

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 120001-EI
ORDER NO. PSC-12-0449-CFO-EI
ISSUED: August 28, 2012

ORDER GRANTING SUPPLEMENTAL REQUEST
FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NOS. 03658-12, 08084-11)

On September 28, 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) filed a request for confidential classification (Request) of certain information submitted by Gulf on its FPSC Form 423 Fuel Report for the month of July 2011 (the "423 Report"). (Document No. 07022-11). This request was filed in Docket No. 110001-EI.

By Order No. PSC-11-0492-CFO-EI, issued October 25, 2011, we granted Gulf's Request. Subsequent to the issuance of Order No. PSC-I 1-0492-CFO-EI, Gulf states that it discovered that the Rail Rate used to calculate pricing data for coal deliveries to Plant Scholz in July 2011 was incorrect. On November 2, 2011, Gulf Power submitted updated information relating fuel purchases for Plant Scholz on Form Nos. 423-2, 423-2(a) and 423-2(b) (First Supplemental Report). (Document No. 08084-11). On the same date, Gulf filed a Supplemental Request for Confidential Classification of Document No. 08084-11 (First Supplemental Request). The First Supplemental Request was filed in Docket 110001-EI.

Since filing the First Supplemental Request, Gulf states that it discovered an additional need for correction to the July 2011 Form 423 Report. Specifically, Gulf states that the coal tonnage figures reflected for Plant Smith on Form Nos. 423-2, 423-2(a) and 423-2(b) require updating. On June 5, 2012, Gulf filed its updated Form Nos. 423-2, 423-2(a) and 423-2(b) (Second Supplemental Report). (Document 03658-12).

Also on June 5, 2012, Gulf filed a Supplemental Request for Confidential Classification (Second Supplemental Request) of certain supplemental information submitted by Gulf Power in its Second Supplemental Report. (Document No. 03658-12). The Second Supplemental Request was filed in Docket No. 120001-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

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“[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 a portion of the information contained in its First and Second Supplemental Reports 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 these transactions, consider the foregoing information to be confidential and competitively sensitive. Gulf Power asserts 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 Nos. 08084-11 and 03658-12 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.

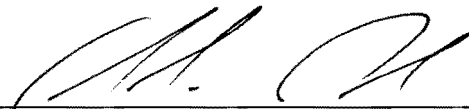
Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of Documents Nos. 08084-11 and 03658-12 is granted. It is further

ORDERED that the information in Documents Nos. 08084-11 and 03658-12 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 28th day of August, 2012.



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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.