

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20180001-EI
ORDER NO. PSC-2018-0399-CFO-EI
ISSUED: August 13, 2018

ORDER GRANTING GULF POWER COMPANY'S REQUEST
FOR EXTENDED CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 03029-2016)

On May 19, 2016, 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 provided pursuant to Audit Report No. 16-020-1-2 (audit workpapers) (Document No. 03029-2016, x-ref Document No. 02541-2016). Order No. PSC-16-0458-CFO-EI, issued on October 13, 2016, granted Gulf's Request. On April 11, 2018, Gulf filed a Request for Extended Confidential Classification of Audit Report No. 16-020-1-2, asking that confidentiality for the audit be extended for another 18 months.

Request for Confidential Classification

Gulf contends that the audit workpapers, as more specifically identified in Exhibit A to its Request, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S. and Rule 25-22.006, F.A.C. Gulf contends that the audit workpapers contain information concerning bids and other contractual data and that the disclosure of which would cause harm to Gulf. Gulf asserts that this information is intended to be and is treated by Gulf as private and has not been publicly disclosed.

Gulf asserts that the audit workpapers contain confidential information consisting of pricing information for capacity purchases between Gulf and various counterparts. One or more contracts forming the basis for this pricing data are still in effect. Gulf contends that the disclosure of this pricing information would negatively impact Gulf's ability to negotiate pricing favorable to its customers in future contracts. Gulf further contends that potential counterparties may refuse to enter contracts with Gulf, or may charge higher prices, if the price terms were made public. Gulf argues that the audit workpapers should be protected 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. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

(d) Information 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.

(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 information described above continues to satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above and in Exhibit A, attached to Gulf's Request, appears to be information concerning bids or other contractual data, the disclosure of which would impair the efforts of Gulf 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. 03029-2016 shall continue to 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.

Based on the foregoing, it is hereby

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that Gulf Power Company's Request for Extended Confidential Classification of Document No. 03029-2016, is granted. It is further

ORDERED that the information in Document No. 03029-2016, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of the 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 Gary F. Clark, as Prehearing Officer, this 13th day of August, 2018.



GARY F. CLARK
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.

SBr

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.