

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Gulf Power Company's request for confidential treatment of certain information contained in report entitled Review of Gulf Power Company's Quality Assurance Process for Distribution Construction.

DOCKET NO. 090484-EI  
ORDER NO. PSC-09-0802-CFO-EI  
ISSUED: December 3, 2009

ORDER GRANTING GULF POWER COMPANY'S AMENDED REQUEST  
FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT 11174-09)

On September 15, 2009, Gulf Power Company ("Gulf") filed a Request for Confidential Classification pursuant to Section 366.093, Florida Statutes (F.S.) and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), concerning information contained in Staff Document PA-09-02-006, "Review of Gulf Power Company's Quality Assurance Process for Distribution Construction" (the "Staff Review"). The confidential information was originally filed as Document No. 09564-09. On November 6, 2009, Gulf filed an Amended Request for Confidential Classification of information contained in Document No. 11174-09, which Gulf states supersedes its prior request and significantly reduces the scope and extent of the information for which it seeks confidential classification and treatment. Gulf specifically requests that only Lines 1 and 2 on Page 20 and the entirety of Page 21 of the Staff Review be granted confidential classification for a period of 18 months.

Gulf's Request for Confidential Classification

Gulf states that the information for which it seeks confidential classification is "proprietary confidential business information" within the meaning of Section 366.093(3)(b), F.S., as it is information relating to "[i]nternal auditing controls and reports of internal auditors." Gulf states that this information is intended to be and has been treated as confidential by Gulf.

Gulf alleges that the information contained on Lines 1 and 2 of Page 20 and the entirety of Page 21 of the Staff Review relates directly to findings and results of an audit performed by Gulf's agent pertaining to its distribution construction quality assurance processes. Gulf specifically alleges the confidential information consists of findings from a 2005 risk assessment audit performed by an independent audit company, AEGIS.

Ruling

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided by law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. Rule 25-22.006(4)(c), F.A.C., provides that it is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093(3), F.S., or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the company or its ratepayers harm.

DOCUMENT NUMBER-DATE

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Section 366.093(3), F.S., in pertinent part, 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.

Section 366.093(3)(b), F.S., states that proprietary confidential business information includes “[i]nternal auditing controls and reports of internal auditors.”

Upon review, I find that the information contained in Document No. 11174-09, specifically Lines 1 and 2 on Page 20 and the entirety of Page 21, appears to be derived from an audit of Gulf's Quality Assurance Process for Distribution Construction performed by a contractor of Gulf. This information therefore qualifies as proprietary confidential business information pursuant to Section 366.093(3)(b), F.S., since it consists of “reports of internal auditors.” Accordingly, Gulf's request for confidential classification of this information is hereby granted. Further, as provided by Section 366.093(4), F.S., this material shall be granted confidential classification for a period of 18 months.

Based on the foregoing, it is

ORDERED by Commissioner David E. Klement, as Prehearing Officer, that Gulf Power Company's Amended Request for Confidential Classification of Document 11174-09 is granted as set forth in the body of this Order. It is further

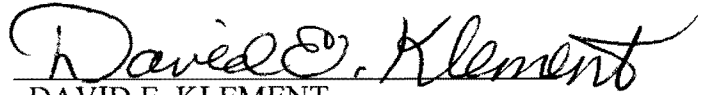
ORDERED that pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., the confidentiality granted to material specified herein shall expire eighteen (18) months from the date of the issuance of this Order in the absence of a renewed request for confidential treatment pursuant to Section 366.093, F.S. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period. It is further

ORDERED that this docket shall be closed.

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By ORDER of David E. Klement, as Prehearing Officer, this 3rd day of December, 2009.



DAVID E. KLEMENT

Commissioner and Prehearing Officer

(SEAL)

LDH

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 25-22.060, 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.