

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power
cost recovery clause and
generating performance incentive
factor.

DOCKET NO. 010001-EI
ORDER NO. PSC-01-2532-CFO-EI
ISSUED: December 28, 2001

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO
GULF POWER COMPANY'S RESPONSES TO STAFF'S SECOND SET OF
INTERROGATORIES (NOS. 14-138) (DOCUMENT NO. 13998-01)

On November 5, 2001, Gulf Power Company (GPC or Gulf), pursuant to Rule 25-22.006, Florida Administrative Code, filed a request for confidential classification for certain information contained in GPC's responses to interrogatories numbered 46, 47, and 68-71 of Staff's Second Set of Interrogatories (Nos. 14-138). The information for which GPC seeks confidential classification was filed with the Commission as Document No. 13998-01.

Gulf asserts that the information in Document No. 13998-01 is proprietary confidential business information within the purview of Section 366.093(3)(a), Florida Statutes. GPC represents that the above referenced information is entitled to confidential classification because the public disclosure of this information would cause irreparable harm to the competitive interests of Gulf and the ability of Gulf to enter into favorable contracts. GPC avows that the information is intended to be and is treated by Gulf as private, and is not publicly available.

Specifically, Gulf requests that the information contained in its response to interrogatories 46 and 47, page 1, lines 1-7, columns A, B, and C, and lines 8-10, be granted confidential classification. GPC asserts that this information is a listing of the types of fossil fuel burned in 2000 and 2001 by type and length of contract. Gulf and its competitors consider this information to be a trade secret and competitively sensitive. This information describes Gulf's position in the fuel market with regard to how it manages its fuel procurement and the terms on which it makes fuel purchases. Disclosure of this information may adversely affect Gulf's ability to manage its fuel procurement in a manner that secures the best price and terms.

DOCUMENT NUMBER-DATE

16142 DEC 28 01

FPSC-COMMISSION CLERK

GPC also requests confidential classification for the following information:

- 1) Interrogatory Numbers 68 and 69:
 - a. Page 2 of 10 through page 5 of 10, lines 6-54, columns 68b-68d, 68f, 68g, and 69;
 - b. Page 6 of 10, lines 6-53, columns 68b-68d, 68f, 68g, and 69, line 54, columns 68b-68g, and 69;
 - c. Page 7 of 10, lines 6-54, columns 68b-68d, 68f, 68g, and 69, lines 7, 9, 11, 13, 15, 43, 44, 45, column 68e;
 - d. Page 8 of 10, lines 6-54, columns 68b-68d, 68f, 68g, and 69, lines 15-31, 44-53, column 68e;
 - e. Page 9 of 10, lines 6-54, columns 68b-68d, 68f, 68g, and 69, lines 18-54, column 68e;
 - f. Page 10 of 10, lines 6-10, columns 68b-68g, and 69;
- 2) Interrogatory Numbers 70 and 71:
 - a. Page 2 of 3, lines 7-34, columns 70b-d, 70f, 70g, and 71, line 8, column 70e
 - b. Page 3 of 3, lines 6-38, columns 70b-70f.

Gulf states that this information is the specific price provisions of fuel contracts to which Gulf is a party. Both Gulf and the entity with whom it has entered into the contract regard the information to be competitively sensitive. Disclosure of this pricing information would harm Gulf's ability to negotiate the best price for goods or services. Additionally, the contract start and end dates and the existence and level of minimum and maximum fuel purchase amounts are given. These terms are contract specific, and are considered competitively sensitive to both Gulf and the entity with whom it has entered the contract.

Upon review, it appears that the information contained in Document No. 13998-01 contains either contractual information, or proprietary, confidential business information, both of which, if disclosed, would tend to harm the competitive interests of Gulf, the entity with which it is negotiating a contract, or both. Accordingly, this information is entitled to confidential classification pursuant to Section 366.093(3), Florida Statutes.

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that records contain proprietary

ORDER NO. PSC-01-2532-CFO-EI
DOCKET NO. 010001-EI
PAGE 3

confidential business information shall be effective for a period not to exceed 18 months, unless the Commission finds good cause to specify a longer period. Gulf did not request an extension to this period of classification. As such, the information contained in Document No. 13998-01 shall be granted confidential classification for a period of 18 months from the date of issuance of this Order.

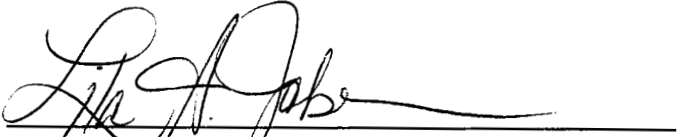
Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the information contained in Document No. 13998-01 shall be granted confidential classification. It is further

ORDERED that the information contained in Document No. 13998-01 is granted confidential classification for a period of 18 months from the date of 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 Lila A. Jaber, as Prehearing Officer, this 28th day of December, 2001.


LILA A. JABER
Commissioner and Prehearing Officer

(S E A L)

AEV

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, 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 the Commission Clerk and Administrative Services, 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.