

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Sally, by Gulf Power Company.

DOCKET NO. 20200241-EI

In re: Petition for evaluation of Hurricane Isaias and Tropical Storm Eta storm costs, by Florida Power & Light Company.

DOCKET NO. 20210178-EI

In re: Petition for limited proceeding for recovery of incremental storm restoration costs and associated true-up process related to Hurricane Zeta, by Gulf Power Company.

DOCKET NO. 20210179-EI

ORDER NO. PSC-2022-0254-CFO-EI  
ISSUED: July 5, 2022

ORDER GRANTING GULF POWER COMPANY'S  
AND FLORIDA POWER & LIGHT COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 00845-2022)

On January 28, 2022, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf) and Florida Power & Light Company (FPL) filed a Request for Confidential Classification (Request) of Information Provided in Response to the Office of Public Counsel's (OPC) Second Request for Production of Documents (Nos. 12, 19, 22 & 40) in Docket No. 20200241-EI; First Request for Production of Documents (Nos. 6, 7 & 16) in Docket No. 20210178-EI; and First Request for Production of Documents (Nos. 6, 12, 15 & 32) in Docket No. 20210179-EI (collectively "Confidential Information") (Document No. 00845-2022). This request was filed in Docket No. 20200241-EI.<sup>1</sup>

Request for Confidential Classification

FPL and Gulf<sup>2</sup> contend that the Confidential Information, which is attached to the Request as Exhibit A, constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL and Gulf assert that this information is intended to be and is treated by them as private and has not been publicly disclosed.

<sup>1</sup> Docket Nos. 20200241-EI, 20210178-EI & 00210179-EI were consolidated by Order PSC-2022-0042-PCO-EI, issued January 26, 2022 (Doc. 00716-2022). The information that is the subject of this order was provided in response to discovery requests issued in each of the three individual dockets prior to consolidation.

<sup>2</sup> Gulf was acquired by FPL's parent company, NextEra Energy, Inc., on January 1, 2019. Gulf was subsequently merged into FPL on January 1, 2021. FPL and Gulf were separate ratemaking entities during the 2020 hurricane season.

FPL and Gulf contend that certain of the Confidential Information relates to bids or other contractual data, the disclosure of which would impair the efforts of FPL and Gulf or their affiliates to contract for goods or services on favorable terms. The Confidential Information includes invoices, handbooks, and similar documents and materials related to Gulf and FPL storm response activities. On this basis, FPL and Gulf argue that this information is protected by Section 366.093(3)(d), F.S. FPL and Gulf continue that other documents and responses they provided pursuant to OPC's discovery requests contain information relating to competitive interests, the disclosure of which would impair the competitive business of FPL and Gulf. On this basis, FPL and Gulf argue that this information is protected by Section 366.093(3)(e), F.S.

### Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. 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. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

- (d) Information 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.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

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 described above and in FPL and Gulf's Request appears to contain information concerning bids or other contractual data, the disclosure of which would impair the efforts of FPL and Gulf or their affiliates to contract for goods or services on favorable terms, and information 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. 00845-2022 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 up to 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, FPL, 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 hereby

ORDERED by Commissioner Art Graham, as Prehearing Officer, that the Request for Confidential Classification of Document No. 00845-2022 filed by Gulf Power Company and Florida Power & Light Company is granted. It is further

ORDERED that the information in Document No. 00845-2022, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 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, FPL, 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 Art Graham, as Prehearing Officer, this 5th day of July, 2022.



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

SPS

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.