

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 100007-EI  
ORDER NO. PSC-10-0316-PCO-EI  
ISSUED: May 17, 2010

PROCEDURAL ORDER REGARDING GULF POWER COMPANY'S  
CAIR/CAVR ENVIRONMENTAL COMPLIANCE PROGRAM

On April 1, 2010, Gulf Power Company (Gulf) filed a Second Supplemental Petition of Gulf Power Company Regarding its CAIR/CAVR Environmental Compliance Program. In the Petition, Gulf requested approval of the inclusion of the Plant Daniel Units 1-2 SCR's in its CAIR/CAVR compliance program, and requested recovery of the costs associated with the inclusion of the SCR's through the Environmental Cost Recovery Clause (ECRC). This Order will establish the appropriate process for parties to review Gulf's supplemental filing.

Gulf explained that it filed its petition in compliance with the terms of a stipulation between Gulf, the Office of Public Counsel (OPC), and the Florida Industrial Power Users Group (FIPUG), which the Commission approved by Order No. PSC-07-0721-S-EI, issued September 5, 2007, in Docket No. 070007-EI. There the Commission approved Phase I of Gulf's Compliance Plan and set out a process for consideration of Phase II. On page 7 of Order No. PSC-07-0721-S-EI the Commission said:

The remaining components of Gulf's proposed compliance plan, (j), (k), and (l), are still in the planning phase for possible implementation after 2011 and, as Gulf puts it, "remain flexible." These components include the Plant Daniel Units 1-2 SCR's, the Plant Smith Units 1-2 scrubber, and the Plant Smith Unit 2 baghouse. The parties state in their stipulation that since Gulf has not yet made its decision whether to implement these three components, there is no agreement at this time regarding their reasonableness or prudence. The stipulation provides that once Gulf makes a decision to proceed with implementation, Gulf agrees to make a supplementary filing in the ECRC docket similar to the filing it made here that will identify the timing of the planned implementation and updated estimates prior to incorporating them in the normal projection or true-up filings under the ECRC. The parties state that it is their intent that the supplementary filing would contemplate a period during which all parties to the ECRC would have the opportunity to conduct discovery and to object to the filing within time periods similar to those established in compliance with the stipulation the Commission approved in Order No. PSC-06-0972-FOF-EI.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

The applicable portion of Order No. PSC-06-0972-FOF-EI, issued November 22, 2006, in Docket No. 060007-EI, at page 9, reads as follows:

The parties to the ECRC (including the Commission Staff) will be allowed to submit normal requests for discovery in connection with the supplemental filing in order to determine whether there is any objection to any components of the CAIR/CAMR program with regard to the reasonableness or prudence of the proposed action. If there are any objections, the objecting party shall give notice to the Company before the end of the second quarter of 2007 such that testimony and exhibits addressing the resulting issue(s) can be filed in the normal time frame for the 2007 ECRC hearing and the issue(s) can be resolved by the Commission in the normal course of the ongoing ECRC proceedings.

In order to provide the parties to this docket the opportunity to adequately review Gulf's supplemental compliance plan petition, Gulf has suggested that the Commission could consider the petition either through a Proposed Agency Action process, or by an Order of the Prehearing Officer directing the Staff and interested parties to file a notice prior to June 30, 2010, stating their specific objections to the proposed plan, if any. That date would allow for the filing of testimony and exhibits addressing the objections within the normal time frame for consideration in the 2010 ECRC hearing to be held in early November. Since it filed its petition, Gulf has indicated that it, OPC, and FIPUG all prefer that the time frame for any objections be established by Order of the Prehearing Officer because it is the more administratively efficient process.

Upon review, and consistent with the earlier process established for review of Gulf's CAIR/CAVR Compliance Program, I hereby direct the Commission Staff and any interested parties to give notice to the company by June 30, 2010, of any objections to the Second Supplemental Petition of Gulf Power Company Regarding its CAIR/CAVR Environmental Compliance Program, so that testimony and exhibits regarding any such objections can be made in the normal course of the ECRC hearing process. I issue this Order pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 17th day of  
May, 2010.



NATHAN A. SKOP  
Commissioner and Prehearing Officer

( S E A L )

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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 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.

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.

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 25-22.0376, Florida Administrative Code; or (2) 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.