Florida Industrial Power Users Group (FIPUG) responded to Gulf's motion on September 16, 1992. FIPUG strongly objected to Gulf's request to recover the IIC costs, and suggested that the Commission should maintain the status quo by postponing implementation of the capacity factor for Gulf.

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FPC-RECORDS/REPORT

We considered Gulf's motion and its request for oral argument at our September 29, 1992 agenda conference. We denied Gulf's request for oral argument because we did not find oral argument necessary to assist us in our decision on the motion for stay. Gulf's motion more than adequately presented its reasons for requesting a stay in the matter, and FIPUG's response clearly explained its objection to Gulf's proposal to recover IIC capacity costs pending reconsideration and appellate review.

We find that a stay should be granted in this case and the status quo preserved by delaying Gulf's implementation of the capacity factor pending reconsideration and judicial review. Gulf should hold the revenues from the Florida Power Corporation contract subject to refund with interest. Rule 25-22.061 (1)(a), Florida Administrative Code, states:

When the order being appealed involves the refund of moneys to customers or a decrease in rates charged to customers, the Commission shall, upon motion filed by the utility or company affected, grant a stay pending judicial proceedings. The stay shall be conditioned upon the posting of good and sufficient bond, or the posting of a corporate undertaking, and such other conditions as the Commission finds appropriate.

It is therefore

ORDERED by the Florida Public Service Commission that, in the manner, and for the reasons, set forth above, Gulf Power Company's Motion to Stay is granted, and its implementation of the capacity cost recovery factor shall be delayed pending reconsideration and judicial review of Order No. PSC-92-1001-FOF-EI.

By ORDER of the Florida Public Service Commission this 24th day of November, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MCB:bmi

by: Kay Flynn
Chief, Bureau of Records

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.