

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of portions of review of fuel procurement hedging practices of Florida's investor-owned electric utilities, by Gulf Power Company.

DOCKET NO. 080439-EI
ORDER NO. PSC-08-0638-CFO-EI
ISSUED: October 1, 2008

ORDER GRANTING GULF POWER COMPANY'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION OF DOCUMENT NOS. 05229-08,
05516-08, 06503-08 (CROSS REF. 05516-08) AND 06717-08

On June 19, 2008, Gulf Power Company (Gulf) requested that certain information contained in the Commission staff's final report on its Review of Fuel Procurement Hedging Practices of Florida's Investor-Owned Utilities be exempted from public access in accordance with Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.). The portions of the staff's final report that are subject to the request are contained in Document No. 05229-08.

On June 26, 2008, Gulf requested that certain documents produced by the staff and by Gulf in connection with a 2008 Management Review of Gulf's fuel procurement hedging practices (PA-07-11-007) (the Review) be exempted from public access, also in accordance with Section 366.093, F.S., and Rule 25-22.006, F.A.C. The documents that are subject to the request are contained in Document No. 05516-08.

On July 31, 2008, Gulf filed a supplemental request to its June 26, 2008, request, to include a CD-ROM that contains copies of International Swaps and Derivatives Association contracts between Gulf, its affiliates and various hedging counterparties in its request for exemption from public access in accordance with Section 366.093, F.S., and Rule 25-22.006, F.A.C. The CD-ROM that is subject to the request has been assigned Document No. 06717-08.

Gulf's justifications for the confidential treatment of the above-described requested information is contained on Attachment A to this Order, which is incorporated herein by reference.

Section 366.093(1), F.S., provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3)(b)(d) and (e), F.S., provide that proprietary confidential business information includes, but is not limited to "[i]nternal auditing controls and reports of internal auditors," "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate to contract for goods or services on

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favorable terms,” and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.”

Gulf contends that the information falls within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Gulf states that this information is intended to be and is treated by Gulf as private and has not been publicly disclosed.

Upon review, it appears that the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information and shall be treated as confidential. The information constitutes “[i]nternal auditing controls and reports of internal auditors,” “[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate to contract for goods or services on favorable terms,” or “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Gulf or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Gulf Power Company’s Requests for Confidential Classification of Document Nos. 05229-08, 05516-08 and 06717-08 are hereby granted. Document No. 06503-08 (cross ref. 05516-08) is also granted confidential classification. It is further

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 1st day of October, 2008.



NATHAN A. SKOP
Commissioner and Prehearing Officer

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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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 25-22.060, 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.

EXHIBIT C

Line-by-Line/Field-by-Field Justification

Line(s)/Field(s)

Justification

Page 50; Lines 1-5

Page 51; Lines 1-5; Columns A-E

This information is entitled to confidential classification pursuant to §366.093(3)(e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 2.

Page 58; Lines 1-9; Column A

This information is entitled to confidential classification pursuant to §366.093(3)(d), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 3.

Page 59; Lines 1-3

This information is entitled to confidential classification pursuant to §366.093(3)(b), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 4.

EXHIBIT C

Line-by-Line/Field-by-Field Justification

<u>Line(s)/Field(s)</u>	<u>Justification</u>
Response to Data Request 1.7a Page 1 of 1 Lines 1-10	This information is entitled to confidential classification pursuant to §366.093(3) (b), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 3.
Response to Data Request 1.10b Page 9 of 15 Column A Page 11 of 15 Column A Page 13 of 15 Column A Page 15 of 15 Column A	This information is entitled to confidential classification pursuant to §366.093(3) (d)-(e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 2.
Response to Data Request 2.3 Page 1 of 1 Lines 1-15; Columns A-D	This information is entitled to confidential classification pursuant to §366.093(3) (d)-(e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 2.
Response to Data Request 2.4 Page 23 of 33 Columns A- B	This information is entitled to confidential classification pursuant to §366.093(3) (d)-(e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 2.

Response to Data Request 2.5

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Lines 1-11

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Lines 1-29

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Lines 1-34

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Lines 1-27

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Lines 1-36

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Lines 1-4

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Lines 1-22

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Lines 1-19

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Columns A-B

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Columns A-B

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Columns A-B

Page 18 of 32
Columns A-B

This information is entitled to confidential classification pursuant to §366.093(3) (a)-(e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 4.

Page 20 of 32
Lines 1-4, Columns A-B
Lines 5-9, Columns A-C
Lines 10-11, Columns A-C

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Lines 1-19

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Columns A-C

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Columns A-C

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Columns A-C

Page 25 of 32
Columns A and C

Page 29 of 32
Lines 1-23

Response to Data Request 2.8
Page 1 of 1
Lines 1-5, Columns A-G

This information is entitled to confidential classification pursuant to §366.093(3)(e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 5.

Bureau of Regulatory Review Workplan
for Gulf Power Co.

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Lines 1-12; Column A

This information is entitled to confidential classification pursuant to §366.093(3)(b), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 3.

Bureau of Performance Analysis Document
Summary and Control Loge

Page 3
Line 1, Column A

Page 4
Lines 1-4; Column A

This information is entitled to confidential classification pursuant to §366.093(3)(b), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 3.

EXHIBIT B

Line-by-Line/Field-by-Field Justification

Line(s)/Field(s)

Response to Data Request 3.4
Confidential in its Entirety

Justification

This information is entitled to confidential classification pursuant to §366.093(3) (d), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 4.