

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of ) DOCKET NO. 921167-EQ  
separately negotiated contract ) ORDER NO. PSC-93-0235-CFO-EQ  
for purchase of firm capacity ) ISSUED: 02/12/93  
and energy from Monsanto Company )  
by Gulf Power Company. )  
\_\_\_\_\_ )

ORDER DENYING GULF POWER COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION

BY THE COMMISSION:

On December 22, 1992, Gulf Power Company (Gulf) filed a request for confidential treatment for certain portions of its responses to Items 6, 7, and 8 of Staff's First Set of Interrogatories to Gulf Power Company (Nos. 1-11). The information is found in Document No. 14817-92.

There is a presumption in the law of the State of Florida that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is this Commission's view that a request for specified confidential classification of documents must meet a very high burden. The Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

The Florida Legislature has determined that "[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" is proprietary confidential business information. Section 366.093(3)(d), Florida Statutes.

To establish that material is proprietary confidential business information under Section 366.093(3)(d), Florida Statutes, a utility must demonstrate (1) that the information is contractual data, and (2) that the disclosure of the data would impair the efforts of the utility to contract for goods or services on favorable terms. We have previously recognized that this latter requirement does not necessitate the showing of actual impairment, or the more demanding standard of actual adverse results; instead, it must simply be shown that disclosure is "reasonably likely" to impair the company's contracting for goods or services on favorable terms.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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Gulf has requested confidential treatment of certain information in its responses to Staff's First 'Set of Interrogatories to Gulf Power Company, Nos. 6, 7, and 8. The interrogatory responses contain data relating to Gulf's 1996 avoided unit. Rule 25-17.0832(7), Florida Administrative Code, provides in part that

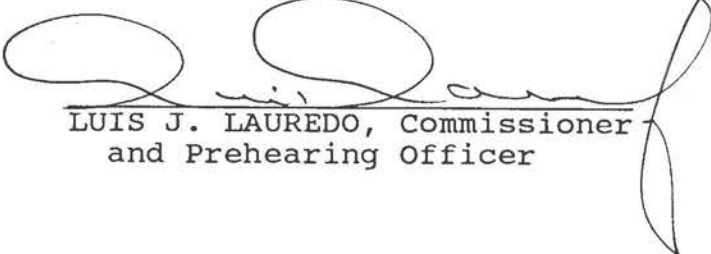
Upon request by a qualifying facility or any interested party, each utility shall provide within 30 days its most current projections of its future generation mix including type and timing of anticipated generation additions, and at least a 20-year projection of fuel forecasts, as well as any other information reasonably required by the qualifying facility to project future avoided cost prices.

The information contained in Gulf's interrogatory responses, Nos. 6, 7, and 8, is information that would be reasonably required by a qualifying facility or other party to project Gulf's future avoided cost. Thus, Gulf would be required to supply such information to any interested party that requests it. Accordingly, I find that this information shall not receive confidential status.

It is, therefore,

ORDERED by the Florida Public Service Commission that the request for confidential treatment by Gulf Power Company is denied, as discussed within the body of this Order.

By ORDER of Commissioner Luis J. Lauredo, as Prehearing Officer, this 12th day of February, 1993.

  
LUIS J. LAUREDO, Commissioner  
and Prehearing Officer

DLC:bmi

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, 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.