

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of investor-owned electric utilities' risk management policies and procedures.

DOCKET NO. 011605-EI
ORDER NO. PSC-03-0024-CFO-EI
ISSUED: January 6, 2003

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 06066-02)

On June 11, 2002, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Gulf Power Company (Gulf) filed a request for confidential classification of specified portions of the Commission Staff's audit report entitled "Internal Controls of Florida's Investor-Owned Utilities for Fuel and Wholesale Energy Transactions" (Document No. 06066-02).

Section 366.093(1), Florida Statutes, provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3)(d), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to, "[i]nformation concerning bids or other 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." Further, Section 366.093(3)(e), Florida Statutes, provides that proprietary confidential business information includes "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

Gulf contends that specified portions of the audit report discussed in detail below fall within the category of information

DOCUMENT NUMBER-DATE

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relating to competitive interests, the disclosure of which would impair the competitive business of Gulf, and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Gulf states that this information is intended to be and is treated by Gulf as private and has not been publicly disclosed.

Gulf asserts that the information at lines 1-3 on page 12 of the audit report discuss the results of the hedging program in place at Savannah Electric and Power. Gulf contends that managing the risks associated with fuel and wholesale energy transactions, as well as the goals and results sought in those transactions, is competitively sensitive to Savannah Electric and Power and the Southern Company. Gulf asserts that this information describes the results of the business strategy of Southern Company Services (SCS) and Savannah Electric and Power in the area of hedging, and that this type of financial information is not otherwise publicly available to participants in the fuel and wholesale energy markets.

Gulf asserts that the information at lines 6-11 on page 81 of the audit report and the entire table on page 82 of the audit report provide the details and results of the strategy employed by SCS on behalf of Gulf in procuring various types of fuel. Gulf asserts that this information also details the types and terms of contracts by fuel type for Gulf. Gulf contends that disclosure of this information would allow competitors access to information about Gulf's operations that Gulf does not have access to with regard to its competitors. Gulf further contends that disclosure of this information would allow energy wholesalers and fuel suppliers to determine Gulf's market position, needs, and sensitivities to various fuel types and would allow them to tailor their offers to Gulf rather than offer their best market price.

Gulf asserts that the information at lines 19-20 on page 84 of the audit report and pages 85-94 of the audit report in their entirety provide details of Gulf's Risk Management Plan and analysis thereof. Gulf asserts that this information details the business strategy of SCS and shows the boundaries and parameters that shape how SCS will behave in the market on behalf of Gulf. Gulf contends that if competitors know how SCS will react to a given market condition, those competitors may try to take advantage

ORDER NO. PSC-03-0024-CFO-EI
DOCKET NO. 011605-EI
PAGE 3

of SCS when those market conditions are present, undermining SCS's market position. Because SCS is Gulf's agent for fuel and wholesale energy transactions, Gulf contends that Gulf and its customers would ultimately be harmed if this information is publicly disclosed.

Upon review, it appears that the information in the portions of the audit report specified above satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. Specifically, the information in those specified portions of the audit report constitutes "[i]nformation concerning bids or other 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" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), Florida Statutes, unless Gulf or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of Document No. 06066-02 is granted. It is further

ORDERED that the information in Document No. 06066-02 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. It is further

ORDER NO. PSC-03-0024-CFO-EI
DOCKET NO. 011605-EI
PAGE 4

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 6th day of January, 2003.



MICHAEL A. PALECKI
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)

ORDER NO. PSC-03-0024-CFO-EI

DOCKET NO. 011605-EI

PAGE 5

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.