

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20180001-EI
ORDER NO. PSC-2018-0605-CFO-EI
ISSUED: December 21, 2018

ORDER GRANTING GULF POWER COMPANY'S REQUEST
FOR EXTENDED CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 02792-13, X-REF. 02346-13)

On November 9, 2018, 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 a Request for Extended Confidential Classification of information provided pursuant to Audit No. 13-016-1-1 (Request) (Document No. 02792-13, x-ref. 02346-13). Audit No. 13-016-1-1 was originally granted confidentiality by Order No. PSC-13-0457-CFO-EI, issued on October 14, 2013. Confidentiality for this material was renewed by Order No. PSC-15-0376-CFO-EI, issued on September 10, 2015, and renewed for a second time by Order No. PSC-17-0169-CFO-EI, issued on May 12, 2017.

Request for Confidential Classification

Gulf contends that the information provided pursuant to Audit No. 13-016-1-1 contains information of a confidential nature, which is proprietary confidential business information within the meaning of Section 366.093(3), F.S.

Gulf contends that the information is proprietary and confidential business information within the meaning of Section 366.093(3), F.S. This information is intended to be and is treated by Gulf as private, and its confidentiality has been maintained. This information includes pricing data for coal, oil and natural gas transportation and storage. Disclosure of this information would adversely impact Gulf's ability to negotiate the best prices for these commodities in the future. Thus, Gulf contends that this information is protected by Sections 366.093(3)(d) and (e), F.S. Additionally, this information contains a summary description of litigation in which Gulf is involved and contains legal counsel's estimates of potential damages awards which is protected from public disclosure pursuant to the attorney-client and attorney work-product privileges.

Ruling

Section 366.093(1), F.S., provides that records the Commission has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. 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. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

d) 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 service on favorable terms.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Nothing has changed since the last classification of the Audit No. 13-016-1-1 materials as confidential in May 2017. Upon review, it appears the above-referenced information continues to satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above appears to be information concerning pricing data for coal, oil and natural gas transportation and storage as well legal opinions that fall within the attorney client and attorney work product privileges. Disclosure of this information could impair the competitive business of both Gulf and its vendors. Thus, the information identified in Document No. 02792-13, x-ref. 02346-13, shall continue to be granted 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 up to 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 hereby

ORDERED by Ronald A. Brisé, as Prehearing Officer, that Gulf Power Company's Request for Extended Confidential Classification for portions of Audit No. 13-016-1-1 (Document No. 02792-13, x-ref. 02346-13), is granted. It is further

ORDERED that the information in Document No. 02792-13, x-ref. 02346-13, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of issuance 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 Gary F. Clark, as Prehearing Officer, this 21st day
of December, 2018.



GARY F. CLARK
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.