

State of Florida



RECEIVED-FPSC

Public Service Commission

08 MAR 12 PM 2:29

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: March 11, 2008

TO: Lisa Bennett, Attorney, Office of General Counsel

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

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 Twelve Month Period Ended December 31, 2006", Audit Control No. 07-022-1-1, Documents Numbered 09567-07 and 10242-07

On October 22, 2007, when copies of certain portions of staff's audit working papers obtained or prepared during the "Gulf Power Company Fuel Clause Audit Twelve Month Period Ended December 31, 2006", 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 October 19, 2007, staff filed document numbered 09567-07 consisting of those specified portions of the staff's audit working papers.

On November 13, 2007, Gulf filed a request pursuant to Rule 25-22.006, FAC, that selected portions of the audit working papers prepared by the staff during the audit receive a confidential classification. The utility's request included redacted copies for public inspection (Document No. 10241-07) and copies with the sensitive material highlighted (Document No. 10242-07).

Documents numbered 09567-07 and 10242-07 are currently held by the Office of the Commission Clerk as confidential pending resolution of FPL's request for confidential classification.

Pursuant to Section 119.07, F.S., documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific items of a statutory provision. Subsections 366.093(3)(d) and (e), F.S., provide the following exemptions.

DOCUMENT NUMBER-DATE

01868 MAR 12 8

FPSC-COMMISSION CLERK

March 11, 2008
Gulf Power Company Request

Subsection 366.093, 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:

Details Concerning Gulf Power’s Hedging Activities.

Gulf asserts “disclosure of this information would adversely affect Gulf’s abilities to conduct its hedging activities to the benefit of its customers and would adversely impair Gulf’s ability to enter into contracts for the benefit of its customers.

Section 366.093(3)(e), F.S., provides that the Commission may grant a confidential classification to sensitive competitive business information if release of that information would harm the competitive business of the provider of that information. Section 366.093(3)(d), F.S., provides that the Commission may grant a confidential classification to sensitive contractual information if its release would impair the ability of a utility or its affiliates to contract on a favorable basis for goods and services. Reading the information identified by Gulf reveals it is sensitive contractual and competitive business information release of which would impair the ability of Gulf and its affiliates to contract favorably and would also impair the competitive businesses of the providers of that information. Therefore, we recommend that this information be granted a confidential classification.

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. Gulf asserts that this sensitive information meets the statutory restrictions necessary for the material to be provided a confidential classification, and asserts that the information has not been disclosed to the Public.

Duration of the Confidential Classification Period

Gulf has not requested a specific period for the confidential classification of this information. 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	Description	Page(s)	Line(s)	Recommend	Type of Information
Documents 09567-07 and 10242-07					
48-1.1	Monthly Hedging Support	1	Cols. J-P, 1-34	Grant	Sensitive Contractual and Competitive Business Information
48-2.1	Monthly Hedging Support	1	Cols. J-P, 1-38	Grant	Sensitive Contractual and Competitive Business Information
48-3.1	Monthly Hedging Support	1	Cols J-P, 1-55; Cols K-O, 56-57	Grant	Sensitive Contractual and Competitive Business Information
48-4.1	Monthly Hedging Support	1	Cols J-P, 1-55; Cols K-O, 56-57	Grant	Sensitive Contractual and Competitive Business Information
48-4.2	Monthly Hedging Support	1	Cols J-P, 1-48; Cols K-O, 49-50	Grant	Sensitive Contractual and Competitive Business Information
48-5.1	Monthly Hedging Support	1	Cols J-P, 1-48; Cols K-O, 49-50	Grant	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information
Documents 09567-07 and 10242-07					
48-5.2	Monthly Hedging Support	1	Cols J-P, 1-59; Cols K-O, 60-61	Grant	Sensitive Contractual and Competitive Business Information
48-6.1	Monthly Hedging Support	1	Cols J-P, 1-59; Cols K-O, 60-61	Grant	Sensitive Contractual and Competitive Business Information
48-6.2	Monthly Hedging Support	1	Cols. J-P, 1-73; Cols. K,M-N,P 74-75	Grant	Sensitive Contractual and Competitive Business Information
48-6.3	Monthly Hedging Support	1	Cols. J-L,N-O,Q-R, 76	Grant	Sensitive Contractual and Competitive Business Information
48-7.1	Monthly Hedging Support	1	Cols. J-P, 1-73; Cols. K,M-N,P 74-75	Grant	Sensitive Contractual and Competitive Business Information
47-7.2	Monthly Hedging Support	1	Cols. J-P, 1-65; Cols. K-O, 66-67	Grant	Sensitive Contractual and Competitive Business Information
48-7.3	Monthly Hedging Support	1	Cols. J-L,N,P-Q,S-T, 68	Grant	Sensitive Contractual and Competitive Business Information
48-8.1	Monthly Hedging Support	1	Cols. J-L,N-O,Q-R, 1	Grant	Sensitive Contractual and Competitive Business Information
48-8.2	Monthly Hedging Support	1	Cols. J-P, 1-65; Cols K-O, 66-67	Grant	Sensitive Contractual and Competitive Business Information
48-8.3	Monthly Hedging Support	1	Cols. J-P, 1-59; Cols. K-O, 60-61	Grant	Sensitive Contractual and Competitive Business Information
48-9.1	Monthly Hedging Support	1	Cols. J-P, 1-59; Cols. K-O, 60-61	Grant	Sensitive Contractual and Competitive Business Information
48-9.2	Monthly Hedging Support	1	Cols. J-K,N,P-Q,S-T, 1	Grant	Sensitive Contractual and Competitive Business Information
48-9.3	Monthly Hedging Support	1	Cols. J-K,M-Q, 1-44; Cols. K-N, 45-46	Grant	Sensitive Contractual and Competitive Business Information
48-10.1	Monthly Hedging Support	1	Cols. J-K,M-Q, 1-44 Cols. K=N, 45-46	Grant	Sensitive Contractual and Competitive Business Information
48-10.2	Monthly Hedging Support	1	Cols. J-K,N,P-Q,S-T, 1	Grant	Sensitive Contractual and Competitive Business Information
48-10.3	Monthly Hedging Support	1	Cols. J-K,N-P,R-S, 1-29	Grant	Sensitive Contractual and Competitive Business Information
48-10.4	Monthly Hedging Support	1	Cols. J-K,N-O,S-T, 1-8	Grant	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information
Documents 09567-07 and 10242-07					
48-11.1	Monthly Hedging Support	1	Cols. J-K,N-P,S-T, 1-29	Grant	Sensitive Contractual and Competitive Business Information
48-11.2	Monthly Hedging Support	1	Cols. J-K,N,P-Q,S-T 1	Grant	Sensitive Contractual and Competitive Business Information
48-11.3	Monthly Hedging Support	1	Cols. J-K,N-P,S-T, 1-21	Grant	Sensitive Contractual and Competitive Business Information
48-12.1	Monthly Hedging Support	1	Cols. J-K,N-P,S-T, 1-21	Grant	Sensitive Contractual and Competitive Business Information
48-12.2	Monthly Hedging Support	1	Cols. J-K,N,P-Q,S-T, 1	Grant	Sensitive Contractual and Competitive Business Information
48-12.3	Monthly Hedging Support	1	Cols. J-K,N-P,S-T, 1-29	Grant	Sensitive Contractual and Competitive Business Information

A temporary copy of this recommendation will be held at I:10242-07 Gulf Power fuel raf.doc for a short period.

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