

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 040001-EI
ORDER NO. PSC-04-1056-CFO-EI
ISSUED: October 28, 2004

ORDER GRANTING IN PART AND DENYING IN PART REQUEST
FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 04155-04)

On April 1, 2004, 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 its Risk Management Plan for Fuel Procurement (the Plan) (Document No. 04155-04).

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), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to “[t]rade secrets” (subsection a); “[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” (subsection d); and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information” (subsection e).

Gulf contends that its Risk Management Plan for Fuel Procurement falls within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Gulf requests confidential classification for the entirety (Pages 1-77) of the Plan. Gulf contends that the information contained within the Plan, if disclosed, would cause irreparable harm to the competitive interests of Gulf and its ability to enter into contracts on terms favorable to the company and its ratepayers. Gulf states that the Plan contains proprietary and commercially sensitive information, including detailed information about Gulf’s fuel procurement for the near term and into the future. According to Gulf, this information is considered to be a trade secret and competitively sensitive. Gulf asserts that this information discloses how it manages fuel procurement with specific details regarding Gulf’s fuel needs, market position and market trends. Gulf further asserts that the information contains fuel procurement strategy and that similar information is not made public by other market participants, giving other market participants an advantage over Gulf in the fuel markets.

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According to Gulf, this would result in a detriment to Gulf's ratepayers since it would prevent Gulf from managing its fuel procurement in a manner that secures the best price and terms for its customers' fuel needs. Gulf states that this information is intended to be and is treated by Gulf as private and has not been publicly disclosed.

Upon review, I find that the requested information is confidential for the reasons identified by the company, with the exception of the following information: Page 1, Introduction; Page 2, Procurement Strategy; Page 11, Introduction; Page 13, Coal Transportation Procurement Strategy; Page 17, Gas Program Overview; Page 18, Graph; and Page 19, Oil Program Overview. The above-referenced pages contain general information or information available to the public through sources such as the Ten Year Site Plan and the Regional Load Resource Plan. It does not appear that revealing any of this information would harm Gulf's competitive interests. In addition, confidential classification is denied for the following information: Pages 20-22, Risk Management Policy; Pages 23-24, SCGEM Risk Management Policy; Pages 46-47; Pages 51-54; and Page 77. Pages 20-22 provide an overview of the structure of Gulf's risk management activities. While objectives and guidelines are included, there is no information regarding Gulf's fuel needs, market position, or fuel procurement strategy. This information is not competitively sensitive or a trade secret. Pages 23-24 contain the title page and table of contents for the Risk Management Policy. Pages 46-47, 51-54, and 77 contain a glossary, organizational chart, and listing of authorized individuals regarding the risk management activities. These pages provide general information which is not competitively sensitive. Therefore, confidential classification is denied for the above-referenced portions of Gulf's Risk Management Plan for Fuel Procurement.

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

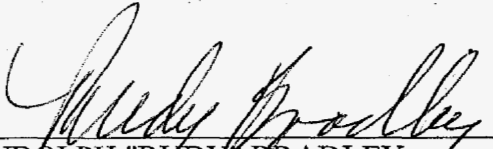
ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of Document No. 04155-04 is granted in part and denied in part, as set forth in the body of this order. It is further

ORDERED that the information in Document No. 04155-04 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

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.

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By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this
28th day of October, 2004.



RUDOLPH "RUDY" BRADLEY
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; or (2) 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.