

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery  
clause with generating performance incentive  
factor.

DOCKET NO. 090001-EI  
ORDER NO. PSC-09-0436-CFO-EI  
ISSUED: June 19, 2009

ORDER GRANTING GULF POWER COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 07623-08)

On August 22, 2008, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (GULF) filed a request for confidential classification of certain information contained in GULF's responses to Staff's Third Request for Production of Documents Nos. 11 and 12 (Document No. 07623-08). This request was filed in Docket No. 080001-EI.

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 Section 119.07(1) [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. Paragraphs (d) and (e) of Section 366.093(3), F.S., provide that proprietary confidential business information includes, but is not limited to "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on 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 portions of information contained in its responses to Staff's Third Request for Production of Documents Nos. 11 and 12, as more specifically described in the table in Attachment A, fall within these categories and, thus, constitute 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.

GULF claims that certain information in its responses to Staff's Third Request for Production of Documents Nos. 11 and 12 contains proprietary confidential business information regarding contractual matters, the disclosure of which would cause irreparable harm to GULF, its customers, and the entities with whom it has entered into contracts. Specifically, GULF insists that the information consists of a confidential coal supply contract between GULF and one of its coal suppliers, as well as correspondence between GULF and the supplier incorporating certain terms of the contract. According to GULF, the contract is subject to a confidentiality agreement and is considered by GULF and the counterparty as confidential in its entirety. GULF insists

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that disclosure of the contract and the correspondence citing to the contract would negatively impact GULF's ability to negotiate pricing favorable to its customers in future capacity contracts because potential counterparties may refuse to enter into contracts with GULF or would charge higher prices if the contract terms were made public.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information identified in Document No. 07623-08 shall be 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 Katrina J. McMurrian, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of Document No. 07623-08 is granted. It is further

ORDERED that the information in Document No. 07623-08 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

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By ORDER of Commissioner Katrina J. McMurrrian, as Prehearing Officer, this 19th  
day of June, 2009.



KATRINA J. McMURRIAN

Commissioner and Prehearing Officer

(SEAL)

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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; 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 25-22.060, 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.

Attachment A

DOCUMENT DESCRIPTION	PAGE	LINE
GULF's Response to Staff's Third Request for Production of Documents No. 11	All	All
GULF's Response to Staff's Third Request for Production of Documents No. 12	421	Lines 1-4; Column A
	423	Lines 1-3; Column A
	425	Lines 1-7; Column A
	429	Lines 1-3; Column A