

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Gulf Power)	DOCKET NO.	881167-EI
Company for an Increase in Rate)	ORDER NO.	21155
and Charges.)	ISSUED:	5-3-89
)		

ORDER REGARDING GULF'S REQUEST FOR
CONFIDENTIAL TREATMENT OF ITS
RESPONSES TO STAFF'S DOCUMENT
REQUESTS NOS. 143 AND 153

On November 14, 1988, Gulf Power Company (Gulf) petitioned the Commission for a rate increase. As part of discovery in this cause, Staff served requests for documents on Gulf. Those requests included Document Request No. 143 served on March 23, 1989, asking for a map of the Bayfront Parkway area depicting the land Gulf either presently owns or is interested in purchasing, and Document Request No. 153 served on April 7, 1989, asking for a copy of the "Top Guns" video. On April 7, 1989, Gulf produced the material and requested that it be specified confidential pursuant to Rule 25-22.006, Florida Administrative Code.

Gulf's response to Document Request No. 143, identified as DN 3598-89, is a one-page map of the Bayfront Parkway area. The map is color-coded to indicate the land presently owned and used by Gulf as plant in-service, land held for future use by Gulf, and land not owned by Gulf but which Gulf asserts it intends to purchase. Gulf argues that the map which identifies parcels of land Gulf intends to purchase is entitled to confidentiality pursuant to Section 366.093(3)(d), Florida Statutes, exempting from public disclosure information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility to contract for services on favorable terms. Gulf contends that the release of the identified parcels could harm Gulf in its future negotiations regarding contracts for the sale of such parcels to the detriment of the ratepayers.

Sometime between January 1, 1989 and March 31, 1989, Donald R. Schofield of Gulf provided W. J. Davis, a PSC engineer, with a map depicting the location of Gulf's new buildings and surrounding area. Davis also received a list of Gulf land purchases dated December 30, 1986, signed by Charles Jordan of Gulf, relating to the new office building site which included the name of each seller, the price paid in each case by Gulf, the area purchased in square feet, the date purchased, and the deed book reference. On April 19, 1989, Davis also received from Gulf a plot drawing of all land parcels which have been purchased or are still being purchased by Gulf on the office site. None of these documents were stamped confidential. We find that Gulf has already disclosed information for which it now requests confidentiality.

Gulf's response to Document Request No. 153, identified as DN 3598-89, is the videotape entitled "Top Guns." Gulf requests that the videotape also be specified confidential material pursuant to Rule 25-22.006. In support of its request, Gulf argues that the videotape was prepared by Gulf for presentation to contractors and builders associated with Gulf's Good Cents and Centsable Contractors programs during the

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Good Cents Appreciation Weekend rendering the videotape "proprietary work product" and the release of it without Gulf's permission prejudicial to Gulf.

Rule 25-22.006, upon which Gulf relies, places the burden upon the source to demonstrate how the information that the document contains is bona fide proprietary confidential business information. Specifically, Rule 25-22.006(4)(c) provides that if a request fails to provide a detailed justification for such classification, either the request may be denied as insufficient on its face or the source may be directed to file a more detailed request. We not only find the request to be insufficient on its face, we find it to be incredible. We fail to discern any conceivable justification for confidential treatment of the videotape premiated by Gulf itself to up to 574 registered participants, their spouses and guests at its October 16-18, 1987 "special 'Top Gun' Weekend" at the Sandestin Hilton in Destin, Florida as indicated in Gulf's Response to Staff's Interrogatory No. 265. Gulf does not argue that viewing of the videotape was limited to certain participants or that viewers were required to complete a nondisclosure form. The videotape depicting the perceived success of Gulf's partnership with certain contractors and the Heat Pump Dealers Association in reducing reliance on gas appliances is more reasonably seen as a marketing or promotional tool undoubtedly presented in an unsealed Hilton convention room at the October 17th Saturday night banquet opened by Gulf's Supervisor of Residential Marketing, W. P. Bowers, and attended by various waiters, waitresses, and bus boys, as indicated in Gulf's Response to Staff's Interrogatory No. 262.

In consideration of the foregoing it is

ORDERED that Gulf's request for specified confidential classification of its map of the Bayfront Parkway area provided in response to Staff's Document Request No. 143 is denied. It is further

ORDERED that Gulf's request for specified confidential classification of its videotape entitled "Top Guns" is denied as insufficient on its face. It is further

ORDERED that if a protest is filed within 14 days of the date of this order it will be resolved by the appropriate Commission panel pursuant to Rule 25-22.006(3)(d), Florida Administrative Code.

By ORDER of Commissioner Thomas M. Beard, as Prehearing Officer, this 3rd day of MAY, 1989.


THOMAS M. BEARD, Commissioner
and Prehearing Officer

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