

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-01-0348-CFO-EI
ISSUED: February 7, 2001

ORDER GRANTING GULF POWER COMPANY'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF EARNINGS SURVEILLANCE REPORT, SUPPLEMENTAL 2
FOR JANUARY, 2000 (DOCUMENT NO. 03366-00)

Gulf Power Company (Gulf) filed an Earnings Surveillance Report, Supplemental 2 (Document No. 03366-00) for January, 2000 on March 15, 2000. Gulf asserts that the information filed with the Commission as Document No. 03366-00 is entitled to confidential classification pursuant to Section 366.093(3)(e), Florida Statutes. Gulf contends that if it were disclosed, the information contained in Document No. 03366-00 would cause irreparable harm to the competitive interests of Gulf and the entity with which it has negotiated a Contract Service Agreement (CSA) under the Commercial/Industrial Service (CIS) rider approved in Order No. PSC-96-1219-FOF-EI. Gulf further argues that Document No. 03366-00 contains proprietary and commercially sensitive information that is not otherwise publicly available.

Gulf specifically alleges that lines 21-22 and 33-34 of Document No. 03366-00 contain proprietary confidential business information regarding contractual terms and pricing. Public disclosure of this information would impair the ability of Gulf to negotiate terms and conditions in future CSAs that are the most favorable to Gulf and its customers. Gulf alleges that the result of public disclosure of the pricing information would be price convergence in future CSAs. Moreover, Gulf asserts that the public disclosure of this information may prevent Gulf 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 customers' abilities to compete in their native markets. In the event such information is made public, future potential CIS rider customers may avoid the risk of public disclosure of their confidential information by refusing to negotiate with Gulf. This may lead to uneconomic bypass of Gulf's

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facilities. Thus, Gulf requests that the information contained in Document No. 03366-00 be granted confidential classification pursuant to Section 366.093(3)(e), Florida Statutes.

From the foregoing, it is clear that release of the information contained in Document No. 03366-00 could cause harm to both Gulf and the entities with whom it has entered into CSAs. Because it appears Gulf has only negotiated a CSA under the CISR tariff with one customer, disclosure of data contained in Document No. 03366-00 could allow the use of this information to estimate the amount of the discount provided to the entity. This information could be used to the advantage of whoever calculated it in any competitive situation with Gulf, especially in negotiating CISRs with Gulf. Accordingly, this information shall be granted confidential classification for a period of 18 months from the date of this order pursuant Section 366.093(4), Florida Statutes.

Based on the foregoing and good cause having been shown,

It is therefore


ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the information contained in Gulf Power Company's Earnings Surveillance Report, Supplemental 2 for January, 2000 (Document No. 03366-00) be granted confidential classification as set forth in the body of this Order. It is further

ORDERED that this information be granted confidential classification for a period of 18 months from the date 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.

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By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 7th day of February, 2001.



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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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,

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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.