

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 110001-EI
ORDER NO. PSC-11-0271-CFO-EI
ISSUED: June 23, 2011

ORDER GRANTING GULF POWER COMPANY
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 03586-11 AND 03592-11)

On May 20, 2011, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf Power) filed a request for confidential classification of its response to Commission Staff's First Request for Production of Documents to Gulf Power Company (Nos. 1-19) (Document No. 03586-11) and its response to Commission Staff's Second Set of Interrogatories (Nos. 3-14) (Document No. 03592-11). These requests were filed in Docket No. 110001-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 (3)(d) and (e) of Section 366.093 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 Power contends that portions of the information contained in response to Commission Staff's First Request for Production of Documents to Gulf Power Company (Nos. 1-19) (Document No. 03586-11) and its response to Commission Staff's Second Set of Interrogatories (Nos. 3-14) (Document No. 03592-11) as more specifically described in the Tables in Attachments A and B falls within these categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Gulf Power states that this information is intended to be and is treated by Gulf Power as private and has not been publicly disclosed.

Gulf Power asserts that the information sought in response to Commission Staff's Second Set of Interrogatories numbered 5, 6, 8 and 11, more specifically described in Attachment A to this Order, consists of pricing and contract terms for coal, natural gas and light oil offered to

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and/or purchased by Gulf Power in connection with Requests for Proposal issued by Gulf Power in 2010.

Gulf Power asserts that portions of the information sought in response to Commission Staff's First Request for Production of Documents numbered 2, 3, 4, 5, 9, 10, 17, 18 and 19 (Document No. 03586-11), more specifically described in Attachment B to this Order, consists of bid documents, internal bid evaluations and contracts for the purchase of coal, natural gas and light oil offered to and/or purchased by Gulf Power in connection with Requests for Proposal issued by Gulf Power in 2010. Gulf Power contends that both it and the counterparties involved in these transactions consider the pricing information and other non-price terms contained in the documents confidential.

Gulf Power further argues that the disclosure of the information in its responses to staff's First Request for Production and Second Set of Interrogatories would negatively impact its ability to negotiate pricing favorable to its customers in the future and that potential counterparties may refuse to enter into future contracts with Gulf Power, or may charge higher prices if the pricing and other non-price terms contained in the bid submissions and purchase agreements were made public.

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. 03586-11 and 03592-11 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 Power 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 Gulf Power's Request for Confidential Classification of Document Nos. 03586-11 and 03592-11 is granted. It is further

ORDERED that the information in Document Nos. 03586-11 and 03592-11 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. 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 23rd day of June, 2011.



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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

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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.

EXHIBIT A

Line(s) / Field(s)	Justification
Response to Interrogatory # 5 Page 1 of 5, Lines 1-4 Page 2 of 5, Lines 1-4 Page 3 of 5, Lines 1-5 Page 4 of 5, Lines 1-5 Page 5 of 5, Lines 1-4	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 that it consists of proprietary confidential business information.
Response to Interrogatory # 6 Page 1 of 2, Line 1 Page 2 of 2, Lines 1-6	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 that it consists of proprietary confidential business information.
Response to Interrogatory #8 Page 1 of 4, Lines 1-8 Page 2 of 4, Lines 1-18 Page 3 of 4, Lines 1-15 Page 4 of 4, Lines 1-4	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 that it consists of proprietary confidential business information.
Response to Interrogatory # 11 Page 1 of 2, Lines 1-16 Page 2 of 2, Lines 1-8	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 that it consists of proprietary confidential business information.

EXHIBIT B

Line(s)/Field(s)

Justification

Response to Request # 2

Confidential in its entirety.
[Pages 48-240]

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 that it consists of proprietary confidential business information.

Response to Request # 3

Page 242, Lines 1-2.

Page 243, Lines 1-3.

Page 244, Lines 1-3.

Page 246, Lines 1-22, Columns A-B.

Page 247, Lines 1-34, Columns A-B.

Page 248, Lines 1-10, Columns A-B.

Page 249, Lines 1-22, Columns A-B.

Page 250, Lines 1-2.

Page 251, Lines 1-2.

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 that it consists of proprietary confidential business information.

Response to Request # 4

Confidential in its entirety.
[Pages 253-361]

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 that it consists of proprietary confidential business information.

Response to Request # 5

Confidential in its entirety.
[Pages 363-403]

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 that it consists of proprietary confidential business information.

Response to Request # 9

Pages 411-412, Columns A-E.

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 that it consists of proprietary confidential business information.

Response to Request # 10

Page 414, Line 1.

Page 415, Line 1.

Page 416, Line 1.

Page 417, Line 1.

Page 418, Lines 1-4.

Page 419, Line 1.

Page 422, Lines 1-9.

Page 423, Lines 1-15.

Page 424, Lines 1-10.

Page 425, Lines 1-10.

Page 426, Lines 1-6.

Page 427, Lines 1-7.

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 that it consists of proprietary confidential business information.

Response to Request # 17

Page 460, Line 1.

Page 461, Lines 1-8.

Page 462, Line 1.

Page 463, Lines 1-8.

Page 464, Line 1.

Page 465, Lines 1-8.

Page 466, Line 1.

Page 467, Lines 1-3.

Page 468, Line 1.

Page 469, Lines 1-8.

Page 470, Line 1.

Page 471, Lines 1-8.

Page 472, Lines 1-5.

Page 473, Lines 1-3.

Page 474, Line 1.

Page 475, Lines 1-8.

Page 476, Line 1.

Page 477, Lines 1-2.

Page 479, Lines 1-3.

Page 481, Lines 1-2.

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 that it consists of proprietary confidential business information.

Response to Request # 18

Confidential in its entirety.
[Page 483]

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 that it consists of proprietary confidential business information.

Response to Request # 19

Pages 485-502.

Page 521.

Pages 548-549.

Pages 567-573.

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 that it consists of proprietary confidential business information.