

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of energy purchase agreement between Gulf Power Company and Morgan Stanley Capital Group Incorporated.

DOCKET NO. 160158-EI
ORDER NO. PSC-16-0476-CFO-EI
ISSUED: October 21, 2016

ORDER GRANTING GULF POWER COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 04037-16)

On June 27, 2016, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Gulf Power Company (GPC) filed a Request for Confidential Classification (Request) of Exhibit "A" to its Petition for Approval of the Energy Purchase Agreement between GPC and Morgan Stanley Capital Group Inc. (Morgan Stanley), a negotiated energy purchase agreement (Agreement) between GPC and Morgan Stanley (Document No. 04037-16).

Request for Confidential Classification

GPC contends that the Agreement constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. GPC further asserts that the information contained in this material has not been disclosed to the public and is treated by GPC as confidential and proprietary business information.

GPC asserts the Agreement consists of negotiated contractual data and competitive business interests such as, contractual pricing, performance security, liquidated damages, transmission arrangements, renewable energy credits, and termination rights, that GPC treats as proprietary confidential business information. GPC argues that disclosure of the information would impair its efforts to contract for goods or services on favorable terms, and adversely impair its competitive interests or the competitive interests of its suppliers. Therefore, GPC argues that the information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), F.S.

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. Further, Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

(d) Information concerning bids and other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods and services on favorable terms.

(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 that 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 identified by GPC in its Request appears to contain information concerning contractual data, the disclosure of which would impair the efforts of GPC and/or its affiliates to contract for goods or services on favorable terms and 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 No. 04037-16 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 the issuance of this Order. At the conclusion of this period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless GPC 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 Commissioner Julie I. Brown, as Presiding Officer, that Gulf Power Company's Request for Confidential Classification of the materials contained Document No. 04037-16 is granted, as set forth herein. It is further

ORDERED that the information in Document No. 04037-16, 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.

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By ORDER of Chairman Julie I. Brown, as Presiding Officer, this 21st day
of October, 2016.



JULIE I. BROWN
Chairman 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.

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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.