

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of Amendment No. 1 to generation services agreement with Gulf Power Company, by Florida Public Utilities Company.

DOCKET NO. 110041-EI
ORDER NO. PSC-11-0122-CFO-EI
ISSUED: February 22, 2011

ORDER GRANTING FLORIDA PUBLIC UTILITIES COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 00607-11)

On January 26, 2011, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Public Utilities Company (FPUC) filed a request for confidential classification of certain information provided in its Petition for approval of Amendment No. 1 to generation services agreement with Gulf Power Company (Petition) filed in this docket (Document No. 00607-11).

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. Subparagraph (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, subparagraph (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.

FPUC contends that portions of the information contained in its Petition fall within these definitions and thus constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Specifically, FPUC alleges that the Petition contains 1) revision of certain prices, terms, and conditions in its underlying generation services agreement with Gulf Power Company (Gulf); and 2) a chart of Amendment No. 1 that includes terms and rates that were negotiated between the parties. FPUC asserts that the portion of the information contained in its Petition 1) is treated as confidential, proprietary business information by FPUC and Gulf; 2) is treated as private and has not otherwise been publicly disclosed; and 3) should not be publicly disclosed as public disclosure of this information would be detrimental to FPUC, Gulf, and their customers and would impair each party’s ability to negotiate with other suppliers on favorable terms.

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FPSC-COMMISSION CLERK

Ruling

Upon review, I find that the above-referenced information concerns bids and contractual data, the disclosure of which would impair FPUC and its affiliates' efforts to contract for goods or services on favorable terms. 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. 00607-11 shall be granted confidential classification.

The information in Document No. 00607-11 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. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless FPUC 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 Ronald A. Brisé, as Prehearing Officer, that Florida Public Utilities Company's request for confidential treatment of portions of the information contained in its Petition for approval of Amendment No. 1 to generation services agreement with Gulf Power Company as outlined in the body of the order is granted. It is further

ORDERED that the information in Document No. 00607-11 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. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Florida Public Utilities Company or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. 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 Ronald A. Brisé, as Prehearing Officer, this 22nd day of February, 2011.



RONALD A. BRISÉ
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.