

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Gulf Power Company for approval of new environmental program entitled "Mercury Emissions Information Collection Effort" as a new program for cost recovery through the Environmental Cost Recovery Clause.

DOCKET NO. 981973-EI
ORDER NO. PSC-99-0912-PAA-EI
ISSUED: May 10, 1999

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING APPROVAL OF GULF POWER COMPANY'S "MERCURY EMISSIONS INFORMATION COLLECTION EFFORT" PROGRAM FOR COST RECOVERY THROUGH THE ENVIRONMENTAL COST RECOVERY CLAUSE

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 December 28, 1998, Gulf Power Company (Gulf Power) filed a Petition for Approval of New Environmental Program for Cost Recovery Through the Environmental Cost Recovery Clause (ECRC). Pursuant to Section 114 of the Clean Air Act, as amended, Gulf Power is required to collect and analyze certain data pertaining to mercury emissions for the period January 1, 1999, through December 31, 1999, and to periodically report its results to the United States Environmental Protection Agency (EPA). Since Gulf Power's ECRC factors for calendar year 1999 have already been set, the

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petition clarified that the actual costs of this project will be addressed in an upcoming true-up cycle.

The Clean Air Act Amendments of 1990 (CAAA) empower the EPA to assess the impacts associated with mercury emissions from all coal-fired electric utility steam generating units. Pursuant to Section 114 of the CAAA (42 U.S.C. 7414), EPA required Gulf Power to collect and analyze certain information associated with mercury emissions for calendar year 1999 and to periodically report its findings to the EPA. In response to Commission interrogatories, Gulf Power stated that no compliance approach other than the sampling and analyses specified in the directive from EPA was considered in estimating the costs of this project. Although Gulf Power considered using alternative laboratories, it determined that use of the services of the Southern Electric System (SES) laboratory is the most prudent long-term solution. The SES laboratory is currently providing coal sampling and analyses used for coal vendor payments for Gulf Power. Pursuant to the proposed new project, the SES laboratory is to provide additional services, consisting primarily of performing additional sampling and analyses for mercury and chlorine which were not currently being performed. In response to Commission interrogatories, Gulf Power stated that the final cost of the project depends on the number of actual coal shipments and the number of samples taken and, therefore, could range from \$11,000 to \$60,000.

According to Gulf Power's petition, "...the projected program expenses are not expected to result in the need for a mid-course correction of the ECRC factors during 1999. The actual program expenditures will be addressed in an upcoming cycle and will be subject to audit." We have analyzed the projected costs of the proposed project and agree that a mid-course correction to Gulf Power's ECRC factors is not warranted in this instance.

In order to recover environmental compliance costs through the ECRC, a proposed project must meet the specific criteria listed in Order No. PSC-94-0044-FOF-EI. The first threshold to be met is that the costs must be incurred after April 13, 1993. Since the EPA's information collection request to Gulf Power is dated November 25, 1998, and specifically requires performance by Gulf Power during calendar year 1999, costs for this project will be incurred after April 13, 1993. Based on Gulf Power's responses to our interrogatories, the proposed project appears to be the most cost-effective approach for compliance with EPA's information collection request. In addition, the effect of this new EPA

ORDER NO. PSC-99-0912-PAA-EI
DOCKET NO. 981973-EI
PAGE 3

requirement was triggered after Gulf Power's last test year (1990) upon which rates are based. This satisfies the second criterion for recovery. Finally, the company's petition addresses the third criterion and states that the expenses for EPA's Mercury Emissions Information Collection effort are not recovered through any other cost recovery mechanism or through base rates. Again, since the EPA's information collection request to Gulf Power is dated November 25, 1998, it is unlikely that these specific analyses are typical expense items which are being recovered elsewhere. Therefore, we find that this project and prudently incurred costs shall be approved for recovery through the ECRC. The prudence of the costs associated with this project will be determined by this Commission in a subsequent ECRC hearing. Final disposition of these costs will be subject to audit.

In response to a Commission interrogatory, Gulf Power stated that it proposed to allocate the costs of the Mercury Emissions Information Collection Effort to the rate classes on an energy basis because the project is in response to a requirement by the EPA pursuant to its authority under the CAAA. We agree with Gulf Power's proposed method of allocation and note that it is consistent with Commission Order No. PSC-94-0044-FOF-EI, in which we decided that costs associated with the CAAA should be allocated to the rate classes on an energy basis.

If no person whose substantial interests are affected by this Commission's proposed agency action files a request for hearing within 21 days of the order, no further action will be required and this docket should be closed.

Based on the foregoing, it is

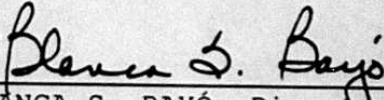
ORDERED by the Florida Public Service Commission that Gulf Power Company's petition for approval of cost recovery for a new environmental program entitled "Mercury Emissions Information Collection Effort" is approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective 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

ORDER NO. PSC-99-0912-PAA-EI
DOCKET NO. 981973-EI
PAGE 4

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

By ORDER of the Florida Public Service Commission this 10th day of May, 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 or judicial review of Commission orders 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 May 31, 1999.

In the absence of such a petition, this order shall become final on the day that a consummation order is issued.

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.