



ORIGINAL

Public Service Commission

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DATE: March 7, 2007

TO: Lisa Bennett, Attorney, Office of General Counsel

FROM: Division of Regulatory Compliance and Consumer Assistance (Freeman, Vandiver) F OW

RE: Docket 070001-EI, Recommendation concerning Gulf Power Company's (Gulf's) request for confidential classification concerning a portion of the staff working papers prepared during "Gulf Power Company Fuel Clause Audit for the Twelve Month Period Ended December 31, 2005", Audit Control No. 06-046-1-1, Documents Numbered 07831-06 and 08288-06

On August 25, 2006, when copies of certain portions of staff's working papers obtained or prepared during the "Gulf Power Company Fuel Clause Audit for the Twelve Month Period Ended December 31, 2005", were delivered to Gulf at the audit exit conference, the utility requested that these materials be temporarily exempted from public access in accordance with provisions of Rule 25-22.006(3)(a)2., Florida Administrative Code (FAC).

On August 25, 2006, 2006, staff filed document numbered 07831-06 consisting of those specified portions of the staff's working papers.

On September 12, 2006, Gulf filed a request pursuant to Section 366.093, Florida Statutes (F.S) and Rule 25-22.006, FAC, that selected portions of the working papers prepared by the staff during the audit receive confidential classification. The utility's request included redacted copies for public inspection (Document No. 08287-06, Exhibit B) and copies with the sensitive material highlighted (Document No. 08288-06).

Documents numbered 07831-06 and 08288-06 are held by the Commission's Division of the Commission Clerk and Administrative Services as confidential pending resolution of Gulf's request for confidential classification.

- CMP
- COM
- CTR
- ECR
- GCL
- JPC
- RCA
- SCR
- SGA

SEC
MTH *Marguerite*

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

Subsection 366.093(3), F.S., provides; “*Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person’s or company’s business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes but is not limited to:*

....

(d) Information 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.

(e) Information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider of the information....”

According to Section 366.093, F.S., and Rule 25-22.006, FAC, the utility has the burden of demonstrating that materials qualify for confidential classification. According to Rule 25-22.006, FAC, the utility must meet this burden by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility, the provider of the information or the ratepayer harm.

Staff Analysis of the Request

Reading the filing reveals the sensitive material consists of:

1) Detailed hedging information including specific cost information

Gulf asserts this information reports contractual matters release of which would cause irreparable harm to Gulf Power Company, the entities with whom it has contracted and most importantly to Gulf’s customers. Disclosure would adversely affect Gulf’s ability to conduct its hedging activities and would impair Gulf’s ability to enter into contracts and would ultimately impact Gulf’s customers.

Section 366.093(3)(d), F.S., provides that the Commission may grant a confidential classification to sensitive contractual information if release of that information would harm the ability of a utility or its affiliates to contract favorably. Section 366.093(3)(e), F.S., provides the Commission may grant a confidential classification to sensitive business information if release of that information would harm the competitive business of the provider of that information.

We have read the contractual and sensitive business information presented here and agree this information if released would harm the ability of Gulf to contract on favorable terms, and in addition, release of this information would harm the competitive business of the provider of the information.

Information Held as Confidential

To qualify as proprietary confidential business information, the material must also be held as private and not released to the public. The utility asserts that this sensitive information “is intended to be and is treated as confidential by Gulf Power and has not been otherwise disclosed.”

Duration of the Confidential Classification Period

Gulf has not made a request regarding the length of the confidential classification. Absent such a request according to the provisions of Section 366.093(4), F.S., absent good cause shown, confidential classification is limited to 18 months. Without cause shown for a longer period, we recommend that the period of confidential classification be set as 18 months. As deemed necessary, the utility may request an extension of the confidential classification before the period tolls.

Staff Recommendation

Based upon reading the filing, and for the reasons presented above, we recommend the utility’s request be granted and that the identified material be granted a confidential classification for 18 months.

A detailed recommendation follows:

Detailed Recommendation

Staff Work Paper Number	Associated Document Number Assigned by Gulf Power	Page(s)	Line(s)	Recommend	Type of Information
Documents 07831-06 and 08288-06					
48-1.1	1	1	Cols. A-B, 1-31; Cols. C-D, 1,7-10, 16-17,25-29	Grant	Sensitive Contractual And Competitive Business Information
48-1.2	2	1	Cols. A-B, 1-30; Cols. C-D, 1-2,6-10, 16-18,22-26	Grant	Sensitive Contractual And Competitive Business Information
48-2.1	3	1	Cols. A-B, 1-30; Cols. C-D, 1-2,6-10, 16-18,22-26	Grant	Sensitive Contractual And Competitive Business Information
48-2.2	4	1	Cols. A-B, 1-33; Cols. C-D, 1,5-9, 14-16,25-30	Grant	Sensitive Contractual And Competitive Business Information

Staff Work Paper Number	Associated Document Number Assigned by Gulf Power	Page(s)	Line(s)	Recommend	Type of Information
48-3.1	5	1	Cols. A-B, 1-33; Cols C-D, 1,5-9, 14-16,25-30	Grant	Sensitive Contractual And Competitive Business Information
48-3.2	6	1	Col. A; 1-39; Col B. 40-41; Col. C, 1-41; Cols. D-E, 1-4, 11-12,20-24,35	Grant	Sensitive Contractual And Competitive Business Information
48-4.1	7	1	Col. A; 1-39; Col B. 40-41; Col. C, 1-41; Cols. D-E, 1-4, 11-12,20-24,35	Grant	Sensitive Contractual And Competitive Business Information
48-4.2	8	1	Col. A; 1-43; Col B. 44-45; Col. C, 1-45; Cols. D-E, 1-3, 8-11,19-25,36-37	Grant	Sensitive Contractual And Competitive Business Information
48-5.1	9	1	Col. A; 1-43; Col B. 44-45; Col. C, 1-45; Cols. D-E, 1-3, 8-11,19-25,36-37	Grant	Sensitive Contractual And Competitive Business Information
48-5.2	10	1	Col. A, 1-46; Cols. B-C, 47-48; Col. D, 1-46; Cols. E-F, 1-2,7-11, 18-25,30-31,37-41	Grant	Sensitive Contractual And Competitive Business Information

Staff Work Paper Number	Associated Document Number Assigned by Gulf Power	Page(s)	Line(s)	Recommend	Type of Information
48-6.1	11	1	Col. A, 1-46; Cols. B-C, 47-48; Col. D, 1-46; Cols. E-F, 1-2,7-11, 18-25,30-31,37-41	Grant	Sensitive Contractual And Competitive Business Information
48-6.2	12	1	Col. A, 1-49; Col. B, 50-51; Col. C, 1-51 Col. D-E, 1-3,10-14, 21-27,33-34,42-45	Grant	Sensitive Contractual And Competitive Business Information
48-7.1	13	1	Col. A, 1-49; Col. B, 50-51; Col. C, 1-51 Col. D-E, 1-3,10-14, 21-27,33-34,42-45	Grant	Sensitive Contractual And Competitive Business Information
48-7.2	14	1	Col. A, 1-46; Col. B, 47-48; Col. C, 1-48 Col. D-E, 1-5,10-13, 20-26,32-34,39-42	Grant	Sensitive Contractual And Competitive Business Information
48-8.1	15	1	Col. A, 1-46; Col. B, 47-48; Col. C, 1-48 Col. D-E, 1-5,10-13, 20-26,32-34,39-42	Grant	Sensitive Contractual And Competitive Business Information
48-8.2	16	1	Col. A, 1-49; Col. B, 50-51; Col. C, 1-51 Col. D-E, 1-3,9-13, 21-27,35-36,41-43	Grant	Sensitive Contractual And Competitive Business Information
48-8.3	17	1	Cols. A-B, 1	Grant	Sensitive Contractual And Competitive Business Information

Staff Work Paper Number	Associated Document Number Assigned by Gulf Power	Page(s)	Line(s)	Recommend	Type of Information
48-9.1	18	1	Col. A, 1-49; Col. B, 50-51; Col. C, 1-51 Col. D-E, 1-3,9-13, 21-27,35-36,41-43	Grant	Sensitive Contractual And Competitive Business Information
48-9.2	19	1	Col. A, 1-49; Col. B, 50-51; Col. C, 1-51 Col. D-E, 1-2,8-13, 22-27,37,42-45	Grant	Sensitive Contractual And Competitive Business Information
48-9.3	20	1	Cols. A-B, 1	Grant	Sensitive Contractual And Competitive Business Information
48-10.1	21	1	Col. A, 1-49; Col. B, 50-51; Col. C, 1-51 Col. D-E, 1-2,8-13, 22-27,37,42-45	Grant	Sensitive Contractual And Competitive Business Information
48-10.2	22	1	Cols A-B, 1-56; Cols. C-D, 1-5,12-17, 24-31,39-41,47-51	Grant	Sensitive Contractual And Competitive Business Information
48-11.1	23	1	Cols A-B, 1-56; Cols. C-D, 1-5,12-17, 24-31,39-41,47-51	Grant	Sensitive Contractual And Competitive Business Information
48-11.2	24	1	Cols A-B, 1-39; Cols. C-D, 1-4,9-12, 16-20,25-27,32-35	Grant	Sensitive Contractual And Competitive Business Information
48-11.3	25	1	Cols A-B, 1-36; Cols. C-D, 1-4,7-10, 16-20,25-27,30-33;	Grant	Sensitive Contractual And Competitive Business Information

A temporary copy of this recommendation will be held at I:08288-06 Gulf 2005 fuel raf.doc for a short period.

CC: Division of Regulatory Compliance and Consumer Assistance (Deamer)
Division of Commission Clerk and Administrative Services (Lockard, Cole)