



November 9, 2001

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0870

Dear Ms. Bayo:

RE: Docket No. 010949-EI

Enclosed are an original and fifteen copies of Gulf Power Company's Request for Temporary Protective Order to be filed in the above docket.

Also enclosed is a 3.5 inch double sided, high density diskette containing the Statement in WordPerfect 6.0 format as prepared on a Windows NT based computer.

Sincerely,

A handwritten signature in cursive script that reads "Susan D. Ritenour".

Susan D. Ritenour
Assistant Secretary and Assistant Treasurer

lw

Enclosures

cc: Beggs and Lane
Jeffrey A. Stone, Esquire

DOCUMENT NUMBER-DATE

14335 NOV 13 2001

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Request for Rate Increase by Gulf
Power Company

Docket No.: 010949-EI
Date: November 9, 2001

_____)
REQUEST FOR TEMPORARY PROTECTIVE ORDER

GULF POWER COMPANY [“Gulf Power”, “Gulf”, or “the Company”], by and through its undersigned attorney and pursuant to Rule 25-22.006, Florida Administrative Code, hereby files a request that the Florida Public Service Commission enter a temporary protective order protecting from public disclosure Gulf Power Company’s responses to request numbers 2, 8, 15, 16, 17 and 18 of Citizen’s First Request for Production of Documents (1-37). Gulf Power is providing the Office of Public Counsel (Public Counsel) access to certain of the responses either at the offices of Gulf Power or by delivery of the responses through U.S. Mail. As grounds for this request, Gulf Power Company states:

1. Gulf Power Company has filed a petition under Section 366.06, Florida Statutes, for an adjustment of rates. For purposes of discovery in the docket established to address Gulf’s petition for an adjustment of rates, the Public Counsel has propounded numerous interrogatories and requests for production of documents, the responses to which will necessarily result in the disclosure of confidential information of the Company, parties with whom it has entered contracts and one or more of its affiliates and/or customers. In an attempt to provide the Public Counsel responses to their discovery requests in an expeditious manner, Gulf files this request to allow Public Counsel to inspect and possess this confidential information for the purpose of determining what information is to be used in the proceeding before the Commission in this

docket pursuant to Florida Public Service Commission Rule 25-22.006(6)(c). In the event Public Counsel determines that portions of the confidential information will be used in the proceeding before the Commission, Gulf requests that it be so notified no later than thirty days prior to that proceeding to allow sufficient time in which to prepare and file a specific request for a protective order as provided by Rule 25-22.006(6)(c). In the event that Public Counsel does not use the information in the proceeding before the Commission, Gulf specifically requests that the information, and that which was derived therefrom, be either returned to Gulf or destroyed such that it does not remain in the possession of any entity subject to section 119.07(1), Florida Statutes.

2. The response to request for production of documents numbered 2 is entitled to confidential classification pursuant to §366.093(3)(a) and (e), Florida Statutes, as proprietary and commercially sensitive information, the public disclosure of which would cause irreparable harm to the competitive interests of Gulf Power and would disclose trade secrets of the entity that conducted the survey(s) being provided in this response. Specifically, the information provided in response to this request are the actual customer survey(s) conducted on Gulf's behalf by a third party vendor. The results of the survey(s) and the actual questions contained in the survey(s) reveal proprietary and commercially sensitive information about Gulf. The results indicate customer perceptions of Gulf in the market in which it provides services and show Gulf's strengths and weaknesses as seen from the standpoint of the various customer classes that it serves. In addition, the actual survey questions show the areas that Gulf believes are important to measure as an indicator of its performance. Public disclosure of this information would give access to Gulf's business strategy and overall performance that is not otherwise available which would cause irreparable harm to the competitive interests of Gulf Power. As important, the

entity who prepared and conducted the survey(s) regards the actual survey instruments, including the questions and format in which they are presented, as trade secrets. The survey instruments are that entity's product in the market and disclosing the survey instruments would, in effect, be giving that entity's competitor's free access to the survey preparer's work product. Release of the survey instrument may cause hesitancy on the part of entities who conduct such surveys to want to do business with Gulf because of the risk that their work product will be given to their competitors. For these reasons Gulf asserts that the response to request for production of documents numbered 2 is entitled to confidential classification pursuant to §366.093(3)(a) and (e), Florida Statutes.

3. The response to request for production of documents numbered 8 is entitled to confidential classification pursuant to §366.093(3)(a) and (e), Florida Statutes as information concerning contractual data, the disclosure of which would impair the efforts of Gulf Power 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 and is to be afforded protection from public disclosure. The information provided in this response consists of invoices for fuel purchases which reveal the specific price and contract provisions of contracts that Gulf is a party to for the purchase of fuel. Both Gulf Power Company and the entity with whom it has entered into the contract(s) regard the information to be competitively sensitive. Disclosure of the specific pricing provisions in the contract would harm Gulf's ability to negotiate the best price for the same or similar goods or services in the future for the benefit of its customers and the general body of ratepayers. Disclosure of negotiated prices in a competitive market results in price convergence to those prices in future negotiations. The ability of Gulf Power to negotiate the best deal for its customers would be harmed and ultimately, higher costs

to the ratepayers would result. This information is entitled to confidential classification pursuant to §366.093(3)(d), Florida Statutes.

4. The responses to request for production of documents numbered 15 and 16 are entitled to confidential classification pursuant to §366.093(3)(a) and (e), Florida Statutes as information, the public disclosure of which would cause irreparable harm to the competitive interests of Gulf Power and would also reveal trade secrets to the public. The information being made available in response to this request are Board of Directors Minutes and external audit information. These documents contain details regarding Gulf's business strategy and financial matters. This information is considered trade secret and is competitively sensitive. Public disclosure of this information would cause Gulf to suffer adverse impacts in financial markets and other areas in which they must conduct their business. Competitors are able to utilize this type of information to further their own market position while at the same time undermining the market positions of Gulf. Making this information public would cause harm not only to Gulf, but would also have an adverse impact on the competitive markets in which Gulf operates because allowing a significant advantage to one participant in a competitive market over another market participant has the effect of stifling true, robust competition.

5. The response to request for production of documents numbered 17 is entitled to confidential classification pursuant to §366.093(3)(b), Florida Statutes. Internal audit reports are specifically designated as proprietary confidential business information in §366.093(3)(b), Florida Statutes. The response being made available to this request are the internal audit reports for 1999, 2000, and 2001.

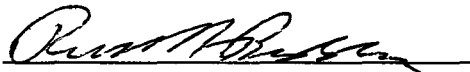
6. The response to request for production of documents numbered 18 is entitled to confidential classification pursuant to §366.093(3)(e), Florida Statutes as information, the public

disclosure of which would cause irreparable harm to the competitive interests of Gulf Power. The tax returns for Gulf Power Company for 1999 and 2000 are being made available in response to this request. These documents contain detailed financial information about Gulf that is considered competitively sensitive. The tax returns provide an organized and highly detailed presentation of Gulf's financial performance that is not otherwise publically available for Gulf or any of the entities with whom it competes. The level of detail provided in the tax returns far exceeds the detail provided publically by the Company. Tax returns are protected from disclosure under Federal law designed to protect the privacy of the provider of the return. For these reasons, the response to request for production of documents numbered 18 is entitled to confidential classification pursuant to §366.093(3)(e), Florida Statutes

7. The material for which confidential classification is requested is intended to be, and is treated as, confidential by Gulf Power Company and, to the best of the undersigned attorney's knowledge has not been otherwise publicly disclosed.

WHEREFORE, Gulf Power Company respectfully requests that the Commission enter a temporary protective order consistent with this request.

Respectfully submitted this 9th day of November 2001,



JEFFREY A. STONE

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Attorneys for Gulf Power Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for rate increase by)
Gulf Power Company)
_____)

Docket No. 010949-EI

Certificate of Service

this 9th I HEREBY CERTIFY that a copy of the foregoing has been furnished
day of November 2001 by U.S. Mail to the following:

Robert Elias, Esquire
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