

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 050001-EI
ORDER NO. PSC-05-0202-CFO-EI
ISSUED: February 21, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 00183-05)

On January 6, 2005, 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 portions of its response to Staff's Second Request for Production of Documents, No. 3 and No. 5 (Document No. 00183-05).

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 portions of its response to Request No. 3 and Request No. 5 of Staff's Second Request for Production of Documents 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 states that this information is intended to be and is treated by Gulf as private and has not been publicly disclosed.

Gulf requests that the following information be granted confidential classification:

Page No.	Line(s)
Request No. 3	
Page 2, Section A	1-6
Page 5, Section A	1
Page 8, Section A	1
Page 11, Section A	1
Page 13, Section A	1

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Page 16, Section A	1
Page 18, Section A	1-4
Page 39, Section A	1-7
Page 42, Section A	1-14
Request No. 5	
Page 2, Section A	1-4
Page 6, Section A	1-6
Page 7, Section A	1-18
Page 13, Section A	1-7
Page 14, Section A	1-17
Page 16, Section A	1
Page 17, Section A	1
Page 18, Section A	1-2
Page 19, Section A	1-2
Page 20, Section A	1-2
Page 21, Section A	1-2
Page 22, Section A	1-2
Page 23, Section A	1-3
Page 25, Section A	1-2
Page 26, Section A	1-2
Page 30, Section A	1-2
Page 31, Sections A and B	1-2
Page 32, Section A	1-2
Page 33, Section A	1-2
Page 34, Sections A and B	1-2
Page 35, Section A	1-2
Page 36, Section A	1-3

Gulf contends that this information contains confidential information regarding competitive interests and contractual matters of Gulf Power, the disclosure of which would cause irreparable harm to the company. According to Gulf, the response to Request No. 3 and Request No. 5 provide contract terms of several coal and gas supply contracts. Gulf states that the pricing terms in these contracts are regarded by both Gulf and the party with whom it has contracted as confidential. Gulf further states that the coal and gas supply contracts were a result of negotiations between Gulf and one or more suppliers. Gulf asserts that the pricing terms resulting from negotiations are specific to the individual contracts and are not publicly known. According to Gulf, disclosure of this information would negatively impact Gulf's ability to negotiate pricing favorable to its customers in future coal and gas supply contracts because possible counterparties may refuse to contract with Gulf if doing so results in the price term being made public or the fuel supplier may price the fuel at the market-take price. Gulf contends that the market-take price does not allow any negotiation of price and would result in higher fuel

costs to Gulf and its customers. Gulf asserts that disclosure of this information would result in Gulf being unable to effectively compete in fuel markets for the benefit of its customers.

Upon review, it appears that the above-referenced information contained in Gulf's response to Staff's Second Request for Production of Documents, No. 3 and No. 5, 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. The information 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

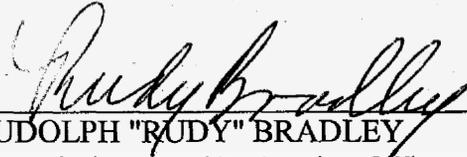
ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of Document No. 00183-05 is granted. It is further

ORDERED that the information in Document No. 00183-05 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
21st day of February, 2005.


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.