

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 060001-EI
ORDER NO. PSC-06-0910-CFO-EI
ISSUED: November 1, 2006

ORDER GRANTING GULF POWER COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 08286-06) (x-ref. DOCUMENT NO. 07834-06)

On August 18, 2006, Gulf Power Company ("Gulf") was served with Staff's First Data Request (Nos. 1-17). Accordingly, Gulf filed a notice of intent to seek confidential classification of that information on August 25, 2006. On September 12, 2006, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Gulf filed a request for confidential classification for certain information provided in connection with Data Request Numbers 2 and 4 ("DR2 and 4") (Document No. 08286-06) (x-ref. Document No. 07834-06). In DR2 and 4, Commission staff requested a copy of any contract between Gulf and any facility with which Gulf has an agreement for storage of natural gas. Also requested were invoices, statements, or bill of sale which set out the fees and charges that Gulf paid for natural gas storage within the last six months.

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 information contained in responses to DR2 and 4 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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Gulf requests that the following information be granted confidential classification:

<u>Line-by Line/Field-by Field Justification</u> <u>Lines(s)/Field(s)</u>	<u>Justification</u>
Page 1 of 53 Lines 1-3, Columns A,B	This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes.
Page 2 of 53 Lines 1-3, Columns A,B	
Page 3 of 53 Lines 1-3, Columns A,B	
Page 4 of 53 Lines 1-3, Columns A,B	
Page 5 of 53 Lines 1-3, Columns A,B	
Page 6 of 53 Lines 1-3, Columns A,B	
Page 7 of 53 through 53 of 53 In their entirety, including all text, tables charges and graphs.	

Gulf contends that responses to DR2 and 4 contains contractual and pricing information for storage of natural gas, disclosure of which would negatively impact Gulf's ability to negotiate pricing favorable to its customers. The contract for storage of natural gas has a confidentiality provision which prohibits disclosure of the contract. If the contents of the contract, or the contents of the invoice pricing were made public, according to Gulf, it would cause irreparable harm to the competitive interests of Gulf and its ability to enter into contracts on terms favorable to it and its ratepayers. According to Gulf, potential counterparties may refuse to enter into contracts with Gulf or would charge higher prices if the contract terms were made public.

Upon review, it appears that the responses to DR2 and 4 satisfy 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" or "[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.

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, absent good cause shown. Accordingly, the information identified in Document No. 08286-06 shall be granted confidential classification for a period of 18 months from the issuance 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 of Document No. 08286-06 is granted. It is further

ORDERED that the information in Document No. 08286-06 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.

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 1st day of November, 2006.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(S E A L)

LCB/pz

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.