

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 070007-EI
ORDER NO. PSC-07-0771-CFO-EI
ISSUED: September 20, 2007

ORDER GRANTING GULF POWER COMPANY'S
SECOND AMENDED REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 06802-07)

On July 10, 2007, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Gulf Power Company ("Gulf") filed an amended request for confidential classification in connection with its Supplemental Petition regarding its CAIR/CAMR/CAVR Environmental Compliance Program (Document No. 05835-07). The amended request asked for confidential classification of information contained in Tables 4.3-2, 5.1-1, 5.1-2, and 5.5-1, which were included in its Compliance Program.

Thereafter, on August 7, 2007, Gulf filed a Second Amended Request for Confidential Classification to provide properly redacted versions of Tables 4.3-2 and 5.5-1 (Document No. 06802-07). Gulf stated that in its first amended request some portions of the tables were marked as confidential that should not have been confidential. Gulf's second amended confidentiality request was intended to correct the oversight. Gulf stated that in Table 4.3-2 (Economic Viability Study) all information is considered confidential with the exception of the implementation dates (Environmental Control Year). All information included in Table 5.5-1 (Annual Emissions in Excess of Allocations), Lines 1-9, Columns A-I, is also considered confidential with the exception of the dates (2009-2017).

On August 21, 2007, the Commission issued Order No. PSC-07-0675-CFO-EI, which granted confidential classification to the four tables in question, but did not specifically address the second amended confidentiality request for Tables 4.3-2 and 5.5-1 (Document No. 06802-07). To avoid confusion, this Order will address those amendments and conform the time period for confidential treatment of the two tables to the time period provided in Order No. PSC-07-0675-CFO-EI.

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

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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 states that the contractual terms listed in Tables 4.3-2 and 5.5-1 relate to the competitive interests of Gulf and its suppliers, the disclosure of which would impair their competitive businesses. Gulf further states that this information is intended to be and is treated by Gulf and its suppliers as private and has not been publicly disclosed. Gulf requests that the information described in the table below be granted confidential classification:

Line-by-Line/Field-by-Field Justification	
Line(s)/Fields(s)	Justification
Table 4.3-2 Page 1 of 2 Confidential in its entirety, with the exception of implementation dates.	This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 2 of Gulf’s Second Amended Request.
Table 5.5-1 Page 1 of 1 Lines 1-9, columns A-I	This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 3 of Gulf’s Second Amended Request.

Upon review, and consistent with Order No. PSC-07-0675-CFO-EI, the identified portions of Tables 4.3-2 and 5.5-1 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.”

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 the order granting confidential classification. Confidential classification was granted to the four Tables by Order No. PSC-07-0675-CFO-EI, issued August 21, 2007. For the sake of consistency, August 21, 2007, shall control the time period for confidential treatment. At the conclusion of that 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 Matthew M. Carter II, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of Document No. 06802-07 is granted. It is further

ORDERED that the information in Document No. 06802-07 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of Order No. PSC-07-0675-CFO-EI, which was August 21, 2007. 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 20th day of September, 2007.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(SEAL)

MCB/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 Office of Commission Clerk, 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.