

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of material provided pursuant to Audit Control No. 03-099-1-1, Investigation of "Trouble Vision" Software, by Gulf Power Company, Inc.

DOCKET NO. 050927-EI
ORDER NO. PSC-06-0197-CFO-EI
ISSUED: March 13, 2006

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO
DOCUMENTS NO. 11372-05 AND 11779-05

On December 9, 2005, when copies of certain portions of staff's working papers obtained or prepared during the "Investigation of Gulf Power Company, Inc.'s Sale of Trouble Vision Software," were delivered to Gulf at the audit exit conference, the utility requested that these materials be temporarily exempted from public access in accordance with the provisions of Rule 25-22.006(3)(a)2, Florida Administrative Code.

On December 2, 2005, staff filed Document 11372-05 consisting of those specified portions of the staff's working papers. On December 21, 2005, Gulf filed a request pursuant to Rule 25-22.006, F.A.C., and Section 366.093, Florida Statutes, that selected portions of the working papers prepared by the staff during the audit to receive confidential classification. The utility's request included redacted copies for public inspection (Document No. 11799-05) and copies with the sensitive material highlighted (Document No. 11779-05). On February 1, 2006, after discussions with the staff, Gulf reduced the amount of material to be considered for a confidential classification.

Pursuant to Section 119.07, Florida Statutes, documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. Subsections 366.093(3)(d) and (e), Florida Statutes, provide the following exemptions:

Section 366.093, Florida Statutes, provides:

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 a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes but is not limited to:

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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.

According to Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C., the utility has the burden of demonstrating that materials qualify for confidential classification. According to Rule 25-22.006, F.A.C., the utility must meet this burden by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility, the provider of the information or the ratepayer harm.

The material for which Gulf has requested confidential classification consists of documents containing the terms on which Gulf agreed to sell its "Trouble Vision Software" to CES International, Inc. Gulf noted that disclosure of this material would cause irreparable harm to Gulf and the entities with whom it has entered into contracts.

Upon review of the filings, I find that release of these materials would cause harm to Gulf in that the material is both contractual information and competitive business information subject to protection pursuant to Sections 366.093(3)(d) and (e), Florida Statutes. Therefore, the material described below shall be granted confidential classification:

Staff Work Paper Number	Description	Page(s)	Line(s)	Ruling	Type of Information Classified Confidential
Documents 11372-05 and 11779-05					
10-3.1	Request 3 Revenues and/or Benefits	1	1-7	Grant	Sensitive contractual and competitive business information
10-3.2	Response to Request 3	1	All	Grant	Sensitive contractual and competitive business information
10-3.3	Response to Request 3	1	All	Grant	Sensitive contractual and competitive business information
10-3.4	Response to Request 3	1	All	Grant	Sensitive contractual and competitive business information
10-3.5	Response to Request 3	1	All	Grant	Sensitive contractual and competitive business information

In its request, Gulf does not specify how long the classification period should remain in effect. According to Section 366.093(4), Florida Statutes, absent good cause shown, confidential classification is limited to 18 months. Because no request for a longer period was made, the

period of confidential classification shall be 18 months. As deemed necessary, the utility may request an extension of the confidential classification before the period expires.


Based on the foregoing, it is

ORDERED by Commissioner Katrina J. Tew, as Prehearing Officer, that the request of Gulf Power Company is granted. It is further

ORDERED that pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, confidentiality granted to the material specified herein shall expire 18 months from the date of the 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 Katrina J. Tew, as Prehearing Officer, this 13th day of March, 2006.


KATRINA J. TEW
Commissioner 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.