

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric  
conservation goals (Gulf Power Company).

DOCKET NO. 20190016-EG  
ORDER NO. PSC-2019-0321-CFO-EG  
ISSUED: August 6, 2019

ORDER GRANTING GULF POWER COMPANY'S  
REQUESTS FOR CONFIDENTIAL CLASSIFICATION  
AND MOTIONS FOR TEMPORARY PROTECTIVE ORDER  
(DOCUMENT NOS. 04170-2019, 04442-2019, 04511-2019,  
04639-2019, AND 05357-2019)

Pursuant to Section 366.096, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf) filed several Requests for Confidential Classification and Motions for Temporary Protective Status (Requests) in the above-referenced docket. On May 7, 2019, Gulf filed a Request for Confidential Classification and Motion for Temporary Protective Status pertaining to certain information produced in response to Southern Alliance for Clean Energy's (SACE) First Request for Production of Documents (Nos. 1-3, 5-6, and 8-9). The confidential response was filed in Docket No. 20190016-EG as Document No. 04170-2019.

On May 20, 2019, Gulf filed a Request for Confidential Classification and Motion for Temporary Protective Status pertaining to certain information produced in response to SACE's Second Request for Production of Documents (No. 19). The confidential response was filed in Docket No. 20190016-EG as Document No. 04442-2019. On May 23, 2019, Gulf filed a Request for Confidential Classification and Motion for Temporary Protective Status pertaining to certain information produced in response to Staff's First Request for Production of Documents (Nos. 1-2). The confidential response was filed in Docket No. 20190016-EG as Document No. 04511-2019.

On May 30, 2019, Gulf filed a Request for Confidential Classification and Motion for Temporary Protective Status pertaining to certain information produced in response to Staff's Second Request for Production of Documents (No. 5). The confidential response was filed in Docket No. 20190016-EG as Document No. 04639-2019. On July 5, 2019, Gulf filed a Request for Confidential Classification and Motion for Temporary Protective Status pertaining to certain information produced in response to Staff's Fourth Request for Production of Documents (No. 11). The confidential response was filed in Docket No. 20190016-EG as Document No. 05357-2019.

Requests for Confidential Classification

Gulf contends that the information contained in Exhibit A in each of its Requests constitutes proprietary and confidential business information entitled to protection under Section

366.093, F.S., and Rule 25-22.006, F.A.C. Gulf asserts that the information at issue relates to competitive interests, which could be used by competitors to gain confidential internal information. For those reasons, Gulf argues the information is entitled to confidential classification pursuant to Section 366.093(e), F.S.

#### Motions for Temporary Protective Order

Gulf also seeks Motions for Temporary Protective Orders for each of its Requests. 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 Section 119.07(1), F.S., the public records law. 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.

#### Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (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:

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

Upon review, it appears the above-referenced information in Document Nos. 04170-2019, 04442-2019, 04511-2019, 04639-2019, and 05357-2019, as specifically detailed in Exhibit A of each of the Requests, satisfies the criteria set forth in Section 366.093(3)(e), F.S., for classification as proprietary confidential business information. The information constitutes "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. 04170-2019, 04442-2019, 04511-2019, 04639-2019, and 05357-2019 shall 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.

Further, upon consideration of Gulf's assertions of the confidential nature of the information contained in portions of the discovery responses in Document Nos. 04170-2019, 04442-2019, 04511-2019, 04639-2019, and 05357-2019, Gulf's Motions for Temporary Protective Order are hereby granted. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is hereby

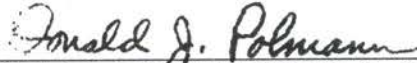
ORDERED by Commissioner Donald J. Polmann as Prehearing Officer, that Gulf Power Company's Requests for Confidential Classification of Document Nos. 04170-2019, 04442-2019, 04511-2019, 04639-2019, and 05357-2019 are granted. It is further

ORDERED that the information in Document Nos. 04170-2019, 04442-2019, 04511-2019, 04639-2019, and 05357-2019, 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 Gulf Power Company's Motions for Temporary Protective Order for Document Nos. 04170-2019, 04442-2019, 04511-2019, 04639-2019, and 05357-2019 are granted. 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 Donald J. Polmann, as Prehearing Officer, this 6th day  
of August, 2019.



DONALD J. POLMANN, Ph.D., P.E.  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

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

RAD

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.