

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 130001-EI  
ORDER NO. PSC-13-0517-CFO-EI  
ISSUED: October 29, 2013

ORDER GRANTING GULF POWER COMPANY'S REQUEST FOR CONFIDENTIAL  
CLASSIFICATION (DOCUMENT 01175-13)

On March 5, 2013, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf) requested confidential classification (Request) for certain information submitted by Gulf in response to Staff's First Request for Production of Documents No. 1 (Response) (Document No. 01175-13). This request was filed in Docket No. 130001-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. Sections (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 contends that the information submitted to Staff in the Response, as more specifically identified by page, line and statutory basis in Exhibit C to its Request, falls within these categories and, thus, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Gulf contends that the information in the Response constitutes proprietary confidential business information concerning bids or other contractual data the disclosure of which would impair the efforts of Gulf to contract for goods and/or services on favorable terms. Gulf states that the confidential information consists of contracts for the purchase of coal executed by Gulf in 2012. Gulf asserts that disclosure of this information would negatively impact Gulf's ability to negotiate coal supply agreements favorable to its customers in the future. In addition, Gulf states potential counterparties may refuse to enter into future contracts with Gulf, or may charge higher prices, if these terms were made public. Gulf states that the contracts in the Response contain confidentiality provisions and are considered by Gulf and the counterparties to be confidential. As such, Gulf further asserts that the information contained in the Response is intended to be, and is treated as, confidential by Gulf and has not been otherwise publicly disclosed.

Time Period For Confidential Classification

Gulf does not request confidential classification for this information for a period exceeding 18 months. According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless “the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period.”

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 No. 01175-13 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 Eduardo E. Balbis, as Prehearing Officer, that Gulf Power Company’s Request for Confidential Classification of Document No. 01175-13 is granted. It is further

ORDERED that the information in Document No. 01175-13, 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 Eduardo E. Balbis, as Prehearing Officer, this 29th day of October, 2013.



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EDUARDO E. BALBIS  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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.