

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of certain information contained in the report entitled Review of Customer Property Damage Claims of Florida's Four Major Investor-Owned Electric Utilities and in the auditor work papers, by Gulf Power Company.

DOCKET NO. 090042-EI
ORDER NO. PSC-10-0726-CFO-EI
ISSUED: December 13, 2010

ORDER GRANTING GULF POWER COMPANY'S
AMENDED REQUEST FOR EXTENDED CONFIDENTIAL CLASSIFICATION
OF DOCUMENT NO. 08214-10

On January 12, 2009, Gulf Power Company (Gulf) filed a Request for Confidential Classification pursuant to Rule 25-22.006(3), F.A.C., on portions of staff's report entitled Review of Customer Property Damage Claims of Florida's Four Major Investor-Owned Electric Utilities (Document No. 00273-09). As grounds for the request, Gulf stated that information in Document No. 00273-09 was submitted in response to Commission data requests and contained in staff's work papers and draft audit report. Gulf stated this information relates directly to findings and results of an internal audit pertaining to customer property damage claims which is confidential pursuant to Section 366.093(3)(b), F.S.

Gulf stated that it provided staff with summaries of customer claims information including customer names and payment amounts. Gulf stated that even though such information is not specifically enumerated in Section 366.093(3) as proprietary confidential business information, Section 366.093(3) is not exclusive and that such personally identifiable information is protected because customers submitting claims to Gulf have a reasonable expectation that such information will not become a matter of public record. Gulf stated that the information filed pursuant to its request is intended to be and is treated as confidential by Gulf, and, to its knowledge, has not been otherwise publicly disclosed.

On March 20, 2009, the Prehearing Officer in this docket issued Order No. PSC-09-0162-CFO, granting Gulf Power Company's Request for Confidential Classification. The order stated that the confidentiality granted to the material specified in that order would expire eighteen months from the date of the issuance of the order in the absence of a renewed request for confidentiality pursuant to Section 366.093, Florida Statutes.

Gulf filed a timely Request for Extended Confidential Classification on September 10, 2010. By certified mail letter dated November 3, 2010, the Commission Clerk returned Document No. 00273-09 and certain other documents for which Gulf had requested extended confidential classification on September 10, 2010.

On December 1, 2010, Gulf filed an Amended Request for Extended Confidential Classification (Amended Request). In its Amended Request, Gulf stated that the confidential

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information subject to Order No. PSC-09-0162-CFO was returned to it by letter of November 3, 2010, with the exception of the final version of staff's report titled "Customer Property Damage Claims of Florida's four major Investor-Owned Utilities" issued in December 2008 (the "Final Report"). Gulf states that the Final Report contains the same confidential information that was addressed in paragraph 2 of its Request for Confidential Classification and paragraph 6 of its Request for Extended Confidential Classification and which was ultimately determined to be confidential pursuant to Order No. PSC-09-0162-CFO-EI. This confidential information has been published in redacted form, Document No. 08213-10, in the Final Report, pages 32-33, 38, 40, and 42-43, and appears in non-redacted format in Final Report, Document No. 08214-10.

In support of its request for confidential classification of Document No. 08214-10, Gulf states as follows:

The confidential information contained in Document No. 08214-10 is entitled to continued confidential classification for the same reasons that it was initially classified. As stated in Gulf's initial Request for Confidential Classification, the information relates directly to findings and results of an internal audit pertaining to customer property damage claims. Consequently, this information is confidential pursuant to section 366.093(3)(b), Florida Statutes.

Finally, Gulf states that the information filed pursuant to its Amended Request is intended to be, and is treated as confidential by Gulf and, to the best of its knowledge, has not been otherwise publicly disclosed.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. Rule 25-22.006(4)(c), F.A.C., provides that it is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093(3), F.S., or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the company or its ratepayers harm.

Section 366.093(3), F.S., in pertinent part, provides:

Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Section 366.093(3)(b), F.S., states that proprietary confidential business information includes "[i]nternal auditing controls and reports of internal audits."

The confidential information incorporated into the Final Report appears unredacted in Document No. 08214-10 and in redacted form in Document No. 08213-10 on pages 32 (lines 1-4), 33 (lines 1-5), 38 (lines 1-6 and 7-11), 40 (lines 1-3), 42 (lines 1-2) and 43 (line 1).

Upon review, I find that the information contained in Document No. 08214-10 on pages 32 (lines 1-4), 33 (lines 1-5), 38 (lines 1-6 and 7-11), 40 (lines 1-3), 42 (lines 1-2) and 43 (line 1) is proprietary business information pursuant to Section 366.093(3)(b), F.S. Accordingly, Gulf's Amended Request for Extended Confidential Classification is hereby granted for this information. The material in Document No. 08214-10 on pages 32 (lines 1-4), 33 (lines 1-5), 38 (lines 1-6 and 7-11), 40 (lines 1-3), 42 (lines 1-2) and 43 (line 1) shall have confidential protection for 18 months.

Based on the foregoing, it is


ORDERED by Commissioner Lisa Edgar, as Prehearing Officer, that Gulf Power Company's Amended Request for Extended Confidential Classification of Document No. 08214-10, is granted. It is further

ORDERED that pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., the confidentiality granted to material specified herein shall expire eighteen (18) months from the date of the issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093, F.S. 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. It is further

ORDERED that this docket shall be closed.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 13th day of December, 2010.


LISA POLAK EDGAR
Commissioner and Prehearing Officer

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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.