

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of a regulatory asset to record costs incurred due to COVID-19, by Gulf Power Company.

Docket No: 20200151-EI

Date: December 9, 2020

GULF POWER COMPANY’S MOTION TO STAY PROCEEDING AND TO CONSOLIDATE INTO FORTHCOMING BASE RATE PROCEEDING

Pursuant to Rules 28-106.204(1) and 28-106.108, Florida Administrative Code (“F.A.C.”), Gulf Power Company (“Gulf Power” or the “Company”)¹ hereby files this Motion to stay this proceeding and to later consolidate it with the Company’s forthcoming 2021 base rate proceeding when that docket is opened, and in support states:

I. Background

1. On May 22, 2020, Gulf Power filed a petition with the Florida Public Service Commission (“Commission”) seeking the establishment of a regulatory asset to record and preserve incremental bad debt expense and safety-related costs attributable to the COVID-19 pandemic (“COVID Costs”).

2. The Commission issued a non-final, procedural order (Order No. PSC-2020-0262-PCO-EI) on July 27, 2020 (the “July 27 Order”) approving Gulf Power’s request.

3. On August 6, 2020, the Office of Public Counsel (“OPC”), the sole intervening party in the docket, filed a motion for reconsideration of the Commission’s July 27 Order, arguing, among other things, that the form of the Commission’s order failed to provide affected parties the opportunity to request a hearing on Gulf Power’s petition.

¹ It is anticipated that, effective January 1, 2021, Gulf Power will merge with and into Florida Power & Light Company (“FPL”) and the separate legal existence of Gulf Power will cease, with FPL continuing as the surviving entity. Therefore, references in this Motion to “Gulf Power” or the “Company” that pertain to the 2021 base rate proceeding should be interpreted as referring to the merged, but separately rate regulated Gulf Power entity.

4. On September 24, 2020, the Staff of the Commission issued a recommendation to change the form of the July 27 Order to a Proposed Agency Action (“PAA”). The Commission adopted this recommendation and ultimately reissued the order as a PAA order (PSC-2020-0406-PAA-EI) on October 27, 2020 (the “October 27 PAA Order”).

5. On November 17, 2020, OPC filed a petition protesting the Commission’s October 27 PAA Order (“Protest”), which included a request that the Commission set a hearing on the Company’s petition.

6. Gulf Power and FPL have announced publicly that they will be filing a petition to increase base rates with the Commission in 2021, and have so indicated in filings made with the Commission. *See* Docket No. 20200182-EI.

II. Request to Stay Proceeding

7. Continuing the litigation of this proceeding at this time is administratively inefficient given the Company’s forthcoming rate case filing. When Gulf Power’s petition was first filed, the duration of the COVID-19 impact and its ultimate impacts were unknown, as they remain today; but the Company anticipated a final order from the Commission on whether the COVID Costs could be recorded in a regulatory asset well in advance of any future rate proceeding. However, with the filing of OPC’s Protest on November 17, 2020, it is likely that the procedure to consider the COVID Costs in this docket would continue up to and potentially beyond the date of the Gulf Power and FPL rate case filing. It is now more efficient to review the Company’s COVID Costs and the facts of this proceeding in tandem and within the context of the Company’s 2021 general base rate proceeding.

8. Moreover, it has always been the Company’s proposal to have the COVID Costs reviewed in a future rate proceeding. As Gulf Power stated in its petition, “recovery of the

[COVID Costs] would be subject to review when Gulf Power’s base rates are next reset.” Petition at ¶ 18. Also, in its October 27 PAA Order, the Commission indicated its view that a subsequent review of the COVID Costs at a later proceeding was appropriate, stating that it is appropriate to “defer [its] consideration of the potential recovery of the amounts recorded in the regulatory asset to a future proceeding.” October 27 PAA Order at 2. Thus, staying the proceeding and combining it with the forthcoming Gulf Power and FPL rate case presents an appropriate and previously specified opportunity to review the Company’s COVID Costs.

III. Request for Consolidation into the Company’s Forthcoming Base Rate Proceeding

9. It is appropriate to consolidate this proceeding with the forthcoming Gulf Power and FPL rate case, and such a consolidation would be consistent with the Commission’s rules. Rule 28-106.108, F.A.C., provides that “[i]f there are separate matters which involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.” Gulf Power asserts that, for the reasons provided below, consolidating this docket with the forthcoming rate case docket is appropriate and well within the Commission’s discretion.

10. Dockets involve separate matters with similar issues of law and fact. This docket and the forthcoming rate case docket will involve similar issues of both law and fact. The overarching purpose of a rate case is to review a utility’s costs and investments to determine what costs may appropriately be included in the utility’s rates. That same undertaking must be performed with regard to the COVID Costs (*i.e.*, the determination of whether the COVID Costs may appropriately be included in rates). The issues, considerations, and laws and regulations, therefore, are neatly aligned between this proceeding and the forthcoming rate case, such that a

review of the COVID Costs may be undertaken in tandem with the other requests made in the rate case. The rate case also will provide a procedural structure that is thorough and conducive to a full review of the COVID Costs and whether they are appropriate for recovery.

11. Dockets include identical parties. Although the rate case will attract a variety of participants, the case is certain to include both participants in this docket: Gulf Power and OPC. OPC will be a full participant in the forthcoming rate case in accordance with its statutory right, and the rate case will present OPC with a full and fair opportunity to review the COVID Costs and present any arguments it has pertaining to those costs.

12. Consolidation promotes the just, speedy, and inexpensive resolution of the proceedings. With the filing of OPC's Protest of the October 27 PAA Order, it is now likely that the Commission will need to resolve the issue raised by OPC regarding whether a regulatory asset may be established for the COVID Costs. Consolidation of this docket with the rate case, however, offers the opportunity for synchronous review of many rate-impactful issues under a single procedural schedule that is designed to facilitate a comprehensive rate review. In addition, the arguments and issues that may be raised in this docket may equally be raised within the rate case docket. Also, the rate case forum provides OPC with an opportunity for a hearing on the COVID Costs, which would fulfill the request made in OPC's Protest. Protest at 6.

13. No undue prejudice. OPC will not be prejudiced or be denied an opportunity to review the COVID Costs should the Company's request for consolidation be granted. To the contrary, consolidation would assist OPC and other potential intervenors in preserving their resources through the efficient resolution of the two primary issues—the establishment of the regulatory asset and cost recovery—as part of the upcoming rate case docket. For the reasons

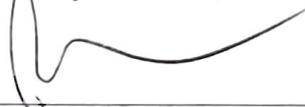
detailed prior, OPC would preserve a full and fair opportunity to review the COVID Costs under the procedural schedule set for the rate case.

14. Gulf Power has conferred with OPC, and OPC has indicated that it takes no position on this Motion.

WHEREFORE, for the reasons stated above, Gulf Power respectfully requests that this proceeding be stayed until Gulf Power and FPL's forthcoming rate case docket is opened, and, at such time, be consolidated with that docket.

Respectfully submitted this 9th day of December 2020.

Respectfully submitted,



JOEL T. BAKER

Russell A. Badders
Vice President & Associate General Counsel
Florida Bar No. 007455
Russell.Badders@nexteraenergy.com
Joel T. Baker
Principal Attorney
Florida Bar No. 108202
Joel.Baker@nexteraenergy.com
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0100
(850) 444-6550

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: **Petition for approval of a regulatory asset to)
record costs incurred due to COVID-19)
, by Gulf Power Company)**

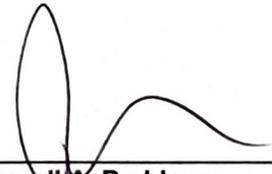
Docket No.: **20200151-EI**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by electronic mail this 9th day of December, 2020 to the following:

Office of Public Counsel
J. R. Kelly/Stephanie A. Morse
Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
kelly.jr@leg.state.fl.us
morse.stephanie@leg.state.fl.us

Office of the General Counsel
Jennifer Crawford
Samantha Cibula
Shaw Stiller
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850
jcrawfor@psc.state.fl.us
scibula@psc.state.fl.us
sstiller@psc.state.fl.us



Russell A. Badders
VP & Associate General Counsel
Florida Bar No. 007455
Russell.Badders@nexteraenergy.com
Joel T. Baker
Principal Attorney
Florida Bar No. 108202
Joel.Baker@nexteraenergy.com
Gulf Power Company
One Energy Place
Pensacola FL 32520-0100
(850) 444-6550
Attorneys for Gulf Power