

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Gulf Power Company.

DOCKET NO. 160186-EI

In re: Petition for approval of 2016 depreciation and dismantlement studies, approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company.

DOCKET NO. 160170-EI  
ORDER NO. PSC-17-0093-CFO-EI  
ISSUED: March 14, 2017

TEMPORARY PROTECTIVE ORDER  
GULF POWER COMPANY'S RESPONSES TO DISCOVERY REQUESTS OF  
THE FEDERAL EXECUTIVE AGENCIES

On January 4, 2017, pursuant to Section 366.093(3), Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf) a Motion for Temporary Protective Order (Document No. 00101-17) for confidential responses provided in response to the Federal Executive Agencies' (FEA) Second Request for Production of Documents (Nos. 6-27). Gulf's answer to FEA's Request for Production No. 20 consists of a detailed analysis of Gulf Power's transmission system needs in the 2017-2026 timeframe. It includes projected outage data and recommended transmission upgrades. It also identifies the projected timing of outages and upgrades to various facilities. The confidential information responsive to FEA's Request for Production No. 21 includes projections of net capacity, firm peak demand, reserve margins and territorial power purchases for the entire Southern Electric system for years 2016 through 2025. Gulf's response to FEA's Request for Production No. 27 includes projected energy and demand requirements for a customer taking service pursuant to a negotiated Contract Service Arrangement ("CSA") under Gulf's Rate Schedule Commercial/Industrial Service rider ("CIS"). Gulf states that the information supplied in response to FEA's Request for Production of Documents Nos. 20, 21, and 27 is confidential. Gulf seeks protection of the confidential information, which it shared with the Office of Public Counsel (OPC).

Motions for Temporary Protective Orders

Gulf states that the information provided in responses outline above is confidential and seeks protection of these documents as provided in Section 366.093(3), F.S., and Rule 25-22.006(6)(c), F.A.C., while the material is in the possession of the OPC. Gulf also requests that the protection extend not only to OPC, but also to any consultants or advisors with whom OPC has contracted for purposes of this proceeding.

Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from the public records law, Section 119.07(1), F.S. Rule 25-22.006(6), F.A.C., codifies the Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that "utility may request a temporary protective order exempting the information from section 119.07(1), F.S."


Upon consideration, Gulf's assertions of the confidential nature of the information contained in its responses to FEA's Second Request for Production of Documents Nos. 20, 21 and 27 are sufficient to grant its Motion for Protective Order for that information. As a result, all of this information shall be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Jimmy Patronis, as Prehearing Officer, that Gulf's Motion for Temporary Protective Order (Document No. 00101-17) regarding its responses to Federal Executive Agencies' Second Request for Production of Documents Nos. 20, 21, and 27 is granted. It is further,

ORDERED that this Temporary Protective Order shall extend not only to the Office of Public Counsel, but also to any consultants or advisors with whom the Office of Public Counsel has contracted for purposes of this proceeding.

By ORDER of Commissioner Jimmy Patronis, as Prehearing Officer, this 14th day  
of March, 2017.

  
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JIMMY PATRONIS  
Commissioner and Prehearing Officer  
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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. 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.