

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 090007-EI
ORDER NO. PSC-09-0773-CFO-EI
ISSUED: November 18, 2009

ORDER GRANTING GULF POWER COMPANY'S REQUEST FOR EXTENDED
CONFIDENTIAL CLASSIFICATION GRANTED BY ORDER NO. PSC-07-0771-CFO-EI IN
DOCKET NO. 070001-EI (DOCUMENT NO. 02473-09)

History

This Order addresses the continuation of confidential treatment for portions of documents submitted by Gulf Power Company ("Gulf") as part of its Supplemental Petition Regarding CAIR/CAMR/CAVR Environmental Compliance Program in Docket Number 070007-EI. Specifically, in its March 19, 2009, Request for Extended Confidential Classification (Document No. 02479-09), Gulf seeks continued confidential classification of information contained in four tables: 4.3-2, 5.1-1, 5.1-2, and 5.5-1. Appendix A contains a complete list, by page and line number, of the material for which continued confidential classification is sought.

On July 10, 2007, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf filed an amended request for confidential classification in connection with its Supplemental Petition. The amended request sought confidential classification of information contained in Tables 4.3-2, 5.1-1, 5.1-2, and 5.5-1, which were included in its Compliance Program.

Thereafter, on August 7, 2007, Gulf filed a Second Amended Request for Confidential Classification to provide properly redacted versions of Tables 4.3-2 and 5.5-1. Gulf stated that in its first amended request some portions of the tables were marked as confidential that should not have been confidential. Gulf's second amended confidentiality request was intended to correct the oversight.

On August 21, 2007, the Commission issued Order No. PSC-07-0675-CFO-EI, which granted confidential classification to the four tables in question, but did not specifically address the second amended confidentiality request for Tables 4.3-2 and 5.5-1. Subsequently, on September 20, 2007, Order No. PSC-07-0771-CFO-EI was issued to address the August 7, 2007, amendments and conform the time period for confidential treatment of the two revised tables to the time period originally provided in Order No. PSC-07-0675-CFO-EI.

Request for Extended Confidential Classification

All four tables were granted confidentiality for a period of 18 months, and Gulf now requests that confidentiality be extended for an additional 18 months. In its request, Gulf states that the period of confidential classification granted by Order No. PSC-07-0675-CFO-EI, as conformed by Order No. PSC-07-0771-CFO-EI, will soon expire and that portions of the four

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tables covered by those Orders warrant continued treatment as proprietary and confidential business information within the meaning of Section 366.093, F.S. The request was filed in Docket No. 090007-EI.

Section 366.093(1), F.S., 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), F.S., 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), F.S., further 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” (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 Tables 4.3-2, 5.1-1, 5.1-2, and 5.5-1 included in its Compliance Plan fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Gulf asserts that this information regarding pricing, detailed unit-specific cost data for fuel, and projected operation and maintenance expenses is associated with the CAIR/CAMR/CAVR Compliance Program. Gulf further asserts that it negotiates with vendors of services, materials, and commodities needed to implement its Compliance Program. Gulf contends that the disclosure of this information would impair the efforts of Gulf or its affiliates to negotiate pricing contracts favorable to its customers. Gulf further contends that it must be competitive to obtain commodities and services, or make purchases or sales, of wholesale power. Gulf states that the contractual terms listed in Tables 4.3-2, 5.1-1, 5.1-2, and 5.5-1 relate to the competitive interests of Gulf and its suppliers, the disclosure of which would impair their competitive businesses.

Ruling

Upon review, and consistent with Order Nos. PSC-07-0675-CFO-EI and PSC-07-0771-CFO-EI, the identified portions of Tables 4.3-2, 5.1-1, 5.1-2, and 5.5-1, as enumerated in Appendix A, satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information and thus, shall continue to 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,” or “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Moreover, none of the documentation discussed herein contains information regarding the compensation of Gulf executives. Thus, this information shall be granted continued confidential classification.

Pursuant to Section 366.093(4), F.S., 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 the order granting confidential classification. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., 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 Nathan A. Skop, as Prehearing Officer, that Gulf Power Company's request for extended confidential classification of information contained in Document Number 02473-09, as more fully described in Appendix A, is granted. It is further

ORDERED that the information in Document Number 02473-09 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.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 18th day of November, 2009.



NATHAN A. SKOP

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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.

APPENDIX A

Line-by-Line/Field-by-Field Justification	
Line(s)/Fields(s)	Justification
<p>Table 4.3-2 Page 1 of 2 Lines 1-15, Columns A-H</p>	<p>This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as Confidential is more fully set forth in Paragraph 6 of Gulf's March 19, 2009, Request.</p>
<p>Table 5.1-1 Page 1 of 1 Line 1, Column J Line 2, Columns A, B, D, F and J Line 3, Columns A and J Line 4, Column J Line 5, Columns F-J Lines 6-8, Column J Line 9, Columns D-J Line 10-1 1, Column J Line 12, Columns C-G and J Line 13, Columns D-H and J Line 14- 1 5, Columns A, B and J Line 16, Columns A and J Line 17, Columns A, B and J Line 18, Column J Line 19, Columns A-J Line 20, Column J Line 2 1, Columns A-H and J Line 22, Columns A, B, D-J Line 23, Columns A, B and J Line 24, Columns F-J Line 25, Column J Line 26, Columns A and J Line 27, Columns A-J</p>	<p>This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as Confidential is more fully set forth in Paragraph 7 of Gulf's March 19, 2009, Request.</p>
<p>Table 5.1-2 Page 1 of 1 Line 1, Columns A-H Line 2, Columns B-H Lines 3-9, Columns A-H Line 10, Columns G-H Line 1, Columns B-H Line 12-1 5, Columns A-H</p>	<p>This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as Confidential is more fully set forth in Paragraph 7 of Gulf's March 19, 2009, Request.</p>

Line 16, Columns B-H Lines 17-20, Columns A-H.	
Table 5.5-1 Page 1 of 1 Lines 3-7, Columns B-I	This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as Confidential is more fully set forth in Paragraph 7 of Gulf's March 19, 2009, Request.