

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recovery Clause.

DOCKET NO. 090007-EI  
ORDER NO. PSC-09-0701-CFO-EI  
ISSUED: October 23, 2009

ORDER GRANTING GULF POWER COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 02887-09)

On April 1, 2009, 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 a request for confidential classification of certain portions of its Environmental Compliance Program Update for the Clean Air Interstate Rule and Clean Air Visibility Rule (the "Compliance Program Update"). The Compliance Program Update and this request were filed in Docket No. 090007-EI.

Request for Confidential Classification

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. Paragraph (d) of Section 366.093(3), F.S., 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." In addition, paragraph (e) of Section 366.093(3), F.S., provides that "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information" is proprietary confidential information.

Gulf contends that portions of the information contained in the Compliance Plan Update, as more specifically described in Attachment A, fall within these definitions and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Specifically, Gulf alleges that the Compliance Plan Update contains: A) projected capital expenditures, by plant and by project, which if disclosed would impair Gulf's ability to negotiate favorable pricing when negotiating with vendors; B) the results of an economic viability study of Gulf's generating assets, including unit-specific cost data (such as O&M costs and capital expenditures), which could be used by suppliers of commodities and wholesale generators to undermine Gulf's bargaining position when obtaining commodities and services or attempting to sell wholesale power; C) projected emission allowance needs, which if publicly disclosed could impact Gulf's ability to negotiate favorable pricing for purchased

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allowances; and D) transmission cost assumptions together with transmission study results specific to Gulf's generating plants, which if publically disclosed could allow Gulf's competitors and suppliers of commodities and services to undermine Gulf's bargaining position. Gulf states that this information is intended to be and is treated by Gulf as private and has not been publicly disclosed.

Ruling

Upon review, it appears the above-referenced information contains projected capital expenditures, the results of the economic viability study, projected emissions allowances, and transmission cost and study data. Moreover, none of the documentation discussed herein contains any information regarding the compensation of Gulf executives. This information satisfies the criteria set forth in Section 366.093(3), F.S., 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" and/or "[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 No. 02887-09, as specifically described in Attachment A, 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 Nathan A. Skop, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of portions of Document No. 02887-09, as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document No. 02887-09 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 Nathan A. Skop, as Prehearing Officer, this 23rd day of October, 2009.



NATHAN A. SKOP  
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 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	PAGES/LINES
Table 3.1-1	Page 8 Columns A-J
Table 3.1-2	Page 9 Columns A-J
Table 3.3-1	Page 17 Confidential in its entirety
Table 3.3-2	Page 19 Confidential in its entirety
Table 3.3-3	Page 20 Column A, Lines 1-2 and 4-20 Columns B-D, Lines 3-4 and 6-20
Table 3.3-4	Page 21 Column A, Lines 1-2 and 4-20 Columns B-D, Lines 3-4 and 6-20
Table 3.3-5	Page 22 Column A, Lines 1-2 and 4-20 Columns B-D, Lines 3-4 and 6-20
Table 3.3-6	Page 23 Column A, Lines 1-2 and 4-20 Columns B-D, Lines 3-4 and 6-20
Table 3.3-7	Page 24 Column A, Lines 1-2 and 4-21 Columns B-D, Lines 3-4 and 6-20
Table 3.3-8	Page 25 Column A, Lines 1-2 and 4-21 Columns B-D, Lines 3-4 and 6-20
Table 4.5-1	Page 38 Columns A-H, Lines 1-4
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