

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 100001-EI
ORDER NO. PSC-10-0189-CFO-EI
ISSUED: March 29, 2010

ORDER GRANTING GULF POWER COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
DOCUMENT NO. 07969-09

On August 4, 2009, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf) filed a Request for Confidential Classification of portions of its 2009 Risk Management Plan for Fuel Procurement (the "Plan") (Document No. 07969-09). This request was filed in Docket No. 090001-EI.

Renewed Request for Confidential Classification

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 Section 119.07(1) [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. Sections 366.093(3)(a), (d), and (e) F.S., provide that proprietary confidential business information includes, but is not limited to "[t]rade secrets;" "[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."

Gulf contends that the disclosure of the information contained in portions of its 2009 Risk Management Plan for Fuel Procurement, as more fully described in the table in Attachment A, would cause irreparable harm to the competitive interests of Gulf and ability of Gulf to enter into contracts on terms favorable to it and its ratepayers. Gulf alleges that the Plan contains, in a single resource, detailed information about Gulf's fuel procurement strategy, including technology selection criteria, for the near term and into the future. Gulf further alleges that Gulf and the other market participants for fuel, fuel transportation, and fuel storage consider this detailed information to be competitively sensitive. Gulf asserts that the document discusses how Gulf manages its fuel procurement with specific details regarding Gulf's fuel needs, market position, and trends it sees in those markets in which it addresses its fuel needs. Gulf additionally asserts that its fuel procurement strategy is discussed in detail, as is pricing information. Gulf states that making this information public would give other market participants a competitive advantage over Gulf which would prevent Gulf from procuring its fuel needs in a manner that secures the best price and terms for its customers. Finally, Gulf avers that

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the Commission has granted confidential classification for previous versions of the Plan, in Florida Public Service Commission Orders Nos. PSC-03-0032-CFO-EI; PSC-04-1056-CFO-EI; PSC-05-0700-CFO-EI; PSC-06-0636-CFO-EI; and PSC-09-0284-CFO-EI. As a result, Gulf requests that the information identified in its Plan, as more specifically described in the table in Attachment A, be granted confidential classification for a period of 18 months.

Ruling

Upon review, it appears that information contained in Gulf's Risk Management Plan for Fuel Procurement is proprietary confidential business information within the meaning of Section 366.093, F.S. While it is not clear that the information constitutes "[t]rade secrets," the portions of the Plan for which Gulf seeks confidential classification contain "[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." Therefore, Gulf's Request for Confidential Classification of portions of the information contained in its Risk Management Plan for Fuel Procurement, as detailed in Attachment A, shall be granted.

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 this Order. 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 Confidential Classification of information contained in Document No. 07969-09, as more fully described in Attachment A, is granted. It is further

ORDERED that the information in Document No. 07969-09 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date 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 29th day of March, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

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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 25-22.060, 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.

ATTACHMENT A
RISK MANAGEMENT PLAN FOR FUEL PROCUREMENT

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59	Line 19, Column C Line 20, Column A Line 22, Column B
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98	Entirety of the page.
99	Lines 3 - 7
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101	Entirety of the page.
102	Entirety of the page.
103	Line 4, Columns A - C
104	Columns A - C
105	Entirety of the page.
115	Lines 17 - 25