

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 110007-EI
ORDER NO. PSC-11-0498-CFO-EI
ISSUED: October 25, 2011

ORDER GRANTING GULF POWER COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 04035-11)

On June 10, 2011, pursuant to Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf, Gulf Power, or Company) filed a request for confidential classification (Request) of "certain documents produced by Gulf Power in connection with a review of Gulf Power's 2010 expenditures." (Document No. 04035-11).

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]." Pursuant to Section 366.093(3), F.S., proprietary confidential business information includes 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. Confidential business information includes, but is not limited to, the following:

- "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"
- "Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information" and
- "Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities." *Id.* at (d)-(f).

Gulf contends that the information, described with specific justification in Exhibit C of the Company's Request, "is intended to be, and is treated as, confidential by Gulf Power and . . . has not been otherwise publicly disclosed." The information is generally described as bids or other contractual data, competitive interests, and/or employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. More specifically, Gulf asserts that the information contains details concerning Gulf's environmental cost activities between January and December of 2010, including: specific pricing information; purchase order, customer, and/project numbers; and personal employee information. Gulf argues that disclosure of the information would "impair Gulf Power's ability to protect itself from fraudulent actions, give

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other market participants a competitive advantage over Gulf, adversely affect Gulf's ability to negotiate contracts to the benefit of its customers, and subject Gulf to potential litigation over the wrongful disclosure of private information." Based on the foregoing, the Company asserts that the information is entitled to confidential classification pursuant Section 366.093(d)-(f), F.S.

Ruling

Upon review, I find that the information identified in Document No. 04035-11, as more specifically described in Exhibit C to the Company's Request is treated by the Company as private, has not otherwise been disclosed, and is a) contractual data, the disclosure of which would impair the efforts of the Company to contract for goods or services on favorable terms, b) competitive interests, the disclosure of which would impair the competitive business of the provider of the information, or c) employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. I find that disclosure of the identified information would cause harm to Gulf Power's ratepayers or to its business operations. Thus, the information shall be granted confidential classification pursuant to Section 366.093(3), F.S .

Based on the foregoing, it is

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of portions of Document No. 04035-11, as detailed in Exhibit C to its Request, is granted. It is further

ORDERED that the information in Document No. 04035-11 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. 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 Power Company or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. 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 Ronald A. Brisé, as Prehearing Officer, this 25th day of October, 2011.



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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.