

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Gulf Power Company)	DOCKET NO. 881167-EI
for an increase in its rates and)	ORDER NO. 21344
charges.)	ISSUED: 6-6-89
_____)	

ORDER DENYING REQUEST FOR SPECIFIED CONFIDENTIALITY
STATUS FOR BAKER-CHILDERS REPORT

On May 23, 1989, Gulf Power Company (Gulf) filed a request for specified confidential classification of the "Baker-Childers" report which was requested in Staff Interrogatory 156. Gulf had previously asked that this report be classified as "work product" by petition dated November 14, 1988. Order No. 21102, issued on April 24, 1989, denied this request and also denied Gulf's alternative request that the report be found to be proprietary confidential business information. Order No. 21102 at 2. As grounds for our ruling in Order No. 21102 on confidentiality we stated:

The Baker-Childers report is more accurately characterized as material assembled in the ordinary course of business unrelated to litigation, the result of an internal investigation into reoccurring allegations of employee theft, and excludable from work product. Since Gulf itself has characterized the Baker-Childers report as an "investigative summary" in its response to Interrogatory No. 156, it is unclear, without more, upon what we could base a finding that the report is either an internal audit or a security measure as contemplated by Sections 366.093(3)(b) or (c).

Order No. 21102 at 2.

In its present request for confidentiality, Gulf argues that the report is itself an internal audit, entitled to confidentiality under Section 366.093(3)(b), Florida Statutes, and also contains many references to other internal audits performed by Gulf. Further, Gulf argues that the report was prepared as a security measure with the primary goal of substantiating allegations of employee theft and preventing such losses in the future. In support of its assertion that this report is a security measure, Gulf points to page 55 of the report which indicates that "reviews" of existing accounts and procedures should be done. Gulf contends that this report is entitled to confidential status as a security measure under Section 366.093(3)(c), Florida Statutes.

Having now reviewed the report and Gulf's May 23 request, we remain of the opinion that Gulf has not met its burden of establishing that the report falls into either the internal audit or security measure category. Although it is true that the report indicates that internal audits of certain accounts should be performed (warehouse material, appliance merchandise), that fails to qualify the report as an internal audit itself. Also, the fact that the report recommends that

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procedures be reviewed in the fuel disbursement, warehouse material handling, scrap metal sales, retired vehicles, and obsolete materials areas, does not, alone, constitute a security measure. There is no indication in this report of the types of changes to those procedures, if any, which should be undertaken by Gulf. It is that type of information, the nuts and bolts of what measures are undertaken to prevent theft and misappropriation of utility materials, which is entitled to protection under Section 366.093(3)(c), not simply the statement that particular procedures should be "reviewed".

Therefore, it is

ORDERED that the request for specified confidential classification of the Baker-Childers report filed by Gulf Power Company on May 23, 1989 is hereby denied. It is further

ORDERED that if a protest is filed within 14 days of the date of this order it will be resolved by the appropriate Commission panel pursuant to Rule 25-22.006(3)(d), Florida Administrative Code.

By ORDER of Commissioner Thomas M. Beard, as Prehearing Officer, this 6th day of JUNE, 1989.


THOMAS M. BEARD, Commissioner
and Prehearing Officer

(S E A L)

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