

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for confidentiality of electric service quality and reliability audit, by Gulf Power Company. DOCKET NO. 060251-EI
ORDER NO. PSC-06-0427-CFO-EI
ISSUED: May 19, 2006

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION

I. Background

On March 17, 2006, Gulf Power Company (Gulf Power or company) filed its Request for Confidential Classification, pertaining to materials provided/obtained in conjunction with Audit No. RR-04-07-001. The utility's request includes highlighted copies (Document No. 02379-06) and redacted copies for public inspection (Document No. 02380-06). The information for which it seeks confidential classification consists of responses to staff document requests and staff auditor workpapers.

II. Gulf Power's Petition

Gulf Power requests confidential classification for the following documents, which were provided in response to Document Request One.

Document	Page(s)/Line(s)
DR -1.6a	Pages 2-21
DR-1.21	Pages 3-8
DR-1.24	Pages 3-16
DR-1.30a	Pages 3-9
DR-1.32, Exhibit 1	All
DR-1.33a, Exhibits 1-2	All

Gulf Power asserts that DR-1.21, DR-1.24, DR-1.32, and DR-1.33a contain excerpts and/or summaries from proprietary procedures and specifications plates of the company. These plates show the company's best practices for operating its systems. It states that disclosure of this information will cause irreparable harm to its competitive business interests.

Gulf Power states that DR-1.30a reflects the types of distribution, transmission and substation transformers used by the company, as well as current load characteristics and assumptions for these facilities. It asserts that disclosure of this information will provide its competitors access to the company's internal procedures and the specifications of its facilities. The company asserts that competitors could use this information to optimize their own system at Gulf Power's expense.

The company states that DR-1.6a contains the results of externally prepared customer surveys. It states that these surveys are the property of the contractors who prepared them and

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are the subject of a confidentiality agreement. It asserts that the survey results and the survey questions reveal the company's business strengths and weaknesses. It contends that disclosure of this information would allow competitors to optimize their systems and practices at the company's expense.

In regard to Document Request Two, Gulf Power requests confidential classification for the following information.

Document	Page(s)/Line(s)
DR-2.3e-f	All

Gulf Power states that the information contained in DR-2.3e-f outlines the company's employee target award opportunity goals, its annual achievement rates, and the money awarded. It asserts that the information reflects the company's compensation plan. It states that the compensation plan allows it to successfully recruit and retain employees in a competitive market. It contends that the disclosure of this information will harm its competitive business interests by impairing its efforts to compete for qualified employees.

Gulf Power requests confidential classification for the following documents, which were provided in response to Document Request Three.

Document	Page(s)/Line(s)
DR-3.3b	All
DR-3.4	All

Gulf Power states that the information contained in DR-3.3b reflects an externally prepared assessment/critique for the company's response to hurricanes occurring in 2004. The assessments detail the company's hurricane protocols, including the protocols' strengths, weaknesses, and suggestions for improvement. It further states that the document reveals how the company allocates its financial and non-financial resources relative to hurricane preparedness. Gulf Power asserts that disclosure of this information will impair the company's competitive interests, as it will allow Gulf Power's competitors to capitalize on such information and optimize their practices at the company's expense.

The company states that DR-3.4 consists of Gulf Power's Area Distribution Studies, which are similar to an audit. It states that the document contains a self-critical analysis, which reveals internal company practices and procedures related to distribution and distribution reliability. Gulf Power asserts that disclosure of the information will allow competitors to capitalize on identified weaknesses and emulate identified strengths at the company's expense.

In regard to Document Request Four, Gulf Power requests confidential classification for the information set forth below.

Document	Page(s)/Line(s)
DR-4.4a-b	Pages 2-3

Gulf Power states that DR-4.4a-b consists of company operational and financial targeted goals for employee performance. It further states that the document reflects the company's internal strategy for improving reliability and its business processes generally; shows the company's specific operational goals; and sets forth the monetary expenditures used to obtain those goals. Gulf Power states that disclosure of this information will harm the company's competitive interests as it could be used by competitors to optimize their own business strategies at Gulf Power's expense.

Gulf Power requests confidential classification for the information set forth below from staff's audit workpapers.

Document	Page(s)/Line(s)
Workpapers – Auditor's Handwritten Notes Dated 10/19/05, Titled "Audits-Reliability Review"	Page 8, Lines 3 and 4
Workpapers – Auditor's Handwritten Notes Titled "Responses to Audits & Recs."	Page 4, Lines 8-27 Page 5, Lines 1-8
Document Summary and Control Log – Response to DR-1	Page 15, Col. B, Lines 5-19

Gulf Power states that information identified in the auditor's 10/19/05 handwritten notes references a specific monetary amount paid to an outside contractor. The company asserts that, as contractual data, this information is protected from disclosure. It states that the disclosure of the information would impair the company's ability to contract for goods and services on favorable terms.

The company states that information identified in the auditor's handwritten notes entitled "Responses to Audits & Recs." summarizes the results of an internal compliance audit of its Pensacola District. It asserts that, as such, it is entitled to confidential classification.

Gulf Power states that the "Document Summary and Control Log" summarizes the documents produced in response to DR-1.30a. It contends that the disclosure of this information will provide its competitors access to its internal procedures and the specifications of its facilities, allowing competitors to optimize their own system at Gulf Power's expense.

III. Findings and Conclusion

Pursuant to Section 119.01, 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.

Pursuant to Section 366.093, Florida Statutes, any records received by the Commission which are found to be proprietary confidential business information shall be kept confidential

and exempt from the public access requirements of Section 119.07(1), Florida Statutes. Rule 25-22.006, Florida Administrative Code, requires the petitioner to demonstrate that the requested materials qualify for confidential classification and that the materials fall into one of the categories set forth in Section 366.093, Florida Statutes.

Section 366.093(3), Florida Statutes, defines “proprietary confidential business information as:

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:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (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.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Upon review, I find that the information identified by Gulf Power in DR-1.6a, DR-3.3b, DR-4.4a-b, and the Document Summary and Control Log – Response to DR-1 reveals sensitive competitive information and is entitled to confidential classification under Section 366.093(3)(e). I also find that the information identified in DR-1.21, DR-1.24, DR-1.30a, DR-1.32 (Exhibit 1), DR-1.33a (Exhibits 1-2), and DR-3.4 reveals both sensitive competitive information and trade secrets and is entitled to confidential classification under Sections 366.093(3)(a) and (e). Moreover, the information identified in Workpapers – Auditor’s Handwritten Notes Titled “Responses to Audits & Recs.” reveals internal auditing controls and reports of internal auditors and is entitled to confidential classification pursuant to Section 366.093(3)(b). Furthermore, the information identified in Workpapers – Auditor’s Handwritten Notes Dated 10/19/05, Titled “Audits-Reliability Review” reveals contractual data and is entitled to confidential classification

pursuant to Section 366.093(3)(d). Accordingly, Gulf Power's request for confidential classification is hereby granted for a period of 18 months from the issuance date of this Order.

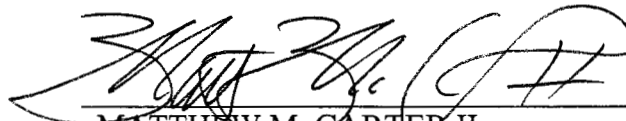
Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification is granted for a period of 18 months from the issuance date of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the expiration of the confidentiality time period. It is further

ORDERED that this docket shall be closed.

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 19th day of May, 2006.


MATTHEW M. CARTER II
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; 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

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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.