

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 130001-EI
ORDER NO. PSC-13-0664-CFO-EI
ISSUED: December 18, 2013

ORDER GRANTING GULF POWER COMPANY'S FIRST REQUEST FOR EXTENSION OF
CONFIDENTIAL CLASSIFICATION

On September 25, 2013 pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf) filed its first request for extension of confidential classification (Request) of information pursuant to Audit No. 11-006-1-1 and 11-006-1-2 (Document Nos. 03959-11, 04475-11, 03957-11, and 04475-11). The request was filed in Docket No. 130001-EI.

Gulf's original request for confidential treatment of information provided during the Audit was granted by Order No. PSC-12-0155-CFO-EI, issued March 29, 2012. Gulf contends that some of the information that was the subject of Order No. PSC-12-0155-CFO-EI warrants continued treatment as proprietary and confidential business information.

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 (3)(d) and (e) of Section 366.093 F.S., provide that proprietary confidential business information includes, but is not limited to "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" and "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

Gulf contends that the information is entitled to continued confidential treatment for the same reasons that it was initially classified. Gulf asserts that a portion of the information, originally submitted in connection with an Audit Review, constitutes proprietary, confidential business information concerning bids and other contractual data, the disclosure of which would impair the efforts of Gulf to contract for goods and services on favorable terms. Gulf asserts that the information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), F.S. Specifically, Gulf contends that the information consists of pricing and bank routing information for fuel, energy, and capacity purchases between Gulf and various counterparties. Gulf states that contracts forming the basis for this pricing data are still in effect. Gulf further states that the information is regarded by Gulf and its counterparties as confidential and is not publicly known.

Gulf asserts that disclosure of this information would negatively impact Gulf's ability to negotiate pricing favorable to its customers in future contracts. In addition, Gulf contends that potential counterparties may refuse to enter into contracts with Gulf, or may charge higher prices, if the price terms were made public. Furthermore, Gulf argues that the bank routing information consists of private account numbers of various counterparties, and disclosure of this information would impair the parties' ability to protect themselves from fraudulent actions, as well as subject Gulf to potential litigation. Gulf contends that such information is protected pursuant to Section 366.093(3)(e), F.S.

Time Period For Confidential Classification

According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless "the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period." Gulf has not requested an extension period longer than the 18 months.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for continued classification as proprietary confidential business information. The information constitutes "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;" or "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information identified in Document Nos. 03959-11, 04475-11, 03957-11, and 04475-11 shall be granted a continuation of 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 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 Eduardo E. Balbis, as Prehearing Officer, that Gulf Power Company's First Request for Extension of Confidential Classification of Document Nos. 03959-11, 04475-11, 03957-11, and 04475-11 is granted. It is further

ORDERED that the information in Document Nos. 03959-11, 04475-11, 03957-11, and 04475-11 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. 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.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 18th day of December, 2013.



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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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.