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Sent: Thursday, September 15, 2011 3:18 PM
To: Filings@psc.state.fl.us
Cc: Stone, Jeff A.; Badders, Russell A. (Beggs & Lane); Griffin, Steven R. (Beggs & Lane)
Subject: Third Motion for Temporary Protective Order pertaining to Citizens' Third Request to Produce Documents and Third Set of Interrogatories to Gulf Power

Attachments: Gulf Power Companys Motion for Protective Order for Citizens' Third POD and ROG.pdf

- A. s/Susan D. Ritenour
Gulf Power Company
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- B. Docket No. 110138-EI
- C. Gulf Power Company
- D. Document consists of 6 pages
- E. The attached document is Third Motion for Temporary Protective Order pertaining to Citizens' Third Request to Produce Documents and Third Set of Interrogatories to Gulf Power

9/15/2011

DOCUMENT NUMBER-DATE
06643 SEP 15 =
FPSC-COMMISSION CLERK

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September 15, 2011

Ms. Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0850

Dear Ms. Cole:

RE: Docket No. 110138-EI

Attached is the Third Motion for Temporary Protective Order pertaining to Citizens' Third Request to Produce Documents and Third Set of Interrogatories to Gulf Power to be filed in the above referenced docket.

Sincerely,

Susan D. Ritenour

nm

Enclosures

cc: Beggs & Lane
Jeffrey A. Stone, Esq.

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for increase in rates by Gulf
Power Company.

Docket No. 110138-EI
Dated: September 15, 2011

GULF POWER COMPANY'S
THIRD MOTION FOR TEMPORARY PROTECTIVE ORDER

Gulf Power Company ("Gulf"), by and through undersigned counsel, hereby moves pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, for entry of a Temporary Protective Order covering confidential documents and information sought in discovery by the Office of Public Counsel ("OPC") and as grounds therefore states as follows:

1. In its Third Request for Production of Documents (Nos. 86-95) and Third Interrogatories to Gulf Power (Nos. 154-170) dated August 16, 2011, and August 17, 2011, respectively, OPC has requested the discovery of proprietary confidential business information as defined pursuant to section 366.093(3), Florida Statutes.

2. Specifically, Gulf's response to Interrogatory Number 168 includes non-public salary data. Public disclosure of this information could provide Gulf's competitors with an advantage in acquiring and obtaining qualified employees, increase Gulf's employee turnover and associated training costs, and give prospective employees an advantage in negotiating compensation packages, leading to increases in the overall amount paid to employees. This information is confidential pursuant to section 366.093(3)(e), Florida Statutes. See, Florida Power & Light v. Florida Public Service Commission, 31 So.3d 860 (Fla. 1st DCA 2010).

3. Gulf's response to Interrogatory Number 156 includes confidential pricing information provided by a third party vendor for a turbine rotor. Disclosure of this information would negatively impact Gulf's ability to negotiate pricing favorable to its customers in the

future. In addition, potential counterparties may refuse to enter into future contracts with Gulf, or may charge higher prices, if the pricing terms were publicly disclosed. This information is confidential pursuant to section 366.093(3)(d) and (e), Florida Statutes.

4. Gulf's response to Request Number 90 of OPC's Third Request for Production of Documents contains confidential information relating to Gulf's purchase of a site for a new power generation facility. Such information includes billing statements (and related back up documentation) for services provided to Gulf by Southern Nuclear Operating Company and various third party vendors; vendor quotes and related correspondence for construction of a meteorological tower and other services; internal correspondence and correspondence with third party consultants regarding site selection, surveying, groundwater/geotechnical analysis and possible alternatives for power generation technologies. The foregoing information is confidential pursuant to section 366.093(3)(d) and (e), Florida Statutes.

5. Section 366.093(2), Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, direct that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by OPC as confidential and shall be exempt from the public records law, Section 119.07(1), Florida Statutes. Gulf, by this motion, is seeking protection of all confidential information that Gulf will produce to OPC in this matter pursuant to OPC's Third Request for Production of Documents and Third Interrogatories. This protection should extend not only to OPC, but also to any consultants or advisors with whom OPC has contracted for purposes of this proceeding. Gulf has recorded the appropriate objections to providing such confidential, propriety business information, and will provide documents and information responsive to these requests marked as confidential subject to this motion, the law, Commission rules, and Gulf's objections. By following this procedure and

producing this information, Gulf is not waiving its right to seek further relief as necessary to make certain that its confidential, proprietary, business information is not publicly disclosed.

6. For ease of reference, Gulf is producing two versions of its responses to OPC's Third Interrogatories. One version contains confidential information which has been highlighted in yellow. The second version has been redacted in black. Confidential information contained in Gulf's response to Request Number 90 of OPC's Third Request for Production of Documents has been highlighted or marked as confidential in its entirety and will be provided on a separate DVD conspicuously labeled as "confidential."

Gulf requests that in connection with the entry of a temporary protective order, the Commission also request OPC to provide Gulf with notice of its intent to use such confidential information in connection with the hearing in this matter.

WHEREFORE, Gulf requests that the Commission enter an Order granting its Motion for Temporary Protective Order relating to information identified as confidential and produced in response to OPC's Third Interrogatories and Third Request for Production of Documents, instructing OPC to continue to treat it as confidential, and requiring OPC to provide Gulf with notice of its intent to use such confidential information in connection with the hearing in accord with the prehearing order governing procedure.

Respectfully submitted this 15th day of September, 2011.

s/ Steven R. Griffin

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for Increase in Rates)
by Gulf Power Company)
_____)

Docket No. 110138-EI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished by electronic mail the 15th day of September, 2011, on the following:

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