

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael, by Gulf Power Company.

DOCKET NO. 20190038-EI
ORDER NO. PSC-2021-0334-CFO-EI
ISSUED: September 8, 2021

ORDER GRANTING GULF POWER COMPANY'S
MOTIONS FOR PROTECTIVE ORDER

(DOCUMENT NOS. 02383-2020 and 03065-2020)

On May 4, and June 12, 2020, Gulf Power Company (Gulf) filed Motions for Temporary Protective Order, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), pertaining to certain confidential information provided in responses to the Office of Public Counsel's (OPC) Fourth Set of Interrogatories No. 90 (Document No. 02383-2020) and the Federal Executive Agencies' (FEA) First Request for Production of Documents Nos. 4-5¹ (Document No. 03065-2020). On August 31, 2021 OPC indicated that it intends to continue to maintain copies of these documents.

Motions for Temporary Protective Order

Gulf seeks protection of these documents as provided in Section 366.093, F.S., and Rule 25-22.006, F.A.C. 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 Section 119.07(1), F.S., the public records law. 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.

Gulf contends that the information in its response to OPC's Fourth Set of Interrogatories (No. 90), constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Also, Gulf contends that the information in its

¹ OPC requested and was provided a copy of Gulf's confidential proprietary information in Gulf's responses to FEA's First Request for Production of Documents.

response to FEA's First Request for Production of (Documents Nos. 4-5), constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Gulf asserts that the information at issue relates to: trade secrets; information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms; information related to competitive interests, the disclosure of which could harm the competitive business of the provider of the information; and employee personnel information unrelated to the compensation, duties, qualifications, or responsibilities. For those reasons, Gulf argues the information is entitled to confidential classification pursuant to Section 366.093(3)(a), (d), (e) and (f), F.S.

Ruling

Upon consideration of Gulf's assertions of the confidential nature of the information contained in portions of the discovery responses, Document Nos. 02383-2020 and 03065-2020, Gulf Power Company's Motions for Temporary Protective Order are 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 hereby

ORDERED by Chairman Gary F. Clark, as Presiding Officer, that Gulf Power Company's Motions for Temporary Protective Orders, Document Nos. 02383-2020 and 03065-2020, are granted. It is further

ORDERED that the identified information 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.

By ORDER of Chairman Gary F. Clark, as Presiding Officer, this 8th day of September, 2021.



GARY F. CLARK
Chairman and Presiding 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.

JDI/WLT

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.