

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 070007-EI
ORDER NO. PSC-07-0675-CFO-EI
ISSUED: August 21, 2007

ORDER GRANTING GULF POWER COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 05835-07)

On July 10, 2007, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Gulf Power Company ("Gulf") filed an amended request for confidential classification in connection with its Supplemental Petition regarding its CAIR/CAMR/CAVR Environmental Compliance Program, filed March 29, 2007 (Document No. 05835-07). This petition pertains to Gulf's petition to recover costs through the environmental cost recovery clause.

Section 366.093(1), Florida Statutes, 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 [the Public Records Act]." Section 366.093(3), Florida Statutes, 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), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[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" (subsection d); and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" (subsection e).

Gulf contends that portions of Tables 4.3-2, 5.1-1, 5.1-2, and 5.5-1 included in its Compliance Plan fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Gulf asserts that this information regarding pricing, detailed unit-specific cost data for fuel, and projected operation and maintenance expenses is associated with the CAIR, CAMR, and CAVR Compliance Plan. Gulf further asserts that it negotiates with vendors of services, materials, and commodities needed to implement its Compliance Program. Gulf contends that the disclosure of this information would impair the efforts of Gulf or its affiliates to negotiate pricing contracts favorable to its customers. Gulf further contends that it must be competitive to obtain commodities and services, or make purchases or sales, of wholesale power. Gulf states that the contractual terms listed in Tables 4.3-2, 5.1-1, 5.1-2, and 5.5-1 relate to the competitive interests of Gulf and its suppliers, the disclosure of which would impair their competitive businesses.

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Gulf further states that this information is intended to be and is treated by Gulf and its suppliers as private and has not been publicly disclosed.

Gulf requests that the following information described in the table below be granted confidential classification:

Line-by-Line/Field-by-Field Justification	
Line(s)/Fields(s)	Justification
<p>Table 4.3-2 Page 1 of 2 Confidential in its entirety, with the exception of implementation dates.</p>	<p>This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 3 of Gulf’s Request.</p>
<p>Table 5.1-1 Page 1 of 1 Confidential in its entirety.</p>	<p>This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 4 of Gulf’s Request.</p>
<p>Table 5.1-2 Page 1 of 1 Confidential in its entirety.</p>	<p>This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 4 of Gulf’s Request.</p>
<p>Table 5.5-1 Page 1 of 1 Confidential in its entirety.</p>	<p>This information is entitled to confidential classification pursuant to §366.093(3) (d) and (e), Florida Statutes. The basis for this information being designated as confidential is more fully set forth in paragraph 5 of Gulf’s Request.</p>

Upon review, it appears that the identified portions of Tables 4.3-2, 5.1-1, 5.1-2, and 5.5-1 satisfy the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. 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," or "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), Florida Statutes, 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), Florida Statutes, 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

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of Document No. 05835-07 is granted. It is further

ORDERED that the information in Document No. 05835-07 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.

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 21st day of August, 2007.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(S E A L)

MCB/pz

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 25-22.060, 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.