

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Gulf Power Company.

DOCKET NO. 160186-EI

In re: Petition for approval of 2016 depreciation and dismantlement studies, approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company.

DOCKET NO. 160170-EI
ORDER NO. PSC-17-0102-CFO-EI
ISSUED: March 17, 2017

TEMPORARY PROTECTIVE ORDER
GULF POWER COMPANY'S RESPONSES TO DISCOVERY REQUESTS
OF THE OFFICE OF PUBLIC COUNSEL

Pursuant to Section 366.093(3), Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf) filed Motions for Temporary Protective Orders for the confidential information described in the table below, which Gulf submitted to the Office of Public Counsel (OPC) in response to discovery requests propounded by the OPC in the instant docket.

Document No.	Date Filed	Description
09306-16	12/13/2016	Motion for Temporary Protective Order of documents and information produced as a supplemental response to OPC's 1st Set of Requests for Production of Documents (No. 59) - Gulf's Supplemental Response to OPC Request for Production of Document Request No. 59 contains "investment firm reports" relating to Gulf's parent, Southern Company.
09515-16	12/22/2016	Motion for Temporary Protective Order of documents and information produced in response to OPC's 4th Set of Interrogatories (Nos. 131-151) - Gulf's Response to OPC's Interrogatory No. 145 contains a document containing allocation factors for Gulf's affiliate transactions.
09570-16	12/28/2016	Motion for Temporary Protective Order of documents and information produced in response to OPC's 5th Set of Interrogatories (Nos. 152-161) and OPC's 5th Set of Request for Production of Documents (Nos. 110-117) - Gulf's Responses to OPC's Request for Production No.114 and OPC's Interrogatory No. 157, consists of Microsoft Excel spreadsheets that contain confidential pricing and non-price information pertaining to contractual agreements between Gulf and various counterparties.

Document No.	Date Filed	Description
00054-17	01/03/2017	<p>Motion for Temporary Protective Order of documents and information produced in response to OPC’s 6th Set of Interrogatories (Nos. 162-188) and OPC’s 6th Set of Request for Production of Documents (Nos. 118-132)</p> <ul style="list-style-type: none"> - Gulf’s Responses to OPC’s Request for Production of Documents Nos. 124, 127, 129, and 131, and Gulf’s Response to OPC’s Interrogatory No. 178, contain: confidential pricing and non-price information pertaining to contractual agreements between Gulf and various counterparties, and in particular, purchased power agreements; and confidential information related to Unit 3 at Plant Scherer, allocation factors for Gulf’s affiliate transactions, and internal policies and procedures of The Southern Company pertaining to aircraft usage.
02258-17	02/27/2017	<p>Motion for Temporary Protective Order of documents and information produced in response to OPC’s 8th Set of Request for Production of Documents (Nos. 134-146)</p> <ul style="list-style-type: none"> - Gulf’s Response to OPC’s Requests for Production of Documents Nos. 141, 143, and 145 contains confidential information that relates to Unit 3 at Plant Scherer. Request for Production No. 141 includes a functioning electronic version of a proprietary model developed by Southern Company at Southern Company’s expense.
02265-17	02/27/2017	<p>Motion for Temporary Protective Order of documents and information produced in response to OPC’s 9th Set of Interrogatories (Nos. 193-210)</p> <ul style="list-style-type: none"> - Gulf’s Response to OPC’s Interrogatory No. 205 contains confidential employee data, including salaries and other compensation data.

Motions for Temporary Protective Orders

Gulf states that the information provided in the responses outlined in the table above is confidential and seeks protection of these documents as provided in Section 366.093(3), F.S., and Rule 25-22.006(6)(c), F.A.C., while the material is in the possession of the OPC. Gulf also requests that the protection extend not only to OPC, but also to any consultants or advisors with whom OPC has contracted for purposes of this proceeding.

Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from the public records law, Section 119.07(1), F.S. Rule 25-22.006(6), F.A.C., codifies the Commission’s policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that "utility may request a temporary protective order exempting the information from section 119.07(1), F.S."


Upon consideration, Gulf's assertions of the confidential nature of the information contained in its responses to OPC's requests as detailed in the chart herein are sufficient to grant its Motions for Protective Orders for that information. As a result, all of this information shall be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Jimmy Patronis, as Prehearing Officer, that Gulf's Motions for Temporary Protective Orders as detailed herein, are granted. It is further,

ORDERED that this Temporary Protective Order shall extend not only to the Office of Public Counsel, but also to any consultants or advisors with whom the Office of Public Counsel has contracted for purposes of this proceeding.

By ORDER of Commissioner Jimmy Patronis, as Prehearing Officer, this 17th day of March, 2017.



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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.

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.