

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for rate
increase by Gulf Power Company.

DOCKET NO. 010949-EI
ORDER NO. PSC-02-0235-CFO-EI
ISSUED: February 25, 2002

ORDER DENYING CONFIDENTIAL CLASSIFICATION
OF CERTAIN PORTIONS OF THE DIRECT TESTIMONY OF
HELMUTH W. SCHULTZ, III

On January 29, 2002, Gulf Power Company (Gulf), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, filed a request for confidential classification for certain specified portions of the Direct Testimony of Helmuth W. Schultz, III, filed December 27, 2001, and the Direct Testimony of Edward D. Bass, II, filed January 14, 2002. The Direct Testimony of Witness Schultz was filed with the Commission as Document No. 16122-01, and the Direct Testimony of Witness Bass was filed with the Commission as Document No. 00520-02.

On February 18, 2002, Gulf filed its Notice of Withdrawal of Request for Confidential Classification for certain specified portions of the Direct Testimony of staff witness Edward D. Bass, II.

Direct Testimony of Helmuth W. Schultz, III

Gulf asserts that the information contained in certain portions of the Direct Testimony of OPC Witness Schultz, and his accompanying Exhibit HWS-1, Schedule C-3, for which confidential classification is sought, is based on confidential propriety business information and documents provided by Gulf to the Office of Public Counsel (OPC) or the Commission Staff (Staff) through discovery in this docket. Gulf further asserts that the public disclosure of these portions of the testimony would cause irreparable harm to the competitive interests of Gulf, and is entitled to confidential classification pursuant to Section 366.093(3)(a) and (e), Florida Statutes. Gulf states that the information contained in the portions of Witness Schultz's testimony relates to compensation levels and compensation plans at Gulf Power Company which are considered to be competitively

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sensitive due to the fact that Gulf must compete with other utilities and non-utilities for employees.

Gulf further asserts that because the details of compensation are not publically disclosed by other market participants, to require Gulf to disclose these details would compromise its ability to attract and keep employees, and that the specifics of compensation for individual employees are considered to be private and confidential by those employees. Gulf further states that each business approaches compensation issues differently in order to optimize various management goals, and compensation plans are regarded by business entities as trade secrets as they contain these management goals and methods for retention and attraction of employees. For these reasons, Gulf requests that the information contained on page 18, lines 20-22, and page 19, lines 1, and 15-18 of of Witness Schultz's direct testimony and Exhibit HWS-1, Schedule C-3, attached thereto, be given confidential classification pursuant to Section 366.093(3)(a) and (e), Florida Statutes.

Gulf's request for confidential treatment of the information specified above is denied. The requested confidential information found on the specified pages of Witness Schultz's direct testimony and Exhibit HWS-1, Schedule C-3, does not reveal any specifics of compensation plans or compensation levels that would cause irreparable harm to Gulf's competitive plans. Further, the information is given in total dollar amounts and percentages and does not reveal individual employees' names, levels, incentive compensation, or bonuses which would be competitively sensitive or confidential in nature. Finally, the total dollar amounts and percentages do not explain or reveal the management goals or the compensation plans and should not be regarded as trade secrets. Accordingly, the information contained on page 18, lines 20-22 and page 19, lines 1 and 15-18, and Exhibit HWS-1, Schedule C-3, of Witness Schultz's direct testimony does not qualify as proprietary confidential business information within the meaning of Section 366.093, Florida Statutes.

Direct Testimony of Edward D. Bass, II

As stated previously, on February 18, 2002, Gulf filed its Notice of Withdrawal of Request for Confidential Classification of

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Exhibit EDB-1, page 10 of 17 to the Direct Testimony of Edward D. Bass, II. Gulf states that the contents of this exhibit can be disclosed to the general public without limitation. Therefore, no ruling is necessary with regard to Witness Bass's testimony.

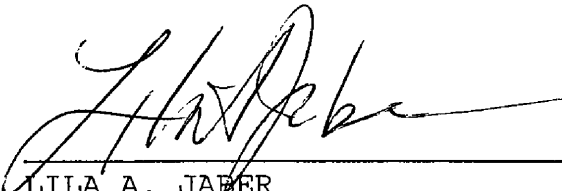
Conclusion

For the reasons stated above, the information at page 18, lines 20-22 and page 19, lines 1 and 15-18 of the Direct Testimony of OPC Witness Helmuth W. Schultz III, and Exhibit HWS-1, Schedule C-3, attached thereto, is not entitled to confidential classification. Further, pursuant to Gulf's Notice of Withdrawal of Request for Confidential Classification, Exhibit EDB-1, page 10 of 17 to the Direct Testimony of Edward D. Bass, II, shall not be kept confidential. Accordingly, Gulf's request for confidential classification of certain portions of the Direct Testimony of Helmuth W. Schultz, III, is denied.

Based on the foregoing, it is

ORDERED by Chairman Lila A. Jaber, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification is denied as set forth in the body of this Order.

By ORDER of Chairman Lila A. Jaber, as Prehearing Officer, this 25th day of February, 2002.



LILA A. JABER
Chairman 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 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.