

M E M O R A N D U M

September 6, 2000

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00 SEP -6 AM 10:37

RECORDS AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING  
FROM: MARY ANNE HELTON, DIVISION OF APPEALS  
RE: DOCKET NO. 000531-EI

*MAH*

1599-CFD

Attached is an ORDER DENYING REQUEST FOR CONFIDENTIAL TREATMENT to be issued in the above-referenced docket. (Number of pages in order - 4)

Attachment

cc: Division of Economic Regulation (Revell)  
I:000531.ord

**MUST GO TODAY**

*40*

Doc. # 11024-00

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential  
classification of FERC Form 1  
for the year ending December 31,  
1999, by Gulf Power Company.

DOCKET NO. 000531-EI  
ORDER NO. PSC-00-1599-CFO-EI  
ISSUED: September 6, 2000

BY THE COMMISSION:

ORDER DENYING REQUEST FOR CONFIDENTIAL TREATMENT

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Gulf Power Company (Gulf) seeks confidential treatment of much of the information reported in its FERC Form 1 for the year ending December 31, 1999.

Pursuant to Section 119.01, Florida Statutes, documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the utility has the burden of demonstrating that the materials qualify for confidential classification. Rule 25-22.006 requires the utility to meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 366.093, or by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility or its ratepayers harm.

Gulf seeks confidential treatment of certain information reported on its FERC Form 1, which is filed on an annual basis with this Commission and the Federal Energy Regulatory Commission (FERC). Gulf argues that if the information for which confidential treatment is sought were to be publicly disclosed, Gulf would experience irreparable harm. Gulf makes the same general argument for all of the information for which it seeks confidential treatment. According to Gulf:

Wholesale and retail electricity markets in the United States are becoming increasingly competitive. This increased competition is now causing certain information

DOCUMENT NUMBER-DATE

11024 SEP-68

FPSC-RECORDS/REPORTING

that has traditionally been filed publicly on the FERC Form 1 to now be regarded as commercially sensitive and proprietary by the Company. That information is detailed data on Gulf's costs and operations. This information gives competitors a target to just match Gulf's marginal costs and operations rather than having to offer their best price possible for their own services. This does not foster a truly competitive marketplace with all participants seeking their most efficient operation and lowest costs possible. Gulf's competitors in the wholesale market are not required to make public the same commercially sensitive and proprietary information that Gulf files on FERC Form 1. Gulf's competitors, therefore, have access to details about Gulf's costs and operations that create asymmetry in the electricity market and harm competition in general and Gulf's ability to compete specifically.

In addition, Gulf argues that the information for which it seeks confidential treatment falls under the following category listed below in Section 366.093(3), Florida Statutes:

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Much of the information for which confidential treatment is requested has already been disclosed by Gulf or can easily be derived from information that is already public. For example, some of the information for which confidential treatment is sought is not redacted and listed elsewhere in the 1999 FERC Form 1, or it was disclosed in Gulf's FERC Form 1 filed for 1998. Other documents where the redacted information can be found include Gulf's 1998 and 1999 Annual Status Reports, Gulf's 1998 and 1999 Regulatory Assessment Fee Reports, Gulf's Earnings Surveillance Reports, Gulf's Fuel Adjustment Cost Recovery Filings, Gulf's Fuel Adjustment Audit, Gulf's Environmental Cost Recovery Filings, Gulf's Ten Year Site Plan Filings, and Forms 3 and 4 of the FPSC Statistics of the Florida Electric Utility Industry. Because much of the information is already public, Gulf's request must be denied. It is not up to the Commission to go through each page and line of Gulf's FERC Form 1 and determine what is already public elsewhere. Gulf should have done that before it filed its request.

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In addition, Gulf's arguments to hold the information confidential are not persuasive since retail competition is not present in Florida and it is uncertain when and if Florida's electric utilities will be deregulated. The proper time to address Gulf's concerns over competition would be when Florida's utilities are deregulated. Thus, Gulf's request is also denied because it has failed to show that the information for which it requests confidential treatment is proprietary business information under Section 366.093(3)(e), Florida Statutes. This ruling is consistent with FERC's refusal to grant confidential status to Gulf's 1998 FERC Form 1.

The Florida Industrial Power Users Group's (FIPUG) filed a Petition to Intervene and an Objection to Gulf's Request for Confidential Classification. My decision to deny Gulf's request renders FIPUG's petition moot.

It is therefore

ORDERED by Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, that Gulf Power Company's Request for Confidential Classification of certain information contained in its FERC Form 1 for the year ending December 31, 1999, identified in Document No. 05400-00 is denied for the reasons set forth in the body of this order. It is further

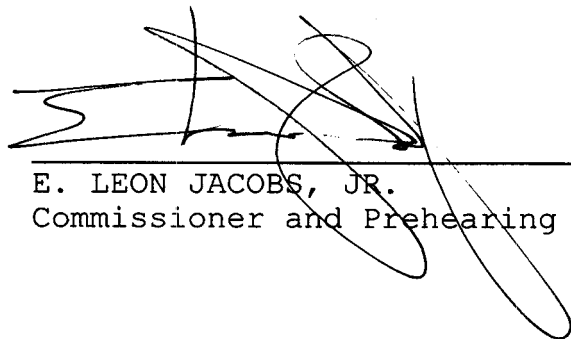
ORDERED that Gulf Power Company shall file the unredacted version of its FERC Form 1 within 10 working days of the date of this order. It is further

ORDERED that the Florida Industrial Power Users Group's Petition to Intervene is hereby rendered moot. It is further

ORDERED that this docket shall be closed upon issuance of this order.

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By ORDER of Commissioner E. Leon Jacobs, Jr. as Prehearing Officer, this 6th day of September, 2000.



E. LEON JACOBS, JR.  
Commissioner and Prehearing Officer

( S E A L )

MAH

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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, 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.



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00 MAY 11 PM 12:16

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May 11, 2000

Blanca Bayó, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Re: 000531-EI -- Request for confidential classification of FERC Form 1 for the  
year ending December 31, 1999, by Gulf Power Company

Dear Ms. Bayó:

Please add the Legal Environmental Assistance Foundation (LEAF) as an interested party  
to this docket. Thank you.

Sincerely,

Gail Kamaras, Director  
Energy Advocacy Program

*Done 5/11/00*

RECEIVED  
LEGAL ENVIRONMENTAL  
SERVICE FOUNDATION

00 MAY 11 AM 9:24

MAIL ROOM

LEAF

Legal Environmental Assistance Foundation

1114 Thomasville Road, Suite E  
Tallahassee, Florida 32303-6290

Tel: (850) 681-2591

Fax: (850) 224-1275

[www.leaf-envirolaw.org](http://www.leaf-envirolaw.org)

[leaf@lewisweb.net](mailto:leaf@lewisweb.net)

STATE OF FLORIDA

Commissioners:  
JOE GARCIA, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER



DIVISION OF RECORDS & REPORTING  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770

**Public Service Commission**

May 3, 2000

Susan D. Ritenour, Assistant Secretary/Treasurer  
Gulf Power Company  
One Energy Place  
Pensacola, Florida 32520

Re: Docket No. 000531-EI

Dear Ms. Ritenour:

This will acknowledge receipt of a request for confidential classification of FERC Form 1 for the year ending December 31, 1999, by Gulf Power Company, which was filed in this office on May 1, 2000 and assigned the above-referenced docket number. Appropriate staff members will be advised.

Mediation may be available to resolve any dispute in this docket. If mediation is conducted, it does not affect a substantially interested person's right to an administrative hearing. For more information, contact the Office of General Counsel at (850) 413-6248 or FAX (850) 413-7180.

Division of Records and Reporting  
Florida Public Service Commission