

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-09-0824-CFO-EI
ISSUED: December 15, 2009

ORDER GRANTING GULF POWER COMPANY'S
REQUESTS FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 02682-09 AND DOCUMENT NO. 02685-09)

On March 26, 2009, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf) filed Requests for Confidential Classification of certain information contained in Gulf's responses to Staff's First Set of Interrogatories Nos. 1, 2, 3 and 4 (Document No. 02682-09) and Staff's First Request for Production of Documents Nos. 2 and 4 (Document No. 02685-09). These requests were filed in Docket No. 090001-EI.

Request for Confidential Classification

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 the information contained in its responses to Staff's First Set of Interrogatories Nos. 1, 2, 3 and 4 and Staff's First Request for Production of Documents Nos. 2 and 4, 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 specifically alleges that the information for which it seeks confidential classification consists of pricing terms for coal and natural gas offered to and/or purchased by Mississippi Power and Gulf, as co-owners of coal units at Mississippi Power's Plant Daniel, in connection with Requests for Proposals Mississippi Power and Gulf issued in 2008. Gulf further alleges that this information is proprietary confidential business information regarding contractual matters,

DOCUMENT NUMBER-DATE

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the disclosure of which would cause irreparable harm to Gulf, its customers, and the entities with whom it has entered into contracts. Specifically, Gulf avers that disclosure of this information would result in potential counterparties refusing to enter into contracts with Gulf or charging higher prices, thus having a negative impact on Gulf's ability to negotiate pricing favorable to its customers in the future.

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." Moreover, none of the documentation discussed herein contains any information regarding the compensation of Gulf executives. Thus, the information identified in Documents Nos. 02682-09 and 02685-09, as more specifically described in Attachment A, 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 Nathan A. Skop, as Prehearing Officer, that Gulf Power Company's Requests for Confidential Classification of information contained within Documents Nos. 02682-09 and 02685-09, as more fully described in Attachment A, are granted. It is further

ORDERED that the information in Documents Nos. 02682-09 and 02685-09 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.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 15th day of December, 2009.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

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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(S) AND COLUMN(S)
Gulf's Response to Staff's First Set of Interrogatories No. 1	1 of 5	Lines 1 – 3, Columns A -B
	2 of 5	Lines 1 – 4, Columns A- B
	3 of 5	Lines 1 – 4, Columns A- B
	4 of 5	Lines 1 – 5, Columns A- B
	5 of 5	Lines 1 – 4, Columns A- B
Gulf's Response to Staff's First Set of Interrogatories No. 2	1 of 3	Lines 1 – 2, Column A
	2 of 3	Line 1, Column C
		Line 2, Column A
		Line 3, Column B
	3 of 3	Line 1, Column A
		Line 2, Column B
Gulf's Response to Staff's First Set of Interrogatories No. 3	1 of 3	Lines 1 - 6, Column A
	2 of 3	Lines 1 - 8, Column A
	3 of 3	Lines 1 - 2, Column A
Gulf's Response to Staff's First Set of Interrogatories No. 4	1 of 2	Lines 1 - 10, Column A
	2 of 2	Lines 1 - 13, Column A
Gulf's Response to Staff's First Request for Production of Documents No. 2	11	Lines 1 – 56, Columns A - E
	12	Lines 1 – 14, Column A
	13	Lines 1 – 23, Columns A - E
Gulf's Response to Staff's First Request for Production of Documents No. 4	Page 19	Line 1, Columns A, C
	Page 19	Line 2, Columns A, C - D
	Page 19	Line 3, Columns A - D
	Page 19	Line 4, Columns A, C - D
	Page 19	Line 5, Columns A, C - D
	Page 19	Line 6, Columns A, C
	Page 19	Line 7, Columns A - D
	Page 19	Line 8, Columns A, C - D
	Page 19	Line 9, Columns A, C - D
	Page 19	Line 10, Column D
	Page 19	Line 11, Columns A, C - D
	Page 19	Line 12, Column D
	Page 19	Line 13, Columns A - D
	Page 19	Line 14, Columns A, C - D
	Page 19	Line 15, Columns A - D
	Page 19	Line 16, Columns A, C
	Page 19	Line 17, Columns A, C
	Page 19	Line 18, Columns A, C
	Page 19	Line 19, Column D
Page 19	Line 20, Columns A, C - D	

	Page 19	Line 21, Column D
	Page 19	Line 22, Column D
	Page 19	Line 23, Columns C - D
	Page 19	Line 24, Columns A, C
	Page 19	Line 25, Columns A, C
	Page 19	Line 26, Columns A, C
	Page 19	Line 27, Column D
	Page 19	Line 28, Columns A, C - D
	Page 19	Line 29, Column D
	Page 19	Line 30, Columns A, C - D