

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Planning Hearings on) DOCKET NO. 950004-EU
Load Forecasts, Generation) ORDER NO. PSC-95-0777-CFO-EU
Expansion Plans, and) ISSUED: June 27, 1995
Cogeneration Prices for)
Florida's Electric Utilities.)
_____)

ORDER DENYING GULF POWER COMPANY'S REQUEST FOR
CONFIDENTIAL TREATMENT OF CERTAIN PORTIONS OF ITS
DATA ON GENERATION EXPANSION PLANS

On April 10, 1995, Gulf Power Company ("the Company"), filed a Request for Confidential Classification for information, submitted in response to two informal data requests from Commission Staff on Gulf Power Company's generation expansion plans. The Company's responses are located in Document No. 03623-95. On May 2, 1995, the Company filed an amended motion, which completely replaced the previous motion, and requested Confidential Classification concerning certain portions of the requested information. The portions of Gulf Power Company's responses that it requests to be confidential are located in Document No. 04210-95.

Florida law presumes 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 the Company's burden to demonstrate that the documents fall into one of the statutory exceptions set forth in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

In Gulf Power Company's Request for Confidential Treatment, the Company argues that certain information, if disclosed, would harm the ability of the Company to contract for capacity, energy, or fuel, at prices in the best interests of the Company's ratepayers.

Specifically, the Company requests confidential treatment of highlighted information on pages 12 and 14, for lines 11-30, in columns 2-7; page 15, for lines 11-30, in columns 2-13; and, page 16, for lines 11-30, in columns 2-4, 6-8, 10-12. The Company argues that disclosure of actual data regarding its fuel prices,

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would adversely impact Gulf's ability to enter into contracts for capacity, energy and fuel at the lowest price available for its ratepayers.

Gulf Power Company contends it may have to seek near-term capacity in the power market. The Company maintains that potential power providers will measure their proposals against Gulf Power Company's internal projections of fuel costs. The Company argues that potential suppliers, equipped with the Company's projected fuel price information, will bid capacity at a price just sufficient to beat Gulf's fuel costs. Gulf argues that absent the fuel price projection data, the power providers will competitively bid against each other for the Company's capacity need, and Gulf could achieve a lower price for capacity for its ratepayers.

Also, Gulf Power Company asserts that revealing its forecast of fuel prices would impair its ability to negotiate contracts for fuel at a favorable price. The exposed price information could enable potential fuel suppliers to determine the price Gulf Power Company paid for fuel and could result in price convergence around the last public price. The Company claims this would eliminate the possibility that a fuel supplier would bid a price for its fuel that is substantially lower than another fuel supplier's price. Gulf Power Company maintains that public disclosure of the fuel projection data would completely undermine its market presence, and impair its ability to enter into lower cost fuel contracts for the benefit of its ratepayers.

However, some of the fuel price forecasting data for which Gulf Power Company seeks confidential treatment was previously made public. The Company previously published its expectation of coal, oil and gas prices for Staff's review of its 1994 expansion plan one year ago. Specifically, the Company provided 10 years of historical prices and 20 years of price projections. In addition, the Company routinely publishes 10 months of fuel price projections in the semi-annual fuel proceedings. Therefore, any data that was previously made public will not be considered proprietary confidential business information pursuant to Section 366.093(3), Florida Statutes, for purposes of this proceeding.

Further, disclosure of the data for which confidential classification has been requested will not impair the Company's ability to contract for goods and services on favorable terms for the following reasons. First, Gulf Power Company relies heavily on coal and smaller quantities of natural gas and oil to produce electricity. Second, Gulf purchases most of its coal on the spot market. The coal market has remained essentially stable for the past several years with slightly declining real term prices.

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Third, the Company acquires natural gas monthly from an as-available supply and acquires its oil monthly from suppliers that it has solicited for an approximate annual requirement. Therefore, any published price information will be sufficiently convoluted to prevent determination of Gulf Power Company's actual fuel cost for generation.

Accordingly, Gulf Power Company's Request for Confidential Treatment is hereby denied. Information filed in Document No. 03623-95 and Document No. 04210 shall not be treated as proprietary confidential business information.

In consideration of the foregoing, it is

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that the Request for Confidential Treatment by Gulf Power Company is hereby denied.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 27th day of June, 1995.


DIANE K. KIESLING, Commissioner and
Prehearing Officer

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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.