

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for modifica-) DOCKET NO. 920268-EG
tion of Gulf Express Energy) ORDER NO. PSC-92-0334-FOF-EG
Conservation Loan Program by) ISSUED: 05/11/92
Gulf Power Company.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER AUTHORIZING MODIFICATION TO
THE GULF EXPRESS CONSERVATION LOAN PROGRAM

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

The Gulf Express Loan Program is patterned after the Commission's Energy Conservation Loan Test Program (ECLTP). In the General Appropriations Act for Fiscal Year 1991-92, Chapter 91-193, Laws of Florida, the Commission's authority to enter into financial commitments was discontinued for any energy conservation loans as of July 1, 1991. Order No. 25531 issued on December 24, 1991 authorized Gulf Power Company to adopt the Gulf Express Loan Program with certain modifications as an approved conservation cost recovery program. The Gulf Express Loan Program is patterned after the Commission's ECLTP where the Company guarantees reimbursement of the energy conservation loans in the event of a default and remits a 4% interest subsidy to participating financial institutions. In order to help discourage losses due to defaults, the Gulf Express loan program includes a requirement for the insertion of specific language in the promissory note executed as part of the loan process, and an optional requirement that the lender record the promissory note in the official records in the county where the real property is located in order to be eligible for the full guarantee of the reimbursement amount. If the bank does not record the promissory note, the defaulted loan guarantee is limited to one-half of the eligible reimbursement amount.

DOCUMENT NUMBER-DATE

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PSC-RECORDS/REPORTING

Gulf has proposed a program modification to the existing Gulf Express Energy Conservation Loan Program procedures whereby participating financial institutions are permitted to substitute an "Agreement Not To Transfer Real Property" in lieu of recording the promissory note. This agreement contains the language specified in Order No. 25531 requiring the homeowner to pay the note in full before the property is sold or transferred. This separate document also includes a legal description of the improved property and would be recorded in the official records of the county where the improved property is located.

One of Gulf's participating financial institutions has requested this change. Since a negotiable instrument has cash value, it is administratively more convenient for the bank not to send a negotiable instrument to the recording office in order to avoid the risk of loss.

Gulf argues, and we are persuaded, that the requested change in procedure, although deviating slightly from the strict letter of the requirement spelled out in Order No. 25531, conforms fully with the spirit and intent of the Commission as expressed in the Order. In order to accommodate this slight deviation from the strict letter of the requirement identified in the Order, Gulf proposes that it be allowed to change the language contained in the Gulf Express program standards approved by the Commission. Gulf believes that the proposed change will provide flexibility to the participating financial institutions in the method of placing borrowers and potential purchasers of the improved property on notice of the existence on an outstanding conservation loan associated with the property. Recording either the promissory note or the Agreement Not To Transfer Real Property is an effort to encourage the parties to provide for satisfaction of any outstanding debt from proceeds of a sale of the improved property. We find Gulf's proposal to be reasonable.

Gulf argues that lender participation in the loan program is essential for the Company to be able to obtain the maximum possible conservation benefit possible through this activity. In its petition Gulf states that, absent added flexibility to accept alternative means of meeting the Commission's recording requirement in Order 25531, the lender requesting this change and possibly others might not participate in the program or might not participate as aggressively as they would otherwise. The lack of full participation by lenders affects the market penetration of the loan program and could materially affect the cost effectiveness of the program. We find Gulf's arguments to be persuasive.

We find, for the reasons stated above, that Gulf's petition to modify its Gulf Express Loan Program is approved. In addition, we find that participating financial institutions may elect to continue recording the promissory note or substitute the recording of the Agreement Not To Transfer Real Property to receive the full guarantee of the eligible reimbursement amount in the event of a default on a covered loan.

It is, therefore,

ORDERED by the Florida Public Service Commission to approve the modifications requested by Gulf Power Company to its Gulf Express Loan Program as discussed within the body of this Order. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this 11th day of May, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
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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 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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 1, 1992.

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 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 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.