

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Gulf Power Company

DOCKET NO.: 130140-EI

In re: 2013 depreciation and dismantlement study by Gulf Power Company

DOCKET NO.: 130151-EI

In re: Petition of Gulf Power Company to include the Plant Daniel Bromine and ACI Project, the Plant Crist Transmission Upgrades Project, and the Plant Smith Transmission Upgrades Project in the Company's program, and approve the costs associated with these compliance strategies for recovery through the ECRC.

DOCKET NO.: 130092-EI

FILED: August 16, 2013

CITIZENS' MOTION TO CONSOLIDATE DOCKET NOS. 130140-EI, 130151-EI, AND 130092-EI FOR PURPOSES OF SINGLE EVIDENTIARY HEARING

AND

CITIZENS' MOTION TO ENLARGE NUMBER OF DISCOVERY REQUESTS AUTHORIZED BY ORDER NO. PSC-13-0342-PCO-EI

I. MOTION TO CONSOLIDATE

The Citizens of the State of Florida, through the Office of Public Counsel (OPC), move to consolidate Docket Nos. 130140-EI, 130151-EI, and the transmission line aspects of 130092-EI for purposes of a single evidentiary hearing, and state:

1. On May 22, 2013, Gulf Power Company ("Gulf Power" or "the Company") filed the depreciation and dismantlement study required by Rule Nos. 25-6.0436 and 25-6.04364, F.A.C., in Docket No. 130151-EI. Gulf Power seeks authority to implement new depreciation and dismantlement rates, which would have the effect of increasing depreciation expense and dismantlement expense by \$6,197,289 annually.

2. On April 1, 2013, Gulf Power Company submitted a proposed environmental compliance plan and accompanying testimony of witnesses James O. Vick and Noel M. Cain, in which it asserts that certain planned transmission lines (the “Plant Smith Transmission Upgrades” and the “Plant Crist Transmission Upgrades”) constitute the most cost-effective solutions for compliance with the federal Mercury and Air Toxics Standards (“MATS”) that are available to the Company. The Commission established Docket No. 130092-EI within which to process the Company’s request. On July 18, 2013, the Commission Staff submitted a memorandum in which it recommends that the Commission deny Gulf Power’s request for a ruling that the proposed transmission lines qualify for cost recovery through the Environmental Cost Recovery Clause (“ECRC”). On July 30, 2013, the Commission deferred consideration of the matter until the September 24, 2013 agenda conference.

3. On July 12, 2013, Gulf Power Company filed a petition and Minimum Filing Requirements seeking an increase in base rates in Docket No. 130140-EI. In its petition, Gulf Power states that the test year expense levels contained in its Minimum Filing Requirements and reflected in its petition are based on the depreciation rates and dismantlement rates now in effect. In the base rate docket, Gulf Power sponsors the testimony of witness Peter Huck, who prepared the depreciation study that Gulf Power filed in Docket No. 130151-EI. In his testimony in the base rate proceeding, Mr. Huck generally summarizes his methods and recommendations. Mr. Huck then adopts by reference the depreciation study that Gulf Power filed in Docket No. 130151-EI. In Docket No. 130140-EI, Gulf Power requests the Commission to incorporate the depreciation rates and dismantlement rates that it prescribes for Gulf Power at the conclusion of the proceeding on the studies that the Company filed in Docket No. 130151-EI when it quantifies Gulf Power’s overall revenue requirements. In its Petition for authority to increase its base rates (at pp. 6-7), Gulf Power asks that “the final outcome of the Commission’s review and approval

[of Gulf Power's Depreciation and Dismantlement studies] be reflected in the expenses used as the basis for setting rates in this docket.”

4. Accordingly, the decisions that the Commission makes on the pending depreciation/dismantlement studies and proposed depreciation and dismantlement rates will bear directly on the issue of Gulf Power's total revenue requirements in Docket No. 130140-EI. Currently, the Commission plans to process the Gulf Power depreciation study as a Proposed Agency Action (PAA). If a protest is lodged by any party – including Gulf Power – the final decision on the studies potentially will occur after the Commission vote scheduled in Gulf's base rate petition case, Docket No. 130140-EI. Consolidating these proceedings for purposes of a single evidentiary hearing will ensure that the parties, Staff, and Commission will not be called on to cover the same ground twice in different dockets, and that the decisionmaking occurs in a rational sequence.

5. In its petition for authority to increase its base rates, Gulf Power takes the position that, in the event the Commission denies recovery of the costs of its planned Plant Crist Transmission Upgrades and Plant Smith Transmission Upgrades through the ECRC, it should approve the inclusion of the transmission lines in rate base and authorize Gulf Power to increase its rates by \$16,392,000 in 2015. Gulf Power witness P. Chris Caldwell, who will testify in Docket No. 130140-EI, incorporates by reference the prefiled testimony of Messrs. Vick and Cain on the subject of the planned transmission lines that now resides in Docket No. 130092-EI.. Consolidating the base rate case with the environmental issue for purposes of a single evidentiary hearing will ensure that the parties, Staff, and Commission will not be called on to cover the same ground twice in different dockets, and that the Commission will be in a procedural posture to implement its decision on the matter at the appropriate time and in an administratively efficient manner.

6. OPC has filed notices of intervention in all three of the above dockets. OPC intends to raise factual issues related to Gulf Power's proposed depreciation/dismantlement rates that will require an evidentiary hearing to resolve. Because of the manner in which Gulf Power has connected its depreciation/dismantlement docket to its base rate petition, it would be more administratively efficient to consolidate the dockets for hearing purposes. The Commission followed this course when it consolidated Docket Nos. 090130-EI and 080667-EI (depreciation study and base rate petition filed by Florida Power & Light Company). By requesting the Commission to incorporate the impact of the decision on the depreciation and dismantlement studies into the calculation of overall revenue requirements, Gulf Power's petition effectively supports consolidation in a way that will not leave non-final depreciation and dismantlement rates and expenses to be considered in setting base rates.

7. Inasmuch as Gulf Power has requested authority to recover the costs of the transmission lines through either the ECRC or base rates, and to that end has effectively submitted its supporting testimony in both dockets, it would similarly be more administratively efficient to consolidate Docket Nos. 130140-EI and 130092-EI for hearing purposes.

II. MOTION TO ENLARGE AUTHORIZED NUMBER OF DISCOVERY REQUESTS

1. In Order No. 13-0342-PCO-EI, the Prehearing Officer limited the number of interrogatories, requests for admissions, and requests to produce documents that a party may submit in Docket No. 130140-EI (Gulf Power's petition for an increase in base rates) to 500, 500, and 500, respectively.

2. The consolidation of Docket Nos. 130092-EI and 130151-EI with Docket No. 130140-EI will increase the number of topics that will be the subjects of discovery prior to the consolidated evidentiary hearing. Gulf Power's depreciation and dismantlement studies, in particular, involve numerous categories of plant and accounts, techniques and assumptions. A thorough review of the studies will require an active level of discovery. OPC has already served its First Set of Interrogatories and First Request To Produce Documents in Docket No. 130151-EI. The consolidation of these matters will naturally necessitate a revision to the authorized number of interrogatories and requests for documents. (Citizens do not seek a revision to the authorized requests for admissions.)

3. Citizens estimate that an increase in the number of interrogatories and requests to produce from 500 to 800 for each category will be sufficient for the purposes of the consolidated cases.

III. PARTIES' POSITIONS ON OPC'S MOTIONS

1. OPC has contacted the parties of record regarding these motions. Gulf Power authorized OPC to represent that it supports the motion to consolidate Docket No. 131140-EI and the transmission line aspects of Docket No. 130092-EI, but opposes the request to consolidate as it relates to Docket No. 130151-EI. Gulf Power opposes the motion to enlarge the number of discovery requests authorized by Order No. PSC-13-0342-PCO-EI. Gulf Power indicated to OPC that it intends to file a formal response to OPC's motion. The Federal Executive Agencies and the Florida Industrial Power Users Group support OPC's motion. PCS Phosphate-White Springs did not respond to OPC prior to the filing of this Motion.

2. The Commission's website lists Tampa Electric Company (TECO), Duke Energy Florida, Inc., Florida Power & Light Company (FPL), and PCS Phosphate-White Springs as parties to

Docket No. 130092-EI, which relates to Gulf Power Company's proposed environmental compliance plan. Counsel for Duke Energy Florida, Inc. authorized OPC to state that it does not seek party status in Docket No. 130092-EI. Counsel for FPL and TECO initially stated "no position/no objection" to the motion. They did not respond to OPC's separate, subsequent inquiry regarding whether they intend to seek or maintain party status in Docket No. 130092-EI prior to the filing of this Motion. In an abundance of caution, OPC is including all parties listed by the Commission on the attached certificate of service for this Motion. OPC will amend its certificate of service for future pleadings as appropriate.

WHEREFORE, Citizens request the Commission to enter an order consolidating Docket Nos. 130140-EI, 130151-EI, and 130092-EI for purposes of a single evidentiary hearing, and enlarging the limits on discovery requests for the consolidated dockets as described in the above Motions.


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CERTIFICATE OF SERVICE
DOCKET NOS. 130140-EI, 130151-EI, 130092-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and/or U.S. mail to the following parties on this 16th day of August, 2013 to the following:

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