

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for rate increase  
by Gulf Power Company.

DOCKET NO. 010949-EI  
ORDER NO. PSC-02-0050-PCO-EI  
ISSUED: January 7, 2002

ORDER GRANTING GULF POWER COMPANY'S  
REQUEST FOR TEMPORARY PROTECTIVE ORDER

I. Background

On December 17, 2001, the Office of Public Counsel (OPC) served its Fourth Request for Production of Documents to Gulf Power Company (Gulf) (No. 66) in this docket. On December 21, 2001, Gulf filed a Request for Temporary Protective Order, pursuant to Rule 25-22.006, Florida Administrative Code.

Gulf requests a temporary protective order for Request for Production No. 66. OPC has stated that it has no objection to Gulf's request.

II. Analysis and Findings

Request for Production No. 66

OPC's Request for Production No. 66 states:

Please provide the Incentive Compensation Plan currently in effect for the Company.

Gulf states that this document is entitled to confidential classification pursuant to Section 366.093(3)(e), Florida Statutes, as information relating to competitive interests. Gulf represents that the information provided contains details regarding Gulf's compensation plans. Gulf also states that employee benefits and compensation plans are regarded as confidential in the competitive markets in which Gulf actively competes for employees. Thus, the disclosure of the specified information would impair the competitive business of the provider of the information.

Gulf seeks protection for these documents and objects to providing confidential proprietary business information. However,

DOCUMENT NUMBER-DATE

00162 JAN-78

FDCC-COMMISSION CLERK

Gulf will allow OPC to inspect and possess this confidential information for the purpose of determining what information is to be used in this proceeding so long as the documents are marked as confidential and are not publicly disclosed.

Additionally, Gulf requests that if the information is not used in the proceeding before the Commission, that the information 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.

Rule 25-22.006(6)(a), Florida Administrative Code, states that "... any utility or other person may request a protective order protecting proprietary confidential business information from discovery." Additionally, Rule 25-22.006(6)(c), Florida Administrative Code, states:

When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), F.S.

Upon review, Gulf's Request for Temporary Protective Order is granted. It appears that the material described by Gulf could be classified as proprietary confidential business information pursuant to Section 366.093, Florida Statutes; however, no finding of confidentiality is necessary since there has been no filing with the Commission. Since the material has been or will be provided to the Office of Public Counsel, Gulf's Request for Temporary Protective Order shall be granted, exempting this information from the requirements of Section 119.07, Florida Statutes.

Additionally, if the information is used in the proceeding, it will be treated as confidential as set forth in this Order. In order to maintain continued confidentiality, Gulf shall file a Request for Confidential Classification with the Commission within 21 days of the conclusion of the hearing, pursuant to Rule 25-22.006(8)(b), Florida Administrative Code.

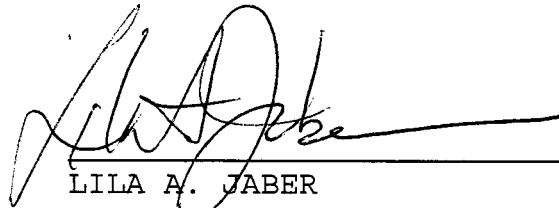
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Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that Gulf Power Company's Request for Temporary Protective Order is granted. It is further

ORDERED that if not used in the proceeding, the material shall be returned to Gulf Power Company, as required by Rule 25-22.006(6)(c), Florida Administrative Code.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 7th day of January, 2002.



LILA A. JABER  
Commissioner and Prehearing Officer

( S E A L )

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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.

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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.