

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 100001-EI
ORDER NO. PSC-10-0337-CFO-EI
ISSUED: June 1, 2010

ORDER GRANTING GULF POWER COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 01711-10)

On March 12, 2010, 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 Schedule CCA-4 of Exhibit RWD-1 of the March 12, 2010 Direct Testimony of Richard W. Dodd (Document No. 01711-10). This request was filed in Docket No. 100001-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 (3)(d), and (e) of Section 366.093 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 the information contained in Schedule CCA-4 of Exhibit RWD-1 of the March 12, 2010 Direct Testimony of Richard W. Dodd, as more specifically described in the Table in Attachment A to this Order, 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.

Gulf asserts that a portion of the information contained in Schedule CCA-4 is proprietary confidential business information regarding contractual matters which if disclosed, would cause irreparable harm to Gulf, to the entities with whom Gulf has contracted, and most importantly, to Gulf's customers. Gulf states that the information also relates to its competitive interests in capacity markets which would cause irreparable harm to Gulf and the entities with whom it has contracted if such information was disclosed to the general public. Gulf contends that Schedule CCA-4 provides the price terms for capacity contracts entered into by Gulf for 2009. According to Gulf, the price terms in these contracts are regarded by both Gulf and the counterparty as

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confidential. Gulf argues that the pricing, which resulted from negotiations between Gulf and the counterparty, is specific to the individual contracts and is not publicly known. Gulf concludes that disclosure of this information 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 may charge higher prices if the price 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;" or "[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. 01711-10 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 Request for Confidential Classification of Document No. 01711-10 is granted. It is further

ORDERED that the information in Document No. 01711-10 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 1st day of
June, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

LCB

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.

ATTACHMENT A

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

Line(s)/Field(s)

Page 1 of 2
Lines 40-41; Columns O-P
Line 45; Columns K-P
Line 47; Columns I-J
Line 48; Columns E-P

Justification

This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes.

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Lines 40-41; Columns E-Q
Line 42; Columns M-Q
Line 45; Columns E-J and O-P
Line 46; Columns E-H
Line 47; Columns K-P
Line 48; Columns E-P

This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes.