

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Gulf Power Company's petition for approval of purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased capacity and purchased energy.

Docket No.: 010827 -EI
Date Filed: June 8, 2001

NOTICE OF INTENT TO REQUEST CONFIDENTIAL CLASSIFICATION

1. Notices and communications with respect to this Notice should be addressed to:

Jeffrey A. Stone, Esquire
Russell A. Badders, Esquire
Beggs & Lane
P. O. Box 12950
Pensacola, FL 32576-2950

Susan D. Ritenour
Assistant Secretary and Assistant Treasurer
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780

2. Gulf Power Company, by and through its undersigned attorney and pursuant to Rule 25-22.006, Florida Administrative Code, hereby gives notice that it intends to request confidential classification for portions of the proposed purchased power arrangement between Gulf Power Company ("Gulf") and Southern Power Company ("Southern Power") ("collectively the "Companies") regarding Smith Unit 3, hereafter the PPA. The PPA is being submitted to the Florida Public Service Commission Staff for their review in connection with Gulf Power Company's petition for approval of a purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased capacity and purchased energy. A copy of the PPA is attached hereto as exhibit "A".

3. The PPA contains proprietary and commercially sensitive information regarding both the Companies which if disclosed to the general public would cause irreparable harm to the

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Companies. During the past 5 years, the wholesale electricity markets in the United States have become increasingly competitive. The nature of the competitive wholesale market in which Southern Power Company operates requires that the confidentiality of the specific terms and conditions of the PPA be assured in order to safeguard Southern Power from the competitive disadvantages that could result from public disclosure. Public disclosure of the specific terms and conditions of the PPA would give competitors access to details about Southern Power's costs and operations that are not otherwise available in the competitive market. This would result in Southern Power being severely disadvantaged in any bid process in which they participate since other potential bidders would have vital information about Southern Power that they could use to undercut any bid submitted by Southern Power. Southern Power does not have access to any similar information about its competitors. This virtually eliminates Southern Power from being truly competitive in the very market in which it operates its business. On a broader view, the harm to competition in the wholesale electricity market in general is substantial. The competitive process is built on many principles, one of which is the control and flow of vital information. Competition requires bidders to bid in what they perceive is their best offer under the prevailing market constraints based on the best information available to them at that time. Public disclosure of the information filed pursuant to this Notice would cause the competitive market to become distorted by an asymmetrical flow of information among the pool of potential bidders. Southern Power's competition would be given far greater information than they are otherwise entitled in the market. They would actually have a target to undercut. Over time, Southern Power could become ineffective as a competitor and competition is then lessened by their inability to participate in the wholesale electricity market in a meaningful manner. In addition, other

wholesale electricity suppliers may become hesitant or even decide to forgo participation in the Florida wholesale electricity market for fear that their proprietary and confidential business information and other trade secrets will be made public. The result is less competition in the wholesale electricity market which is contrary to all of the articulated goals of the current electricity policy in the state and the nation. Thus, the Companies assert that this information is entitled to designation as confidential pursuant to Section 366.093(3)(a) and (e), Florida Statutes.

4. The information provided in the PPA is further entitled to confidential classification as information concerning 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. Section 366.093(3)(d), Florida Statutes, provides that such information is proprietary confidential business information to be afforded protection from public disclosure. For the reasons stated in paragraph 3 above, the public disclosure of the specific contractual terms and conditions of the PPA would result in irreparable harm to Southern Power. Gulf would suffer similar harm, but from the perspective of a purchaser in the wholesale energy market. Southern Power will not enter into the PPA with Gulf if the terms and conditions of said PPA are publicly disclosed. Other entities with whom Gulf may desire to enter into a purchased power agreement in the future may have the same concerns and take the same position. Gulf would then be in a very difficult market position and may be unable to acquire purchased power at a competitive price.

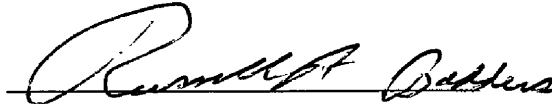
5. Gulf is committed to providing the Commission the information necessary for it to rule on Gulf Power Company's petition for approval of purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased

capacity and purchased energy. However, Southern Power is not willing to move forward with the PPA, if the Commission intends to deny confidential treatment to the specific terms and conditions of the proposed purchased power arrangement. A formal request for confidential classification will be filed within the time period specified in Rule 25-22.006(3)(a), Florida Administrative Code, if at the end of such time period the FPSC Staff determines that the information will be retained by the Commission and not returned to the Companies. In the event the Staff determines that it will retain this document, the Companies request to be notified, through the undersigned counsel, prior to the expiration of the period specified in Rule 25-22.006(3)(a). In the event that a formal request must be filed, Gulf will specifically be asking the Commission to agree that the documents can be returned to Gulf upon withdrawal of this petition, which Gulf would intend to do if the Commission decides it cannot grant Gulf's request for confidential treatment.

6. The information filed pursuant to this Notice is intended to be, and is treated as, confidential by the Companies and has not been otherwise publicly disclosed. Gulf recognizes that the Office of Public Counsel, the Florida Industrial Power Users Group, and the Coalition for Equitable Rates may find it necessary to have the terms and conditions of the PPA for their review during the proceeding in which the FPSC will review Gulf Power Company's petition for approval of purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased capacity and purchased energy. Upon their signing a

non-disclosure agreement approved by Gulf, unedited copies of the PPA will be provided to the Office of Public Counsel, the Florida Industrial Power Users Group, and the Coalition for Equitable Rates for their review.

Respectfully submitted this 8th day of June 2001,



JEFFREY A. STONE

Florida Bar No. 325953

RUSSELL A. BADDERS

Florida Bar No. 007455

Beggs & Lane

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June 8, 2001

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RECORDS AND
REPORTING

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0870

010827-E1

Dear Ms. Bayo:

RE: Gulf Power Company's Petition for approval of purchased power arrangement regarding Smith Unit 3 for cost recovery through recovery clauses dealing with purchased capacity and purchased energy

Enclosed are an original and fifteen copies of Gulf Power Company's Notice on Intent to Request Confidential Classification in reference to the above to be filed with the Commission.

Sincerely,

Susan D. Ritenour (lw)

Susan D. Ritenour
Assistant Secretary and Assistant Treasurer

lw

Enclosures

This docketed notice of intent was filed with Confidential Document No. 07169-01. The document has been placed in confidential storage pending timely receipt of a request for confidentiality.

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FPSC BUREAU OF RECORDS

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Ms. Blanca S. Bayo
June 8, 2001
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cc: Beggs and Lane
Jeffrey A. Stone
Florida Public Service Commission
Chairman E. Leon Jacobs, Jr.
Commissioner Braulio Baez
Commissioner J. Terry Deason
Commissioner Lila A. Jaber
Commissioner Michael A. Palecki
Mary Andrews Bane
Harold McLean
William D. Talbott

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Gulf Power Company's petition for)
approval of purchased power arrangement)
regarding Smith Unit 3 for cost recovery)
through recovery clauses dealing with)
purchased capacity and purchased energy)
_____)

Docket No.: _____

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been furnished
this 8th day of June 2001 by U.S. Mail or hand delivery to the following:

Delivered by Hand:

Robert Elias, Esquire
Staff Counsel
FL Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0863

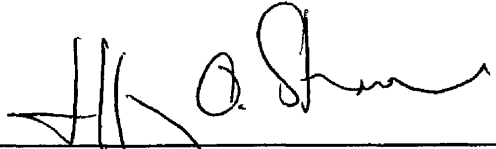
Jack Shreve, Esquire
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c/o The Florida Legislature
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Tallahassee FL 32399-1400

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Delivered by Mail:

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