

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 130140-EI
ORDER NO. PSC-13-0626-CFO-EI
ISSUED: November 26, 2013

ORDER GRANTING GULF POWER COMPANY'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION AND MOTION FOR
TEMPORARY PROTECTIVE ORDER (DOCUMENT NO. 05699-13)

On September 25, 2013, 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 its Request for Confidential Classification and Motion for Temporary Protective Order for its responses to Office of Public Counsel's (OPC) Fourth Request for Production of Documents Nos. 76 and 77 and Fourth Set of Interrogatories Nos. 121, 125, 127, 128, 129, 131, 132, 134-139, 149, 152 and 153 (Document No. 05699-13). No objections to Gulf's Request for Confidential Classification and Motion for Temporary Protective Order have been filed.

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. Sections 366.093(3)(c), (d) and (e), F.S., state that proprietary confidential business information includes, but is not limited to, "[s]ecurity measures, systems, or procedures", "[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 contends that designated portions of its responses to OPC's Fourth Request for Production of Documents Nos. 76 and 77 and Fourth Set of Interrogatories Nos. 121, 125, 127, 128, 129, 131, 132, 134-139, 149, 152 and 153, Document No. 05699-13, fall within these categories and, thus, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Gulf states that this information is intended to be and is treated by Gulf as private and has not been publicly disclosed.

Gulf states that its response to OPC's Request for Production of Documents No. 76, file name Gulf Must-Run Requirements-CONF (1-2), consists of an analysis of system reliability risks and requirements at Plants Crist and Smith. Gulf considers this information to be Critical Energy Infrastructure Information whose disclosure could pose a security risk to Gulf's system

and the bulk electric transmission system as a whole through cyber-attack, physical attack or some combination of both.

Gulf states that its response to OPC's Request for Production of Documents No. 77, file names REVENUE-1 and Options 1-4 Cost Summary for Crist (ECO Filing input) 2nd DR)_Updated_091213_F entirety, consists of detailed transmission capital expenditure projections by project and the revenue requirements and net present value of these costs. The files also contain detailed components and results of an economic viability analysis performed by Southern Company Services of the various options for achieving compliance with the EPA's Mercury and Air Toxics Standards (MATS) rule at Plant Crist. This analysis includes cost projections for four compliance alternatives including, projected fuel, transmission, production and emission control costs. Gulf contends that the disclosure of this information could negatively impact its ability to contract with vendors for goods and services and greatly diminish its ability to contract for and sell wholesale electric energy and capacity at the best possible prices.

Gulf states that its response to OPC's Request for Production of Documents No. 77, file names rvrq2012v1_AssetValuation_Gulf.xlsx and rvrq2012v1_transmission_Gulf.xlsx, contains Gulf's proprietary revenue requirement calculation program as well as normalized revenue requirement components and total projections for various capital investment types as well as affiliate financial information. Disclosure of this information would allow wholesale competitors as well as suppliers of commodities and services to undermine Gulf's bargaining position in the markets to the detriment of Gulf's ratepayers. Gulf states that its response to OPC's Request for Production of Documents No. 77, file name Crist 4-7 FT Costs.xlsx, contains projected natural gas firm transportation costs, annual revenue requirements and the net present value of these costs as well as portions of Southern Company Services' analysis of options for MATS compliance for Plant Crist. Gulf contends that disclosure of this information could negatively impact Gulf's ability to negotiate for goods and services as well as sell or purchase wholesale energy and capacity at the most favorable prices.

Gulf's responses to OPC's Request for Production of Documents No. 77, file names GenVal Coal Economic and Must Run\, GenVal Gas Must Run\, Original GenVal Gas Must Run ERROR\, GenVal Input Files\, OUTPUT_Economic.xlsx, OUTPUT_Smith land3 MustRun.xlsx, and OUTPUT_Smith 2 Must Run.xlsx, contain projections of fuel costs, emissions costs, unit operating costs and characteristics and energy value and operating profile outputs for nine scenarios across various Plant Crist and Plant Smith MATS compliance options. Disclosure of this information would allow Gulf's suppliers to tailor their bids to Gulf's projections resulting in higher costs for Gulf's ratepayers. Additionally, the base forecast underlying the subject information is used in developing future generation strategies for Gulf which would allow Gulf's wholesale competitors to underprice Gulf in future wholesale transactions. Gulf's responses to OPC's Request for Production of Documents No. 77, file names GenVal_2.1_B2013_11.08.12_REV_Economic Dispatch.xlsm, GenVal_2.1B2013_11.08.12_REV_MustRun.xlsm, Genval_2.1_B2013_Smithland3Must Run.xlsm, Genval_2.1_B2013_Smith2Must Run.xlsm, and Genval_2.1B2013_SmithEconomic.xlsm, are pieces of Gulf's production cost model producing components of Gulf's various options for MATS compliance

using fuel costs, emission costs, unit operating costs and Southern Company hourly avoided commitment and energy costs and outputs of unit operation profiles and production cost projections. The disclosure of this type of information would give Gulf's competitors and suppliers a competitive advantage when selling and purchasing wholesale power. Gulf's response to OPC's Request for Production of Documents No. 77, file name Smith AV Model_Enviro&TransRRUpdate_rev3_B2013Final.xlsm, contains detailed production, VOM, environmental equipment and maintenance costs, revenue requirements, transmission costs, capacity price forecasts and a preliminary economic viability analysis for MATS options, including the early stages of a comprehensive Plant Smith retirement analysis. Gulf's response to OPC's Request for Production of Documents No. 77, file name "All files beginning with AC_Intraday_B2013 Final_", contains projected avoided cost data including forecasts of fuel and wholesale power purchases whose disclosure would allow Gulf's vendors a competitive advantage when negotiating for goods and services.

Gulf's response to OPC's Fourth Set of Interrogatories No. 121, page 2, contains Gulf's current long term base case forecasts of natural gas and coal prices. Gulf's response to OPC's Fourth Set of Interrogatories No. 125, page 1, contains projected natural gas and CO2 pricing under nine different scenarios. Gulf's responses to OPC's Fourth Set of Interrogatories Nos. 127 and 131, Excel spreadsheets, contain projected capital expenditures, revenue requirements and net present values of projected capital projects. Gulf's response to OPC's Fourth Set of Interrogatories No. 128 contains annual cost projections, revenue requirements and net present values of fuel and must run production costs for three of the four MATS compliance alternatives for Plant Crist. Gulf's response to OPC's Fourth Set of Interrogatories No. 129 contains Gulf's projected annual and net present value revenue requirements for environmental equipment for Plant Crist broken down by unit and project. Gulf's response to OPC's Fourth Set of Interrogatories No. 132, page 1, contains annual must run production cost estimates for one of two MATS compliance options for Plant Smith. Gulf's responses to OPC's Fourth Set of Interrogatories Nos. 134 and 135 contain natural gas and CO2 cost projections under nine different scenarios as well as the results of an economic viability analysis of various options for achieving compliance with MATS standards for Plant Crist. Gulf argues that if released the information contained in all of these responses would greatly impair its ability to secure fuel and other goods and services at the lowest possible price. Further, disclosure of this information would hamper Gulf's ability to maximize the profit and/or minimize the price it must pay for the sale and purchase of wholesale energy and capacity to the detriment of its ratepayers.

Gulf's responses to OPC's Fourth Set of Interrogatories Nos. 136 and 137 contain an analysis of system reliability risks and requirements for Plant Crist and MWh projections for Plant Crist under different operational options which Gulf considers to be Critical Energy Infrastructure Information whose disclosure would subject Gulf to a cyber or physical attack on its system. Thus, Gulf contends that disclosure of this information creates a significant security risk for its system and that of the integrated electric grid.

Gulf's response to OPC's Fourth Set of Interrogatories No. 138 contains Gulf's projected operation and maintenance expenses for sorbent additives, by plant and project. Gulf's response to OPC's Fourth Set of Interrogatories No. 139 contains Gulf's forecasts of the delivered price of

premium low sulfur/low chloride coal used in the Plant Smith 1-2 MATS analysis. Disclosure of this type of information could impair Gulf's ability to secure these fuels at the lowest possible price. Gulf's response to OPC's Fourth Set of Interrogatories No. 149 contains Gulf's annual system commitment and energy value in nine operational scenarios for Plants Smith and Crist to achieve compliance with MATS. Disclosure of this information would allow Gulf's competitors to strategically price wholesale transactions to Gulf's detriment and that of its ratepayers. Finally, Gulf's responses to OPC's Fourth Set of Interrogatories Nos. 152 and 153 contain confidential employee compensation data, including positions and corresponding salaries whose disclosure would impair Gulf's ability to recruit and retain critical employees.

Time Period For Confidential Classification

Gulf requests confidential classification for this information for a period of 18 months. 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."

Upon review, it appears the above-referenced information satisfies the criteria set forth in Sections 366.093(3)(c), (d), and (e), F.S., for classification as proprietary confidential business information. The information consists of: security measures, systems and procedures; must run scenarios for Plants Crist and Smith; fuel cost projections; MATS compliance strategies; and employee compensation information. The disclosure of this data would adversely impact the competitive interests of Gulf and its customers as well as pose a security risk for Gulf and the integrated electric grid. Thus, the information identified in Document No. 05699-13 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 or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Motion for Temporary Protective Order

Gulf also seeks protection of the documents as provided in Section 366.093(2), F.S., and Rule 25-22.006(6), F.A.C., while the material is in the possession of the Office of Public Counsel (OPC). 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 of Gulf's assertions of the confidential nature of the information contained in its responses to OPC's Fourth Request for Production of Documents Nos. 76 and 77 and Fourth Set of Interrogatories Nos. 121, 125, 127, 128, 129, 131, 132, 134-139, 149, 152 and 153, Document No. 05699-13, Gulf's Motion for Temporary Protective Order is 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


ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of Document No. 05699-13 is granted. It is further

ORDERED that the information in Document No. 05699-13 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. It is further

ORDERED that the Motion for Temporary Protective Order filed by Gulf Power Company is granted.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 26th day of
November, 2013.


LISA POLAK EDGAR
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.