

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 110001-EI
ORDER NO. PSC-11-0429-CFO-EI
ISSUED: September 29, 2011

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO PORTIONS OF GULF
POWER COMPANY'S 423 FORMS FOR DECEMBER, 2010
(DOCUMENT NO. 01231-11)

On February 24, 2011, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (Gulf Power) filed a request for confidential classification of certain information submitted by Gulf Power on its FPSC Form 423 Fuel Report for the month of December, 2010 (the "423 Report"). (Document No. 01231-11). This request was filed in Docket No. 110001-EI.

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

Gulf Power contends that the information contained in information submitted by Gulf Power on its 423 Report for the month of December, 2010 as more specifically described in the table in Attachment A, falls within these categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Gulf Power states that this information is intended to be and is treated by Gulf Power as private and has not been publicly disclosed.

Gulf Power contends that a portion of the information contained in its 423 Report constitutes proprietary confidential business information concerning bids and other contractual data, the disclosure of which would impair the efforts of Gulf Power to contract for goods and services on favorable terms. Gulf Power contends that this information is entitled to confidential classification pursuant to section 366.093(3)(d) and(e), Florida Statutes. Further, Gulf Power states that the confidential information consists of pricing for coal and related transportation services purchased by Gulf Power. Gulf Power states that it, and the counterparties involved in

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these transactions, consider the foregoing information to be confidential and competitively sensitive. Gulf Power avers that disclosure of this information could negatively impact its ability to negotiate pricing favorable to its customers in the future. In addition, Gulf Power states, potential counterparties may refuse to enter into future contracts with it, or may charge higher prices, if the confidential information is publicly disclosed.

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.”

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes “[i]nformation 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 “[i]nformation 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 No. 01231-11 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 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 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 Ronald A. Brisé, as Prehearing Officer, that Gulf Power’s Request for Confidential Classification of Document No. 01231-11 is granted. It is further

ORDERED that the information in Document No. 01231-11 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 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 29th day of September, 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 25-22.060, 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.

ATTACHMENT A

Plant Names	Column	Justification
Plant Crist, lines 1-5 Plant Smith, line 1 Plant Daniel, lines 1-3	(g)	The Effective Purchase Price represents the contract coal commodity price net of Quality Adjustments found in column (k) on form 423-2(a). This information is considered confidential and competitively sensitive by Gulf Power's coal suppliers. Additionally, disclosure of this information, in conjunction with the information disclosed under other columns in this filing, would enable coal suppliers to determine the prices being charged by their competitors. This, in turn, could lead to less competitive pricing and impact Gulf's ability to bargain for price concessions with its coal suppliers. This information is confidential pursuant to section 366.093(3)(d)-(e), Florida Statutes.
Plant Crist, lines 1-5 Plant Smith, line 1 Plant Daniel, lines 1-3	(h)	The Effective Transport Charges represent per ton transport charges incurred by Gulf to transport coal to its plants. This information is considered confidential and competitively sensitive by Gulf's transportation providers. Additionally, disclosure of Gulf's Effective Transport Charges in conjunction with the Total FOB Plant Price in column (i) would enable disclosure of the Effective Purchase Price in column (8) by subtracting the Effective Transport Charges in column (h) from the Total FOB Plant Price in column (i). This information is confidential pursuant to section 366.093(3)(d)-(e), Florida Statutes.
Plant Crist, lines 1-5 Plant Smith, line 1 Plant Daniel, lines 1-3	(f)	The FOB Mine Price is the current contract price of coal purchased by Gulf from each supplier. Disclosure of this information would enable suppliers to compare prices with their competitors which could lead to less competitive coal pricing in future bidding. Disclosure could also result in reduced ability for Gulf Power to bargain for price concessions from individual suppliers.

		This information is confidential pursuant to section 366.093(3)(d)-(e), Florida Statutes.
Plant Crist, lines 1-5 Plant Smith, line 1 Plant Daniel, lines 1-3	(h)	The Original Invoice Price is the same as the FOB Price in column (f) except in cases when the supplier discloses its short haul and loading costs (column (g)), if any, included in the contract price of coal. Disclosure of this information would therefore be detrimental for the same reasons as are articulated above in connection with the FOB Mine Price.
Plant Crist, lines 1-5 Plant Smith, line 1 Plant Daniel, lines 1-3	(j)	The Base Price is the same as the Original Invoice Price in column (h), since retroactive pricing adjustments (column (i)) are normally received, if at all, after the reporting month and are included on Form 423-C, if necessary. Disclosure of this information would therefore be detrimental for the same reasons as are articulated above in connection with the FOB Mine Price.
Plant Crist, lines 1-5 Plant Smith, line 1 Plant Daniel, lines 1-3	(l)	The Effective Purchase Price represents the Base Price in column (j) adjusted by the Quality Adjustments in column (k). Disclosure of this information would therefore be detrimental for the same reasons as are articulated above in connection with FOB Mine Price.
Plant Crist, lines 1-5 Plant Smith, line 1 Plant Daniel, lines 1-3	(g)	The Effective Purchase Price, as described above, is contract coal commodity price net of Quality Adjustments found in column (k) on form 423-2(a) and is confidential for the reasons previously stated.
Plant Crist, lines 3-4 Plant Daniel, lines 1-3	(i)	The Rail Rate is the current rate that Gulf Power pays to transport coal to its plants via rail. This information is considered confidential by Gulf's rail transportation providers. Additionally, disclosure of this information would enable rail transport providers to compare rates with their competitors which, in turn, could lead to less competitive rail rates in future negotiations. Disclosure would also result in reduced ability for Gulf Power to bargain for price concessions from individual providers. This information is confidential pursuant to

		section 366.093(3)(d), Florida Statutes.
Plant Crist, lines 1-5 Plant Smith, line 1	(k)	The River Barge Rate is the current rate that Gulf Power pays to transport coal to its plants via barge. This information is considered confidential by Gulf's barge transportation providers. Additionally, disclosure of this information would enable barge transport providers to compare rates with their competitors which, in turn, could lead to less competitive barge rates in future negotiations. Disclosure could also result in reduced ability for Gulf Power to bargain for price concessions from individual providers. This information is confidential pursuant to section 366.093(3)(d), Florida Statutes.
Plant Crist, lines 1, 3-4	(l)	The Transloading Rate is the contract price to unload coal from vessels and trains and reload coal into Gulfs barges at the associated port facilities. The terms of the transloading agreement state that these rates shall remain confidential between the parties of the contract. Revealing this information would harm Gulfs and its suppliers' competitive interests. This information is confidential pursuant to section 366.093(3)(d), Florida Statutes
Plant Crist, lines 1-5 Plant Smith, line 1 Plant Daniel, lines 1-3	(p)	The Total Transportation Charges represent the total cost reported as transportation charges. Disclosure of this information in conjunction with information disclosed in other columns of Form 423-2(b) could enable third parties to determine individual components of the Total Transportation Charge, such as Rail or River Barge Rates which are confidential for the reasons stated above.