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August 16, 2013

Ms. Ann Cole, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee FL 32399-0850

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COMMISSION  
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RE: Docket No. 130140-EI

Dear Ms. Cole:

Enclosed for filing in the above referenced docket is Gulf Power Company's First Motion for Temporary Protective Order pertaining to certain information being produced in response to the Office of Public Counsel's First Interrogatories and First Request to Produce Documents to Gulf Power Company. Also included is a DVD of Gulf Power Company's First Motion for Temporary Protective Order in Microsoft Word format.

Sincerely,

Robert L. McGee, Jr.

md

Enclosures

cc: Beggs & Lane  
Jeffrey A. Stone, Esq.

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AFD (circled) | DVD \_\_\_\_\_  
APA \_\_\_\_\_  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for increase in rates by Gulf  
Power Company.

Docket No. 130140-EI  
Dated: August 19, 2013

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**GULF POWER COMPANY'S**  
**FIRST MOTION FOR TEMPORARY PROTECTIVE ORDER**

Gulf Power Company ("Gulf"), by and through undersigned counsel, hereby moves pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, for entry of a Temporary Protective Order covering confidential documents and information sought in discovery by the Office of Public Counsel ("OPC") and as grounds therefore states as follows:

1. In its First Request for Production of Documents (Nos. 1-59) and its First Interrogatories to Gulf Power (Nos. 1-79) (the "Requests") dated July 18, 2013, OPC has requested the discovery of confidential information the disclosure of which would harm Gulf's competitive business interests, reveal internal auditing controls and reports of internal auditors, reveal private information relating to Gulf's customers and employees, reveal non-public, proprietary information concerning Gulf's affiliates and violate contractual confidentiality provisions.

2. The responses to Requests include project specific information including contractual terms, pricing arrangements and budgetary plans. Such information, if made available to the public, could place Gulf at a competitive disadvantage with respect to competitors when attempting to contract for like services, as well as parties with which Gulf would hope to contract in the future. If market participants possessed Gulf's confidential information they would be able to adjust their behavior in the market place thereby changing the prices at which Gulf is able to contract for such services. See § 366.093(3)(d) & (e), Fla. Stat.

Furthermore, portions of these documents are subject to contractual confidentiality agreements, requiring that all parties to the contracts maintain the confidentiality of all documents and information pertaining thereto. The release of this information to the general public would violate those agreements, and seriously impair Gulf's ability to contract for goods and services in the future. Additionally, the information produced in response to Requests contains confidential budgetary information for certain projects. Such information, if made available to the public, could place Gulf at a competitive disadvantage when attempting to contract for certain products and services by allowing market participants to adjust their behavior accordingly. See § 366.093(3)(e), Fla. Stat. The responses to Requests contain confidential transmission related analyses and other information that Gulf does not release to the public and that would harm Gulf's competitive business interest if released to the public and are the product of external and internal audits, evaluations and studies. The responses to the Requests also include personally identifiable information ("PII") regarding Gulf's customers and personnel. Gulf has historically protected this information in recognition of the privacy rights of its customers and employees. Similarly, some responses include non-public salary data for filled and planned positions. Public disclosure of this information could provide Gulf's competitors with an advantage in acquiring and obtaining qualified employees, increase Gulf's employee turnover and associated training costs, and give prospective employees an advantage in negotiating compensation packages, leading to increases in the overall amount paid to employees.

3. Section 366.093(2), Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, direct that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by OPC as confidential and shall be exempt from the public records law, Section 119.07(1), Florida Statutes. Gulf, by this motion, is

seeking protection of all confidential information that Gulf will produce to OPC in this matter pursuant to OPC's First Request for Production of Documents and First Interrogatories. This protection should extend not only to OPC, but also to any consultants or advisors with whom OPC has contracted for purposes of this proceeding. Gulf has recorded the appropriate objections to providing such confidential, propriety business information, and will provide documents and information responsive to these requests marked as confidential subject to this motion, the law, Commission rules, and Gulf's objections. By following this procedure and producing this information, Gulf is not waiving its right to seek further relief as necessary to make certain that its confidential, proprietary, business information is not publicly disclosed.

4. The following responses contain proprietary confidential business information. For ease of reference, Gulf is producing all confidential data on a separate DVD which is conspicuously labeled as "confidential." Where practicable, Gulf has endeavored to highlight in yellow those portions of the documents which are confidential. If a document or file does not contain yellow highlighting it should be considered confidential in its entirety.

**OPC's First Request for Production of Documents (1-59)**

Numbers 1-2: These requests seek electronic copies of all minimum filing requirements ("MFRs") and all workpapers and source data in support thereof. In response to these requests Gulf is producing hundreds of files and thousands of pages of data, some of which contain confidential information. Such information includes: Schedules B-6 and C-4 (non-public customer data and propriety software/models used to generate cost of service study); Schedule B-24 (confidential transportation contracts and transportation rates); Schedule C-24 (non-public financial data of parent company concerning parent debt adjustment); Schedule C-30 (projected financial contractual data and information concerning affiliated purchased power agreements);

C-31 (confidential affiliate banking information and price quotes from external vendors); D-2 (forecasted capital structure for affiliated companies) and F-8 (planned outage schedules for Gulf generating units). The foregoing information is confidential pursuant to section 366.093(3)(d)-(e), Florida Statutes.

Numbers 3 and 5: These requests seek electronic copies of all exhibits to direct testimony and all workpapers and source data in support thereof. Confidential information submitted in response to these requests has been segregated into files bearing witness names and includes the following: Alexander (customer names, account numbers and associated billing data); Burroughs (natural gas storage contracts and Gulf Power fuel policy); Caldwell (Gulf Power ten year transmission plan); Garvie (employee PII including names, dates of birth, identification numbers and compensation data); Grove (schedule of planned outages for Gulf Power generating units); McMillan (employee PII including names, identification numbers, compensation and employment history). The foregoing information is confidential pursuant to section 366.093(3)(d),(e) and (f), Florida Statutes.

Number 10: This request seeks a complete copy of the Company's General Ledger. The general ledger is an extremely voluminous database which contains, among other things, competitively sensitive information including purchased power expenditures, wholesale sales and revenues, audit related transactions, personnel data and vendor data. The foregoing information is confidential pursuant to section 366.093(3)(d),(e) and (f), Florida Statutes.

Number 14: This request seeks copies of all incentive compensation/bonus plans in effect for 2012 and 2013. The response to this request contains non-public employee compensation data. This information is competitively sensitive and confidential pursuant to section 366.093(3)(e),

Florida Statutes. See Florida Power & Light v. Florida Public Service Commission, 31 So.3d 860 (Fla. 1<sup>st</sup> DCA 2010).

Number 16: This request seeks copies of the Company's most recent actuarial studies associated with pension plans, post-retirement benefit plans and SERP plans. These studies are the proprietary work-product of Gulf Power's outside consultant, Aon Hewitt. Public disclosure of the assumptions and methods employed in the development of these studies could impair the competitive position of the consultant in the marketplace and result in the consultant either charging Gulf higher prices for its services, or refusing to conduct business with Gulf in the future.

Number 18: The response to this request contains non-public employee compensation data. This information is confidential pursuant to section 366.093(3)(e), Florida Statutes. See Florida Power & Light v. Florida Public Service Commission, 31 So.3d 860 (Fla. 1<sup>st</sup> DCA 2010).

Numbers 19-20: These responses contain minutes of board of directors meetings and board of director reports. These documents contain competitively sensitive information including projected revenues, sales forecasts, operations plans and strategic plans. This information is confidential pursuant to section 366.093(3)(e), Florida Statutes.

Numbers 27-28: These responses include reports of internal auditors. This information is confidential pursuant to section 366.093(3)(b), Florida Statutes.

Number 29: This response contains complete copies of multiple internal policies, procedures and manuals addressing affiliate transactions. These internal documents could be used by competitors of Gulf to gain confidential details regarding the Company's internal cost allocation methodologies. These methodologies have been developed over time and through the expenditure of significant resources. Access to such methodologies would bestow on competitors of the

Company and unfair advantage to the extent that such competitors would not similarly be required to expend such resources to develop similar methodologies. This would, in turn, confer an unfair advantage on such companies. In addition, access to the information would provide insight into the costs of the Company, which could also undermine the Company's position. The Company's competitors are not similarly required to disclose such information and access to such cost information would harm the Company and could result in competitors manipulating the market by artificially setting prices based on such information. This information is confidential pursuant to section 366.093(3)(d) and (e), Florida Statutes.

Number 32: This response contains the methodology for calculating allocation factors for affiliate transactions. This information is similar to the information disclosed in response to request No. 29 and is confidential pursuant to section 366.093(3)(d) and (e), Florida Statutes.

Numbers 33: This response contains confidential contracts between Gulf Power and one or more affiliates for various services. These documents are subject to confidentiality obligations and contain commercially sensitive business information including pricing and negotiated contract provisions. This information is confidential pursuant to section 366.093(3)(d) and (e), Florida Statutes.

Number 36: This response contains market price comparisons for affiliate transactions based on non-public vendor quotes and Southern Company Services direct costs. This information is confidential pursuant to section 366.093(3)(d) and (e), Florida Statutes.

Numbers 41: This response consists of correspondence between Gulf and its affiliates addressing charges and/or allocations between them. These documents include personally identifiable information of employees and third parties and pricing data for goods and services associated with

confidential contracts. This information is confidential pursuant to section 366.093(3)(d),(e) and (f), Florida Statutes.

Number 42: This response includes a lease/purchase agreement for real property. The pricing information contained in this document is confidential pursuant to section 366.093(3)(d) and (e), Florida Statutes.

Numbers 48-49: This response consists of invoices between Gulf and its affiliates. These invoices include credit card numbers, personally identifiable information of employees and third parties, and pricing data for goods and services associated with confidential contracts. This information is confidential pursuant to section 366.093(3)(d),(e) and (f), Florida Statutes.

Number 50: This response includes copies of presentations made by Gulf to certain financial rating agencies. These presentations include forward looking financial data and other commercially sensitive financial information, the disclosure of which could harm the competitive interest of the Company. This information is confidential pursuant to section 366.093(3)(e), Florida Statutes.

Number 54: This response includes credit rating letters from Moody's Investor's Service. These letters are subject to Moody's confidentiality restrictions which prohibit their disclosure on a non-confidential basis. Failure by Gulf to honor Moody's restrictions could result in Moody's charging Gulf higher prices for its services, or refusing to conduct business with Gulf in the future. This information is confidential pursuant to section 366.093(3)(d)-(e), Florida Statutes. This response also includes copies of draft rating agency presentations. These presentations include forward looking financial data and other commercially sensitive financial information, the disclosure of which could harm the competitive interest of the Company. This information is confidential pursuant to section 366.093(3)(e), Florida Statutes.



Number 55: This request seeks all source documents and workpapers associated with the breakdown of the expected return between different asset classes used in determining the expected return on pension plan assets for Gulf. Gulf's response includes a document produced by Gulf's external consultant, Aon Hewitt, which contain Aon Hewitt's long-term (30 year) outlook of the U.S. capital market. This analysis is the proprietary work-product of Aon Hewitt. Public disclosure of this analysis could impair the competitive position of the consultant in the marketplace and result in the consultant either charging Gulf higher prices for its services, or refusing to conduct business with Gulf in the future. This information is confidential pursuant to section 366.093(3)(e), Florida Statutes.

#### **OPC's First Interrogatories to Gulf Power (1-79)**

Number 54(i): This response includes non-public employee compensation data for employees whose time has been allocated, in part, to non-regulated operations. This information is confidential pursuant to section 366.093(3)(e), Florida Statutes. See Florida Power & Light v. Florida Public Service Commission, 31 So.3d 860 (Fla. 1<sup>st</sup> DCA 2010).

Number 63: This response includes non-public employee compensation data for shared officers or directors. This information is confidential pursuant to section 366.093(3)(e), Florida Statutes. See Florida Power & Light v. Florida Public Service Commission, 31 So.3d 860 (Fla. 1<sup>st</sup> DCA 2010).

Number 64: This response includes a breakdown of the expected returns on Gulf's pension plan assets by asset class. These analyses are the proprietary work-product of Aon Hewitt. Public disclosure of these analyses could impair the competitive position of the consultant in the marketplace and result in the consultant either charging Gulf higher prices for its services, or

refusing to conduct business with Gulf in the future. This information is confidential pursuant to section 366.093(3)(e), Florida Statutes.

Gulf requests that in connection with the entry of a temporary protective order, the Commission also request Public Counsel to provide Gulf with notice of its intent to use such confidential information in connection with the hearing in this matter.

**WHEREFORE**, Gulf requests that the Commission enter an Order granting its Motion for Temporary Protective Order relating to information identified as confidential and produced in response to OPC's First Request for Production of Documents and OPC's First Interrogatories, instructing Public Counsel to continue to treat it as confidential, and requiring Public Counsel to provide Gulf with notice of its intent to use such confidential information in connection with the hearing in accord with the prehearing order governing procedure.

Respectfully submitted this 16<sup>th</sup> day of August, 2013.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for Increase in Rates )  
By Gulf Power Company )  
)

Docket No.: 130140-EI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished via overnight delivery to the Commission Clerk and to all counsel of record as indicated below via U.S. mail this 16th day of August, 2013:

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