

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to
implement proposed
commercial/industrial service
rider on pilot/experimental
basis by Gulf Power Company.

DOCKET NO. 960789-EI
ORDER NO. PSC-98-0225-CFO-EI
ISSUED: February 5, 1998

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO GULF POWER
COMPANY'S EARNINGS SURVEILLANCE REPORT, SUPPLEMENTAL 2 FOR
SEPTEMBER 1997 (DOCUMENT NOS. 12480-97 AND 11741-97)

Pursuant to Rule 25-22.006, Florida Administrative Code, and Section 366.093(3)(e), Florida Statutes, Gulf Power Company (GPC) requests confidential classification for its Earnings Surveillance Report, Supplemental 2, (ESR) for September, 1997. The request for confidential classification of the information contained in Document Nos. 12480-97 and 11741-97 is made pursuant to the Pilot Study Implementation Plan (Plan) approved in Order No. PSC-96-1219-FOF-EI issued in Docket No. 960789-EI on September 21, 1996. While approval of the Plan does not confer automatic confidentiality, its provisions contemplate that the compliance data would be filed separately so that they could be subject to the Commission's procedures for handling confidential and proprietary information.

GPC asserts that the information contained in the ESR is entitled to confidential classification pursuant to Section 366.093(3)(e), Florida Statutes, as information the public disclosure of which would cause irreparable harm to the competitive interests of GPC and the entity with whom it has negotiated a Customer Service Agreement (CSA) under the Commercial Industrial Service Rider (CISR) approved in Order No. PSC-96-1219-FOF-EI issued in Docket No. 960789-EI on September 21, 1996.

GPC argues that the ESR contains proprietary and commercially sensitive information that is not otherwise publicly available. GPC asserts that this information is intended to be and is treated as confidential information by GPC and the entity with whom it has entered into a CSA contract. Neither GPC nor the entity with whom it has entered into a CSA contract have publicly disclosed this information.

GPC maintains that public disclosure of the information contained in the ESR would cause irreparable harm to GPC and the

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entity with whom it has entered into a CSA contract. This is because the ESR contains proprietary confidential business information regarding contractual terms and pricing. Public disclosure of this information would impair the ability of GPC to negotiate terms and conditions in future CSAs that are the most favorable to GPC and its general body of customers. GPC therefore requests that this information be granted confidential classification pursuant to Section 366.093(3)(e), Florida Statutes.

GPC requests that lines 21-22 and 32-33 across all columns of the ESR be granted confidential classification. GPC asserts that this information is proprietary confidential business information regarding contractual terms and pricing. Public disclosure of this information would impair the ability of GPC to negotiate terms and conditions in future CSAs that are the most favorable to GPC and its general body of customers. The result of public disclosure of the pricing information would be price convergence in future CSAs. Moreover, the public disclosure of this information may prevent GPC from successfully negotiating CSAs with customers. The information is regarded as sensitive and confidential by the CIS rider customer because its public disclosure would impact the customer's ability to compete in its "native" market. In the event such information is made public, future potential CISR customers may avoid the risk of public disclosure of their confidential information by refusing to negotiate with GPC. GPC argues that this may lead to uneconomic bypass of GPC's facilities.

GPC's assertions that the release of the information contained in the ESR could cause harm to both GPC and the entity with whom GPC has entered into a CSA contract is reasonable. At the present time it appears that GPC has only one customer with whom it has negotiated a CSA contract under the CISR tariff. A sophisticated member of the public could use the information to estimate the amount of the discount provided to the entity and use it to its own advantage, especially in any CISR negotiations with GPC. The future need for confidentiality will diminish if at least two more entities enter into a CSA contract with GPC.

GPC argues that the information contained in Document Nos. 12480-97 and 11741-97 is entitled to confidential classification for a period of eighteen months from the date of the issuance of this Order in accordance with Section 366.093(4), Florida Statutes. This time period is reasonable and sufficient to protect both GPC and its customers from the disclosure of proprietary and

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commercially sensitive information that is not otherwise publicly available.


Based on the foregoing, good cause having been shown, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Gulf Power Company, Inc.'s request for confidential classification of the information contained in its Earnings Surveillance Report, Supplemental 2 for September 1997, Document Nos. 12480-97 and 11741-97 is granted. It is further

ORDERED that the information contained in Document Nos. 12480-97 and 11741-97 is granted confidential classification for a period of eighteen months from the date of the issuance of this order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 5th Day of February, 1998.



J. TERRY DEASON
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(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

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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.