

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery  
clause with generating performance incentive  
factor.

DOCKET NO. 130001-EI  
ORDER NO. PSC-13-0633-CFO-EI  
ISSUED: November 27, 2013

ORDER GRANTING TAMPA ELECTRIC COMPANY'S REQUEST FOR CONFIDENTIAL  
CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER  
(DOCUMENT NO. 06185-13)

On October 14, 2013, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Tampa Electric Company (TECO) filed a Request for Confidential Classification and Motion for Temporary Protective Order (Request) of Audit work papers pursuant to Audit Control No. 13-102-2-2, (Document No. 06185-13). This Request was filed in Docket No. 130001-EI.

Section 366.093(1), F.S., 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 Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., 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 (3)(d) and (e) of Section 366.093, F.S., 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," and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

TECO contends that the information for which confidential classification is sought, as more specifically described in Attachment A to its request, falls within the above statutory categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C.

TECO contends that the information contains specific details about fuel hedging volume, pricing, and percentages and/or counterparties. TECO argues that knowledge of this information will allow the opportunity for market manipulation through transactions made in anticipation of the company's entry into the market. TECO further argues that such market manipulation would increase the price of fuel paid by TECO customers as well as the price paid by TECO to hedge the customers' price of fuel. TECO contends that this information is protected pursuant to Section 366.093(3)(d) and (e), F.S.

Further, TECO asserts that the information includes TECO's extended credit limits for trading companies. TECO argues that the disclosure of the counterparties and credit terms could

cause other trading entities to modify existing or potential future terms of any agreements. TECO contends that public disclosure of the information would adversely affect the competitive interests of TECO and its ability to contract for goods and services on favorable terms. TECO asserts that the information is protected pursuant to Section 366.093(3)(d) and (e), F.S.

Additionally, TECO contends that the information shows estimated purchase amounts pursuant to confidential contracts as negotiated by and between TWCO and certain energy providers. TECO contends that this information concerns bids or other contractual data, the disclosure of which would impair the efforts of TECO to contract for goods and services on favorable terms. TECO further asserts that the disclosure of this information would impair the competitive business of TECO. TECO argues that the information is protected under Section 366.093, F.S. and Rule 25-22.06, F.A.C.

#### Time Period For Confidential Classification

TECO requests confidential classification for this information for a period of 18 months from the date of this order. According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless “the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period.”

#### Ruling

Upon review, it appears that the information described above satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes “information 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,” and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, the information identified in Document No. 01205-13 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., 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. Accordingly, the information identified in Document No. 01205-13 shall be granted confidential classification for a period of 18 months from the 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), F.S., unless TECO or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

#### Motion for Temporary Protective Order

TECO also seeks protection of the documents as provided in Section 366.093(2), F.S., and Rule 25-22.006(6), F.A.C., while the material is in the possession of the Office of Public

Counsel (OPC). 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 the public records law. Section 119.07(1), F.S. 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.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that "utility may request a temporary protective order exempting the information from section 119.07(1), F.S."

Upon consideration of TECO's assertions of the confidential nature of the information contained in its audit work papers pursuant to Audit Control No. 13-102-2-2, Document No. 06185-13, TECO's Motion for Temporary Protective Order is 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

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document No. 06185-13 is granted. It is further

ORDERED that Tampa Electric Company's Motion for Temporary Protective Order of the information in Document No. 06185-13 is granted. It is further

ORDERED that the information referenced in Document No. 06185-13 shall be granted confidential classification for a period of 18 months from the date of the issuance of this Order. 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.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 27th day  
of November, 2013.



EDUARDO E. BALBIS  
Commissioner and Prehearing 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.

JEG

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.