

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 160001-EI
ORDER NO. PSC-16-0376-CFO-EI
ISSUED: September 16, 2016

ORDER GRANTING TAMPA ELECTRIC COMPANY'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION (DOCUMENT NO. 05887-16)

On August 4, 2016, 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 (Request) of certain information contained in Bates stamp page 11 of the company's Risk Management Plan. This Request was filed in Docket No. 160001-EI.

Request for Confidential Classification

TECO contends that designated portions of the information contained in the Risk Management Plan constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C.

TECO asserts that disclosure of the information contained on Bates stamp page 11 of the Risk Management Plan would disclose TECO's purchasing strategy and the company's planned risk exposure. Those who have an interest in supplying TECO's fuel and power purchase needs could use this valuable information to help them force more favorable terms, to the detriment of TECO and its ratepayers, than would otherwise be the case. They could learn of the company's plans and needs and use that information in exacting better prices for meeting those needs.

Disclosing the company's risk exposure levels on a monthly basis would provide an indicator of vulnerability to market price. Would-be suppliers of both fuel and power purchases could simply withhold supply and price their fuel and power offerings at a higher level than they would otherwise. Power suppliers could perform maintenance on their units during months when the company's exposure is low, so that they would have their power to sell at high prices during months that TECO's exposure is high.

Disclosure of the highlighted information in the Plan would also provide highly sensitive information to recipients regarding the manner and timing of TECO's entry into the fuel and power markets. Knowledge of this information would allow the opportunity for market manipulation through transactions made in anticipation of the company's entry into the market. Market manipulations based on knowledge of the highlighted information would increase the price of fuel and purchased power paid by TECO's customers as well as the price paid by the company to hedge the customers' price of fuel and purchased power. These effects of disclosure would impair the efforts of TECO to contract for goods and services on favorable terms for the benefit of its customers.

The information contained in the company's Plan for which confidential classification is sought is intended to be and is treated by TECO as private and has not been publicly disclosed.

TECO requests that its Risk Management Plan be treated by the Commission as confidential proprietary business information for a minimum of three years. The Plan provides detailed strategies many of which are of a continuing nature and which could well be in place beyond the standard eighteen month period that confidential information is treated by the Commission as such. The various risk management strategy components build upon each other and disclosing the company's basic plan sooner than three years after it is submitted would arm would-be suppliers of goods and services, as well as competitors of TECO, with the bulk of the Plan's components. A minimum of three years is essential to prevent those entities in the fuel and purchased power markets from having access to information they could use to the competitive disadvantage of TECO, which would increase the fuel and purchased power costs borne by TECO's customers.

Ruling

Section 366.093(1), F.S., provides that the records the Commission has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) F.S. 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 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

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

Upon review, it appears that the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above appears to be 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 information 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. 05887-16 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., confidential classification may only extend for up to 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." TECO appears to have provided sufficient information concerning the harm

which could arise from not protecting this information for a minimum of three years. Accordingly, the information identified in Document No. 05887-16, shall be granted confidential classification for a period of three years from the issuance of this Order.

Based on the foregoing, it is hereby

ORDERED by Commissioner Art Graham, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document No. 05887-16 is granted, as set forth herein. It is further

ORDERED that the information in Document No. 05887-16, for which confidential classification is granted, shall remain protected from disclosure for a period of up to three years from the date of 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 Art Graham, as Prehearing Officer, this 16th day of September, 2016.


ART GRAHAM
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

WDT

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

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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.