

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power
cost recovery clause and
generating performance incentive
factor.

DOCKET NO. 010001-EI
ORDER NO. PSC-01-2531-CFO-EI
ISSUED: December 28, 2001

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO
GULF POWER COMPANY'S RESPONSES TO STAFF'S SECOND SET OF
INTERROGATORIES (NOS. 14-138) AND STAFF'S FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS (NOS. 1-33)
(DOCUMENT NO. 12826-01)

On October 9, 2001, Gulf Power Company (GPC or Gulf), pursuant to Rule 25-22.006, Florida Administrative Code, filed a request for confidential classification for certain information contained in GPC's responses to interrogatories numbered 23, 59, 76, and 85 of Staff's Second Set of Interrogatories (Nos. 14-138) and requests numbered 1, 3, and 24 of Staff's First Request for Production of Documents (Nos. 1-33). The information for which GPC seeks confidential classification was filed with the Commission as Document No. 12826-01.

Gulf asserts that the information in Document No. 12826-01 is proprietary confidential business information within the purview of Section 366.093(3)(a), Florida Statutes. GPC represents that the above referenced information is entitled to confidential classification because the public disclosure of this information would cause irreparable harm to the competitive interests of Gulf and the ability of Gulf to enter into favorable contracts. GPC avows that the information is intended to be and is treated by Gulf as private, and is not publicly available.

Specifically, Gulf requests that the information contained in its response to interrogatory 23, page 1 of 2, lines 1-23, and page 2 of 2, lines 1-3, be granted confidential classification. GPC asserts that this information includes a list of Southern Company Services employees, by position, who are responsible for purchasing fossil fuel for Gulf or one of its subsidiaries, which is considered a trade secret.

DOCUMENT NUMBER-DATE

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GPC also requests confidential classification for its response to interrogatory 59, page 1, lines 1-4. Gulf states that this information is the specific price provisions of a contract that GPC is a party to for the storage of natural gas. Both Gulf and the entity with whom it has entered into the contract regard the information to be competitively sensitive. Disclosure of this pricing information would harm Gulf's ability to negotiate the best price for goods or services.

Additionally, Gulf requests that its response to interrogatories 76 and 85 be granted confidential classification. Specifically, page 1, lines 1-5, lines 6-11 except column D, and lines 12-19 of Gulf's response to interrogatories 76 and 85 contain the information Gulf argues are entitled to confidential classification. These responses contain the forecasted and actual costs for certain fuel types utilized by GPC. The forecast information is regarded by Gulf as competitively sensitive. The disclosure of this information would allow fuel suppliers to target Gulf's forecast without bidding their best offer. Also, the tools, indexes (if any), and other market inputs utilized by Gulf are competitively sensitive.

Lastly, GPC requests confidential classification for its response to the following requests for production of documents: 1) No. 1, page 1 of 1, entire chart/table including all headings and numbers as well as explanatory text; 2) No. 3, all 36 pages in their entirety; 3) No. 24, all 567 pages in their entirety. These responses contain information detailing the business strategy of Southern Company Services (SCS), and showing the boundaries and parameters shaping the behavior of SCS in the market. Public disclosure of this information would create an asymmetrical flow of information with regard to SCS and its competitors. The detailed information would give competitors great insight into all facets of SCS's decision-making process. Public disclosure of this information would also severely undermine the market position of SCS.

Upon review, it appears that the information contained in Document No. 12826-01 contains either contractual information, or proprietary, confidential business information, both of which, if disclosed, would tend to harm the competitive interests of Gulf, the entity with which it is negotiating a contract, or both.

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Accordingly, this information is entitled to confidential classification pursuant to Section 366.093(3), Florida Statutes.

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, unless the Commission finds good cause to specify a longer period. Gulf did not request an extension to this period of classification. As such, the information contained in Document No. 12826-01 shall be granted confidential classification for a period of 18 months from the date of issuance of this Order.


Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the information contained in Document No. 12826-01 shall be granted confidential classification. It is further

ORDERED that the information contained in Document No. 12826-01 is granted confidential classification for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 28th day of December, 2001.



LILA A. JABER
Commissioner and Prehearing Officer

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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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, 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.