

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 090001-EI
ORDER NO. PSC-09-0284-CFO-EI
ISSUED: April 30, 2009

ORDER GRANTING GULF POWER COMPANY'S
REQUESTS FOR CONFIDENTIAL CLASSIFICATION FILED IN DOCKET NO. 080001-EI
(DOCUMENT NOS. 06790-08, 08587-08 (X-REF. DOCUMENT NO. 08004-08), 09471-08,
09696-08, AND 09942-08)

On August 1, September 12, and October 6, 10, and 17, 2008, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (GULF) filed requests for confidential classification of Document Nos. 06790-08, 08587-08, 09471-08, 09696-08, and 09942-08, respectively. Specifically, on August 1, 2008, GULF requested confidential classification of certain highlighted information contained in portions of Schedule CCE-4 of Exhibit RWD-2 to Richard W. Dodd's direct testimony (Document No. 06790-08). On September 12, 2008, GULF requested confidential classification of certain highlighted information contained in GULF's Risk Management Plan for Fuel Procurement (Document No. 08587-08 (x-ref. Document No. 08004-08)). On October 6, 2008, GULF requested confidential classification of certain highlighted information contained in its response to Staff's Fifth Request for Production of Documents No. 19 (Document No. 09471-08). On October 10, 2008, GULF requested confidential classification of certain highlighted information contained in portions of its response to Staff's Fourth Set of Interrogatories No. 16 (Document No. 09696-08). On October 17, 2008, GULF requested confidential classification of certain highlighted information contained in its response to Staff's Sixth Set of Interrogatories No. 74 (Document No. 09942-08). These requests were filed in Docket No. 080001-EI.

Section 366.093(1), F.S., 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 Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., 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. Paragraphs (d) and (e) of Section 366.093(3), F.S., provide 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;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

GULF contends that the information for which confidential classification is sought, as more specifically described below and in the table in Attachment A, falls within these categories and, thus, constitutes proprietary confidential business information entitled to protection under

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Section 366.093, F.S., and Rule 25-22.006, F.A.C. GULF states that this information is intended to be and is treated by GULF as private and has not been publicly disclosed.

Document No. 06790-08

GULF claims that certain information contained in portions of Schedule CCE-4 of Exhibit RWD-2 to Richard W. Dodd's direct testimony consists of proprietary confidential business information regarding 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 asserts that this information provides the price terms for capacity contracts entered into by GULF for 2008, and that this pricing, which resulted from negotiations between GULF and the counterparties, is specific to the individual contracts and not publicly known. GULF contends that disclosure of this information would result in potential counterparties charging higher prices or refusing to enter into contracts with GULF, thus having a negative impact on GULF's ability to negotiate pricing favorable to its customers in future capacity contracts.

Document No. 08587-08

GULF contends that information contained in its Risk Management Plan for Fuel Procurement reveals detailed information about GULF's fuel procurement strategy for the near term and into the future. GULF insists that portions of this document include specific details regarding GULF's fuel needs and market position, trends GULF has identified in those markets in which it addresses its fuel needs, and pricing information. According to GULF, public disclosure of this information would give other market participants a competitive advantage over GULF which would prevent GULF from procuring its fuel needs in a manner that secures the best prices and terms for its customers. Thus, GULF claims that disclosure would cause irreparable harm to GULF's competitive interests and its ability to enter into contracts on terms favorable to it and its ratepayers.

Document No. 09471-08

GULF insists that certain highlighted information contained in its response to Staff's Fifth Request for Production of Documents No. 19 consists of agreements containing confidential pricing information relating to coal and that these agreements are subject to confidentiality provisions. GULF claims that if this information were disclosed to the public, potential counterparties might refuse to enter into contracts with GULF or charge higher prices, thus negatively impacting GULF's ability to negotiate pricing favorable to its customers in the future. GULF argues that the subject agreements constitute proprietary confidential business information regarding contractual matters, the disclosure of which would cause irreparable harm to GULF, its customers, and the entities with whom it has entered into contracts.

Document No. 09696-08

According to GULF, certain highlighted information contained in portions of its response to Staff's Fourth Set of Interrogatories No. 16 consists of proprietary confidential business information regarding contractual matters, the disclosure of which could cause irreparable harm to GULF, its customers, and the entities with whom it has entered into contracts. Specifically, GULF contends that the confidential information consists of the pricing escalation methodology contained in GULF's waterborne coal transportation contract with Ingram Barge Company. GULF claims that the waterborne coal transportation contract contains a confidentiality provision and that the terms of the contract, including the pricing escalation clause, are considered and treated as confidential by the parties. GULF asserts that disclosure of this information might result in potential counterparties refusing to enter into contracts with GULF or charging higher prices, which would negatively impact GULF's ability to negotiate contract terms favorable to its customers in the future.

Document No. 09942-08

GULF claims that certain information contained in its response to Staff's Sixth Set of Interrogatories No. 74 consists of proprietary and commercially sensitive information regarding competitive interests, trade secrets and contractual matters of GULF, the disclosure of which could cause irreparable harm to GULF. Specifically, GULF contends that the confidential information consists of pricing information for GULF's hedging activities that have been negotiated with financial counterparties in the competitive market. According to GULF, disclosure of this information would give third parties insight into GULF's pricing strategy for the future, such that disclosure could adversely affect GULF's ability to conduct its hedging activities to the benefit of its customers.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. 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, the information identified in Document Nos. 06790-08, 08587-08, 09471-08, 09696-08, and 09942-08 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., 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), F.S., unless GULF or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

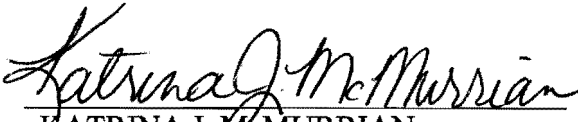
Based on the foregoing, it is

ORDERED by Commissioner Katrina J. McMurrin, as Prehearing Officer, that Gulf Power Company's Requests for Confidential Classification of Document Nos. 06790-08, 08587-08, 09471-08, 09696-08, and 09942-08 are granted. It is further

ORDERED that the information in Document Nos. 06790-08, 08587-08, 09471-08, 09696-08, and 09942-08 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. It is further

By ORDER of Commissioner Katrina J. McMurrin, as Prehearing Officer, this 30th day of April, 2009.


KATRINA J. McMURRIAN
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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.

Attachment A

DOCUMENT DESCRIPTION	INTERROGATORY NO. (if applicable)	PAGE	LINE(S)
Schedule CCE-4 of Exhibit RWD-2 to Richard W. Dodd's direct testimony (Document No. 06790-08))		1	Lines 44-48; Columns E-P
GULF's Risk Management Plan for Fuel Procurement (Document No. 08587-08)		10	Lines 1-6, 8-13, 15-21
		11	Lines 8-15
		12	Lines 9-15, 17-20
		13	Lines 7-10, 20-24
		14	Lines 1-8, 10-13, 20-25
		16	Lines 1-4, 6-15
		19	Lines 3-9
		20	Lines 12-18
		21	Lines 3-8, 10-16
		23	Lines 24-25
		24	Lines 1-3
		26	Lines 18-24
		27	Lines 2-3, 5-11, 13-19
		28	Lines 3-7, 9-16
		31	All
		32	Lines 1-9, 22-25
		33	Lines 2-6
		35	Lines 11-17
		37	Lines 1-5, 14-22
		41	Lines 5-10
		42	Lines 5, 7-12, 14-20, 22-25
		43	Lines 1-4, 6-13, 15-20
		47	Lines 22-25
		48	Lines 1-6, 20-25
		49	Lines 12-20
		55	Lines 2-15; Columns A-D
		56	Line 4; Column B Lines 5-8 Line 9; Column A
		58	Line 5; Columns B-C Line 6; Column C Line 8; Column A Line 10; Column C

DOCUMENT DESCRIPTION	INTERROGATORY NO. (if applicable)	PAGE	LINE(S)
			Line 11 Line 12; Column A Line 14; Columns B-C
		59	Line 2; Column B Lines 3-6, 17-18
		70	Lines 7-11, 13-16, 18-19
		71	Lines 7-10, 12-14, 16
		72	Lines 3-4, 6-10, 12-14
		73	Lines 2-10, 16-25
		74	Lines 1-4, 8-13, 15-17, 19-20, 24-25
		75	Lines 1-3, 6-8, 10-11, 13- 14, 16-19
		77	Lines 3-8, 12-25
		78	Lines 1-2, 7-11, 15-17, 19-24
		79	Lines 1-9, 12-15, 20-25
		80	Lines 7-13, 20-22
		81	Lines 1-2, 7-10, 22-25
		82	Lines 1-3, 5-7, 12-16, 21- 24
		83	Lines 1-4, 6-10
		84	Lines 2-6, 8-10, 12-14, 21-23
		85	Lines 7-11, 13-15, 24-25
		86	Lines 1-6, 8-10, 16-20, 22-23
		87	Lines 4-7, 10-11, 18, 20, 22, 24
		88	Lines 1, 3, 11, 13, 15, 17, 19, 21, 22
		89	All
		90	All
		91	All
		92	All
		93	All
		94	All
		95	All
		96	All
		98	Lines 1-10
		99	All
		100	All

DOCUMENT DESCRIPTION	INTERROGATORY NO. (if applicable)	PAGE	LINE(S)
		101	All
		102	All
		103	All
		104	Columns A-C
		105	Columns A-C
		106	Columns A-B and Lines 1-3
		112	Lines 4-15, 17-22, 24-25
		113	Lines 1-3
GULF's Response to Staff's Fifth Request for Production of Documents (Document No. 09471-08)	19	All	All
GULF's Response to Staff's Fourth Set of Interrogatories (Document No. 09696-08)	16	1	Lines 1-18
		2	Lines 1-4; Columns A-D
GULF's Response to Staff's Sixth Set of Interrogatories (Document No. 09942-08)	74	3	Lines 1-35; Column E
		4	Lines 1-36; Column E
		5	Lines 1-36; Column E
		6	Lines 1-28; Column E
		7	Line 1; Column A
		8	Lines 1-2; Columns F-G