

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 050001-EI
ORDER NO. PSC-05-1044-CFO-EI
ISSUED: October 26, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 08742-05)

On September 16, 2005, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Gulf Power Company (Gulf) filed a request for confidential classification of portions of Exhibit TAD-2 to the direct testimony of Gulf witness Terry A. Davis, filed September 16, 2005 (Document No. 08742-05).

Section 366.093(1), Florida Statutes, provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[i]nformation 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" (subsection d); and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" (subsection e).

Gulf contends that portions of Schedule CCE-4 of Exhibit TAD-2 to the direct testimony of Gulf witness Terry A. Davis fall within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Gulf states that this information is intended to be and is treated by Gulf as private and has not been publicly disclosed.

Gulf contends that the information contained on Lines 7-16 of Columns A-H and Lines 37-46 of Columns A-CC on Schedule CCE-4 of Exhibit TAD-2 concerns contractual matters, the disclosure of which would cause irreparable harm to Gulf, its customers, and the entities with whom it has entered into contracts. Gulf also asserts that the information relates to competitive interests in capacity markets, the disclosure of which would cause irreparable harm to Gulf and the entity with whom it has contracted. Gulf states that Schedule CCE-4 of Exhibit TAD-2 provides the actual price terms and counterparty names for capacity contracts entered into by Gulf for 2005. According to Gulf, the price terms in these contracts are regarded by both Gulf and the counterparty with whom it has contracted for capacity as confidential. Gulf contends

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that the pricing is specific to the individual contracts and is not publicly known. Gulf asserts that disclosure of this information would negatively impact its ability to negotiate pricing favorable to its customers in future capacity contracts because possible counterparties may refuse to contract with Gulf or would charge higher rates if the price terms are being made public.

Upon review, it appears that the above-referenced information contained in Exhibit TAD-2 to the direct testimony of Gulf witness Terry A. Davis satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. The information constitutes “[i]nformation 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,” and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), Florida Statutes, unless Gulf or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Rudolph “Rudy” Bradley, as Prehearing Officer, that Gulf Power Company’s Request for Confidential Classification of Document No. 08742-05 is granted. It is further

ORDERED that the information in Document No. 08742-05 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. It is further


ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

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By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this
26th day of October, 2005.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

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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; 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 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.