

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FLORIDA CABLE TELECOMMUNICATIONS  
ASSOCIATION; COX COMMUNICATIONS  
GULF COAST, L.L.C., *et al.*

000000-PV

Complainants,

P.A. No. 00-004

vs.

GULF POWER COMPANY,

Respondent.

To: Cable Services Bureau

GULF POWER COMPANY'S  
MOTION FOR LEAVE TO FILE  
A MOTION FOR CONFIDENTIAL TREATMENT  
OF COMMERCIAL AND FINANCIAL INFORMATION

Respondent, Gulf Power Company ("Gulf Power"), respectfully files this motion for leave to file the accompanying Motion for Confidential Treatment of Commercial and Financial Information (the "Motion for Confidential Treatment").<sup>1</sup> As set forth below, and in the accompanying Motion for Confidential Treatment, good cause exists for Gulf Power's filing. Both federal law and the Commission require parties seeking confidential treatment

to demonstrate that disclosure of the information "is likely to cause substantial harm to the

<sup>1</sup>Gulf Power is filing this Motion for Leave in conformity with 47 C.F.R. § 1.1407(2), which provides that "no other filings [*i.e.*, other than the response and the reply] and no motions other than for extensions of time will be considered unless authorized by the Commission."

- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- LEG \_\_\_\_\_
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- RGO \_\_\_\_\_
- SEC \_\_\_\_\_
- SER \_\_\_\_\_
- OTH \_\_\_\_\_

*Blummer*

DOCUMENT NUMBER-DATE

09771 AUG 14 8

FPSC-RECORDS/REPORTING

competitive position of the person from whom information was obtained.” *Allnet Communication Services, Inc. v. FCC*, 800 F. Supp. 984, 988 (D.D.C. 1992) (citations omitted); *Marcus Cable Associates, v. Texas Utilities Co.* 12 FCC Rcd. 10,362 (July 21, 1997).

The information for which Gulf Power requests confidential treatment in this proceeding is currently not available to the public. Gulf Power seeks to protect data relating to its operating options, costs and practices from disclosure to anyone other than members of the Commission’s staff. The information is competitively sensitive, proprietary information as defined in Sections 0.459 and 0.457 of the Commission’s Rules and in the Freedom of Information Act’s (“FOIA”) fourth exemption providing for nondisclosure of “commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. § 552(b)(4).

Furthermore, because Gulf Power is subject to increasing competition in the rapidly changing, deregulated electricity markets, the availability of this cost information would provide other market participants with a competitive advantage over Gulf Power. The public availability of information about Gulf Power’s costs and operations would allow competing power suppliers to develop marketing strategies that target Gulf Power’s existing and potential power sales customers. However, Gulf Power would not have a similar advantage in being able to access its competitors’ cost information. Such a result would damage the competitive market and cause Gulf Power to suffer a severe competitive

detriment.

The confidential information is contained in Gulf Power's FERC Form No. 1 for the year ending December 31, 1999, and Gulf Power has asserted a right to confidential treatment in that filing and in filings with the Florida Public Service Commission ("FPSC"). FERC and the FPSC have not denied confidential status, and the information is currently not subject to public disclosure. An inconsistent result in this proceeding would compromise the proprietary treatment afforded this information. In addition, some of the confidential information supporting the replacement cost methodologies being submitted by Gulf Power is from Gulf Power's internal documents pertaining to an economic depreciation study of its assets, an incremental cost of capital, and subaccounts that make up the FERC Form No. 1 accounts. For these reasons, the Commission should withhold the information from disclosure to anyone other than Commission staff.

WHEREFORE, Gulf Power respectfully urges the Commission to enter an order granting leave to file the accompanying Motion to for Confidential Treatment of Commercial and Financial Information.

Respectfully submitted,



RALPH A. PETERSON  
RUSSELL A. BADDERS  
BEGGS & LANE LLP  
Sixth Floor, Blount Building  
3 West Garden Street (32501)  
Post Office Box 12950  
Pensacola, Florida 32576-2950  
Telephone: (850) 432-24  
Telefax: (850) 469-3330

RAYMOND A. KOWALSKI  
KELLER AND HECKMAN LLP  
Suite 500 West  
1001 G Street, N.W.  
Washington, D.C. 20001  
Telephone: (202) 434-4100  
Telefax: (202) 434-4646

J. RUSSELL CAMPBELL  
ANDREW W. TUNNELL  
JENNIFER M. BUETTNER  
BALCH & BINGHAM LLP  
1710 Sixth Avenue North  
Birmingham, Alabama 35203  
Telephone: (205) 251-8100  
Telefax: (205) 226-8798

Attorneys for Respondent GULF POWER COMPANY

DATED: August 9, 2000

## CERTIFICATE OF SERVICE

I, Cassandra Hall, a secretary in the law firm of Keller and Heckman LLP, certify that I have served a copy of this "Gulf Power Company's Motion for Leave to File A Motion for Confidential Treatment of Commercial and Financial Information," upon the following on this the 9th day of August, 2000:

Michael A. Gross (by express delivery)  
Vice President  
Regulatory Affairs and Regulatory Counsel  
FLORIDA CABLE TELECOMMUNICATIONS  
ASSOCIATION, INC.  
310 North Monroe Street  
Tallahassee, Florida 32301


Paul Glist (by courier)  
John Davidson Thomas  
Brian M. Josef  
COLE, RAYWID & BRAVERMAN, LLP  
1919 Pennsylvania Avenue, N.W.  
Suite 200  
Washington, D.C. 20006

Deborah Lathen (by hand delivery)  
Chief, Cable Services Bureau  
FEDERAL COMMUNICATIONS COMMISSION  
Room 3C740  
445 12th Street, S.W.  
Washington, D.C. 20554

Blanca S. Bayo, Director (by U.S. mail)  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Cheryl King (by hand delivery)  
Staff Attorney  
FEDERAL COMMUNICATIONS COMMISSION  
Room 4C738  
445 12th Street, S.W.  
Washington, D.C. 20554

Kathleen Costello (by hand delivery)  
Acting Division Chief  
Financial Analysis & Compliance  
Cable Services Bureau  
FEDERAL COMMUNICATIONS COMMISSION  
Room 4C830  
445 12th Street, S.W.  
Washington, D.C. 20554

  
Cassandra Hall