

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 160001-EI
ORDER NO. PSC-16-0385-CFO-EI
ISSUED: September 19, 2016

ORDER GRANTING GULF POWER COMPANY'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION (DOCUMENT NO. 02377-16)

On April 22, 2016, 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 (Request) of certain information submitted by Gulf Power in response to Commission Staff's First Set of Interrogatories to Gulf Power Company (Nos. 1-10) (Document No. 02377-16). This Request was filed in Docket No. 160001-EI.

Request for Confidential Classification

Gulf contends that a portion of the information submitted by Gulf Power in response to interrogatories numbered 1, 2, 4, and 5 of Commission Staff's First set of Interrogatories, as more specifically identified by page, line, and statutory basis in Exhibit C to its Request, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C.

Gulf asserts that the information at issue relates to competitively negotiated data, such as proprietary confidential business information concerning bids or other contractual data, the disclosure of which would impair the efforts of Gulf to contract for goods and/or services on favorable terms. The information, Gulf argues, is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), F.S. Specifically, the confidential information consists of pricing terms for coal and natural gas offered to and/or purchased by Gulf Power in connection with Requests for Proposal issued by Gulf Power in 2015.

This information is regarded by both Gulf and the counterparty as confidential. The pricing, which resulted from negotiations between Gulf and the counterparty, is specific to individual transactions and is not publicly known. Gulf contends that disclosure of this information would negatively impact Gulf's ability to negotiate pricing favorable to its customers in the future. Also, Gulf argues, potential counterparties may refuse to enter into contracts with Gulf, or may charge higher prices, if these terms were made public.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. 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), F.S., provides that proprietary confidential business information includes, but is not limited to:

(d) Information 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.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

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 "information 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 "information 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. 02377-16 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 up to 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 DEF 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 Art Graham, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of Document No. 02377-16 is granted. It is further

ORDERED that the information in Document No. 02377-16 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 Art Graham, as Prehearing Officer, this 19th day of September, 2016.



ART GRAHAM
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

WDT

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 25-22.0376, 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.