

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of information obtained by Commission staff in audit of Affiliate Transactions (Audit Control No. 96-025-1-1) of Gulf Power Company.

DOCKET NO. 981594-EI  
ORDER NO. PSC-99-0900-CFO-EI  
ISSUED: May 6, 1999

ORDER GRANTING GULF POWER COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION

On November 12, 1998, Gulf Power Company (Gulf) filed a request pursuant to Rule 25-22.006, Florida Administrative Code, that certain portions of the staff working papers filed by staff in Document 12458-98 receive confidential classification. As revised on January 12, 1999, the request also included Document No. 12706-98.

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". Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential business information, disclosure of which will cause the company or its ratepayers harm.

Pursuant to Section 366.093(3),

Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of the Court or administrative body, or private agreement

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that provides that the information will not be released to the public. Proprietary confidential business information includes, but is not limited to:

... (b) Internal auditing controls and reports of internal auditors.

... (d) Information 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.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

As noted in Attachment I, all of the materials for which confidential classification is sought have been found, on review, to meet the requirements of Section 366.093(3)(b), (d) or (e). Those materials include

(a) Internal Audit reports and outlines of Internal Audit Controls;

(b) Documents Disclosing Allocation of 1994 Overheads, 1995 Overheads, and Overhead Rates;

(c) Contractual terms, cost data and pricing data concerning:

- 1) Overheads and Tracing to the Ledger
- 2) Lease Data
- 3) Related Party Transactions

As Gulf argued, internal auditing controls and reports are accorded confidential classification pursuant to Section 366.093(3)(b), while competitively sensitive information (such as overhead data) is accorded confidential classification pursuant to Section 366.093(3)(e). Moreover, contractual, cost and pricing data which, if disclosed, would impair the company's ability to contract for goods or services on favorable terms, is accorded confidential classification pursuant to Section 366.093(3)(d). Accordingly, these materials qualify for and are accorded confidential classification for a period of 18 months pursuant to Section 366.093(4).

Based on the foregoing, it is therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Gulf Power Company's request for Confidential



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Classification of those portions of Documents Nos. 12458-98 and 12706-98 listed in Attachment I is granted. It is further

ORDERED that pursuant to Section 366.093, Florida Statutes and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the material specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093, Florida Statutes. 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. It is further

ORDERED that this docket is closed.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 6th day of May, 1999.

  
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J. TERRY DEASON  
Commissioner and Prehearing Officer

( S E A L )

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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 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.

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Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.



ATTACHMENT I

Staff Work paper Number	Page(s)	Line(s)	Disposition	Type of Confidential Information
Documents 12458-98 and 12706-98				
11-1.1 to 11-1.16	1-16	All	Grant	Internal Audit Report
11-1A.1 to 11-1A.2	1-2	All	Grant	Internal Audit Control
11-1B.1 to 11-1B.4	1-7	All	Grant	Internal Audit Control
11-1C.1 to 11-1C.3	1-3	All	Grant	Sensitive Competitive Information
11-1D.1 to 11-1D.2	1-2	All	Grant	Sensitive Competitive Information
11-1E.1 to 11-1E.3	1-3	All	Grant	Sensitive Contractual Information
11-1F.1 to 11-1F.5	1-5	All	Grant	Sensitive Contractual Information
11-1G.1 to 11-1G.7	1-7	All	Grant	Sensitive Competitive Information
11-1H.1 to 11-1H.20	1-20	All	Grant	Internal Audit Control

Staff Work paper Number	Page(s)	Line(s)	Disposition	Type of Confidential Information
Documents 12458-98 and 12706-98				
11-8.3 to 11-8.14	3-14	All	Grant	Sensitive Contractual Information
11-9.3 to 11-9.14	3-14	All	Grant	Sensitive Contractual Information
11-10.3 to 11-10.6	3-6	All	Grant	Sensitive Contractual Information
11-11.1	1	7-10	Grant	Sensitive Contractual Information
11-11.2 to 11-11.10	2-10	All	Grant	Sensitive Contractual Information
11-13B.1 to 11-13B.4	1-4	All	Grant	Internal Audit Control
11-13C.1	1	All	Grant	Internal Audit Control
11-13C.1A	1	All	Grant	Internal Audit Control
11-13C.2	1	All	Grant	Internal Audit Control
11-13C.2A	1	All	Grant	Internal Audit Control
11-15.6	1	All	Grant	Sensitive Competitive Information



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Staff Work paper Number	Page(s)	Line(s)	Disposition	Type of Confidential Information
Documents 12458-98 and 12706-98				
11-15.15	1	All	Grant	Sensitive Competitive Information
11-15.14	1	All	Grant	Sensitive Competitive Information