

BEFORE THE PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power)
Cost Recovery Clause and)
Generating Performance Incentive)
Factor.)

DOCKET NO. 900001-EI
ORDER NO. 23739
ISSUED: 11-8-90

ORDER ON TAMPA ELECTRIC
COMPANY'S REQUEST FOR CONFIDENTIAL
TREATMENT OF PORTIONS OF ITS AUGUST, 1990 FORMS 423

Tampa Electric Company (TECO) has requested specified confidential treatment of its FPSC forms 423-1(a), 423-2, 423-2(a), 423-2(b) and 423-2(C) for the following month of August, 1990.

<u>DATE</u>	<u>FORM</u>	<u>DOCUMENT NO.</u>
August, 1990	423-1(a), 423-1(b), 423-2, 423-2(a), 423-2(b), 423-2(c)	9290-90

TECO argues, pursuant to Section 366.093(3)(d), Florida Statutes, that lines 1-6 of column H, Invoice Price, on Form 423-1(a) contain contractual information which, if made public, would impair the efforts of TECO to contract for goods or services on favorable terms. The information indicates the price which TECO has paid for No. 2 fuel oil per barrel for specific shipments from specific suppliers. If disclosed, this information would allow suppliers to compare an individual supplier's price with the market for that date of delivery and thereby determine the contract pricing formula between TECO and that supplier. Disclosure of the Invoice Price would allow suppliers to determine the contract price formula of their competitors. Knowledge of each other's prices would give suppliers information with which to actually control the pricing in No. 2 oil by either all quoting a particular price or adhering to a price offered by a major supplier. This could reduce or eliminate any opportunity for a major buyer, like TECO, to use its market presence to gain price concessions from any individual supplier. The result of such disclosure, TECO argues, is reasonably likely to be increased No. 2 fuel oil prices and increased electric rates.

TECO argues that lines 1-6 of columns I, Invoice Amount; J, Discount; K, Net Amount; L, Net Price; M, Quality Adjustment; N, Effective Purchase Price; and O, Transport to Terminal, on Form 423-1(a) are entitled to confidential treatment because the contract information therein are algebraic functions of column H, Invoice Price. The publication of these columns together or independently, therefore, TECO argues, could allow a supplier to derive the Invoice Price of No. 2 oil paid by TECO. As to lines

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1-6 of column M, TECO further argues that for fuel that does not meet contract requirements, TECO may reject the shipment, or accept the shipment and apply a quality adjustment. This, TECO argues, is a pricing term as important as the price itself rendering the rationale to classify relating to price concessions applicable. As to lines 1-6 of column N, TECO further argues that the information in this column is as entitled to confidential treatment as the invoice price due to the relatively few times quality or discount adjustments are applied. In other words, column N, Effective Purchase Price, will typically equal column H, Invoice Price. We find that lines 1-6 of columns H-O of Form 423-1(a) should not be classified because the Invoice Price and Invoice Amount in columns H through O can be determined by applying the portions found in columns G, Volume, and column R, Delivered Price, for which confidentiality was not sought.

In requesting confidentiality for their 423-1(b) forms, TECO argues that columns I and J contain old and new values for column I from Form 423-1(a) for the month designated in column B. That information is already the subject of a request for confidential treatment. TECO claims that when it appears in Form 423-1(a), the values shown are algebraic functions of the invoice price. Thus, the publication of these columns together, or independently, could allow a supplier to derive the invoice price paid by TECO.

TECO has requested confidential treatment of lines 1-10 of column G, Effective Purchase Price, on Form 423-2 relating to Big Bend Station (1), arguing disclosure would impair TECO's efforts to contract for goods or services on favorable terms. Additionally, one could ascertain the Total Transportation Charges by subtracting a disclosed Effective Purchase Price, column I, from the Delivered price at the Transfer Facility. A competitor with knowledge of the Total Transportation Charges could use that information in conjunction with the published Delivered Price at the Electro-Coal Transfer facility to determine the segmented transportation costs, i.e., the breakdown of transportation charges for river barge transport and for deep water transportation across the Gulf of Mexico from the transfer facility to Tampa. TECO argues it is this segmented transportation cost data which is entitled to confidential treatment in that disclosure would adversely affect TECO's future fuel and transportation contracts by informing potential bidders of current prices paid for services provided. Disclosure of fuel oil prices would indirectly effect bidding suppliers. Suppliers would be reluctant to provide significant

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price concessions to an individual utility if prices were disclosed because other purchasers would seek similar concessions.

TECO further argues the information would inform other potential suppliers as to the price TECO is willing to pay for coal. This would provide present and potential coal suppliers information which could adversely affect TECO's ability to negotiate coal supply agreements.

TECO requests confidential treatment of lines 1-10 of column H, Total Transport Charges, arguing that their disclosure would also impair its efforts to contract for goods or services on favorable terms because, as discussed above, both columns G and H, if disclosed, will enable competitors to determine segmented transportation charges. We find that columns G and H of Form 423-2 which reflect the F.O.B. Mine Prices resulting from negotiations with unaffiliated third-parties are entitled to confidential treatment.

TECO requests confidential treatment of lines 1-10 of column H, Original Invoice Price, on Form 423-2(a) relating to Big Bend Station (1), because disclosure would enable one to subtract that price from the publicly disclosed Delivered Price at the Electro-Coal Transfer Facility and thereby determine the segmented river transportation cost. Such disclosure, TECO argues, would impair its efforts to contract for goods or services on favorable terms due to rationale similar to that offered for confidential treatment of column A, Effective Purchase Price, of Form 423-2.

TECO similarly requests confidential treatment of lines 1-10 of column J, Base Price, on Form 423-2(a) in that disclosure would enable a competitor to "back-into" the segmented transportation cost using the publicly disclosed Delivered Price at the transfer facility; one could subtract column J, Base Price Per Ton, from the Delivered Price at the transfer facility, to obtain the River Barge Rate.

TECO also contends that lines 1-10 of column L, Effective Purchase Price, of Form 423-2(a) are entitled to confidentiality since, if disclosed, they would enable a competitor to back into the segmented waterborne transportation costs using the already disclosed Delivered Price of coal at the transfer facility. Such disclosure, TECO argues, would impair its efforts to contract for goods or services on favorable forms for the reasons discussed in relation to column G, Form 423-2. We agree that the numbers in

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lines 1-10 of columns H, J, and L, reflect actual costs negotiated and obtained in arms-length transactions with unaffiliated third parties which, if disclosed, could cause harm to TECO's customers.

TECO requests confidential treatment of lines 1-10 of columns G, Effective Purchase Price; I, Rail Rate; K, River Barge Rate; L, Transloading Rate; M, Ocean Barge Rate; N, Other Water Charges; O, Other Related Charges; and P, Total Transportation Charges of Form 423-2(b) relating to the Big Bend Station Transfer Facility (1). TECO argues that disclosure of the Effective Purchase Price per ton would impair its ability to contract for goods or services on favorable terms by enabling a competitor to back into the segmented transportation costs by using the publicly disclosed Delivered Price for coal at the transfer facility; one could obtain the River Barge Rate by subtracting the Effective Purchase Price per ton from the price per ton delivered at Electro-Coal. We find that the waterborne costs contained in columns G, I, K, L, M, N, O, and P involve acceptable cost allocation between TECO and its waterborne affiliates, Mid-South Towing, Electro-Coal Transfer, and Gulf Coast Transit, and, as such, are entitled to confidentiality.

TECO requests confidential treatment of lines 1-3 of columns G, Effective Purchase Price; and H, Total Transportation Charges, on Form 423-2 relating to the Gannon Station Transfer Facility (1). TECO argues that both columns require confidential treatment to prevent a competition from backing into the segmented transportation charges for reasons identical to those offered in relation to Form 423-2 relating to the Big Bend Station. TECO specifically argues that disclosure would impair its efforts to contract for goods or services on favorable terms.

TECO similarly requests confidential treatment of lines 1-3 of columns H, Original Invoice Price; J, Base Price, and L, Effective Purchase Price, on Form 423-2(a) relating to the Gannon Station Transfer Facility (1), and lines 1-3 of columns G, Effective Purchase Price; I, Rail Rate; K, River Barge Rate; L, Transloading Rate; M, Ocean Barge Rate; N, Other Water Charges; O, Other Related Charges; and P, Total Transportation Charges, on Form 423-2(b) relating to the Gannon Station Transfer Facility (1). TECO offers rationale identical to that offered in relation to those columns on Forms 423-2(a) and (b) relating to the Big Bend Station transfer facility.

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We find that the referenced information in Forms 423-2, 2(a), and 2(b) relating to Gannon Station (1) is entitled to confidential treatment for the same reasons provided for Big Bend Station.

TECO requests confidential treatment of line 1 of columns G, Effective purchase Price; and H, Total Transportation Charges on Form 423-2 relating to the Big Bend Station transfer facility and line 1 of the same columns on the same form relating to the Gannon Station transfer facility. TECO contends that disclosure of the Effective Purchase Price in both cases would impair its efforts to contract for goods and services on favorable terms because, if one subtracts the information in this column from that in column I, F.O.B. Plant Price, one can obtain the segmented transportation cost, including transloading and ocean barging. TECO also argues that disclosure of the Total Transport Charges would similarly impair its contracting ability by enabling a competitor to determine segmented transportation charges.

TECO similarly argues that line 1 of columns H, Original Invoice Price; J, Base Price; and L, Effective Purchase price of Forms 423-2(a) relating to the Big Bend Station and lines 1-2 of the same columns of the same form relating to Gannon Station are entitled to confidential treatment in that disclosure would allow a competitor to deduce the segmented terminating and ocean barge transportation cost and terminating and ocean barge rate on rail rate, respectively.

TECO similarly requests confidential treatment of line 1 of columns G, Effective Purchase Price; I, Rail Rate; K, River Barge Rate; L, Transloading Rate; M, Ocean Barge Rate; N, Other Water Charges; O, Other Related Charges; and P, Total Transportation Charges, of Form 423-2(b), relating to Big Bend Station, and lines 1-2 of the same columns for the same form relating to Gannon Station. TECO argues that disclosure of either Effective Purchase Price per ton would enable a competitor to back into the segmented transportation cost of termination and Ocean Barge Rates by subtracting that price per ton from the F.O.B. Plant Price per ton. We find, therefore, that the information contained in these columns on Forms 423-2, 2(a), and 2(b), relating to both Big Bend and Gannon Stations, are entitled to confidential treatment. Further, line 2 of these same columns on these same forms relating to Gannon Station simply involves permissible cost allocation between TECO and a controlled affiliate, Gatliff Coal. We find, therefore, disclosure of line 1 of columns G and H of Form 423-2 relating to Big Bend Station, and lines 1-2 of the same columns of the same

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form relating to Gannon Station; line 1 of columns H, J, and L of Form 423-2(a) relating to Big Bend Station and lines 1-2 of the same columns of the same form relating to Gannon Station; and line 1 of columns G, I, K, L, M, N, O, and P of Form 423-2(b) relating to Big Bend Station and lines 1-2 of the same columns of the same form relating to Gannon Station, would impair TECO's ability to contract for similar goods or services on favorable terms and the information is entitled to confidential treatment.

TECO further argues that disclosure of its Rail Rate per ton in column I of all its Forms 423-2(b) would impair the ability of TECO and its affiliate to negotiate favorable rail rates with the various railroads serving areas in the vicinity of TECO's coal suppliers. Gatliff has other coal buying customers with other railway options: disclosure of CXS's railrates, therefore, would impair the contracting ability of a TECO affiliate and could ultimately adversely affect TECO's ratepayers.

TECO also requests confidential treatment for lines 6 through 9 of columns J and K on Forms 432-2(c). TECO argues that information under J and K reveals the actual rate paid for river barge transportation, and thus, the data is proprietary and confidential. Disclosure of this information would enable competitors to determine the price TECO pays their coal suppliers. Furthermore, this information should also be protected for the same reasons information contained in Form 423-2, column G was found confidential. The data in columns J and K also consists of the direct rail rate which when subtracted from the total delivered price of coal, reveals the rate paid for Gatliff coal. This is contractual information and if made public would "impair the efforts of the public utility to contract for goods and services on favorable terms" and have a direct impact on TECO's future fuel contracts by informing potential bidders of prices currently being paid. Section 366.093(3)(d) FLA. STAT. (1989)

DECLASSIFICATION

TECO further requests the following proposed declassification dates:

<u>FORMS</u>	<u>LINE(S)</u>	<u>COLUMN</u>	<u>DATE</u>
423-1(a)	1-6	H-O	10-17-92
423-1(b)	1	I-J	10-17-92

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<u>FORMS</u>	<u>LINE(S)</u>	<u>COLUMN</u>	<u>DATE</u>
423-2	1-10	G-H	10-17-92
423-2(a)	1-10	H,J,L	10-17-92
423-2(b)	1-10	G,I,K, L,M,N, O,P	10-17-92
423-2(c)	6-9	J,K	10-17-92

TECO requests that the above identified confidential information not be disclosed for a period not to exceed 2 years. It claims that 2 years is the minimum period of time needed to protect TECO, its affiliates, and customers from harm which would occur if competitors or present or potential customers of TECO's affiliates become aware of this information. TECO further claims that it is quite clear that information receiving less than 2 years of confidential treatment would give competitors and their affiliate's customers advantages in the negotiating process. TECO's conclusions, however, are not as clear as they assert.

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that contains proprietary confidential business information is effective for a period set by the Commission not to exceed 18 months, unless the Commission finds, for good cause, that protection from disclosure shall be made for a specified longer period. TECO seeks confidential classification for 2 years for information contained in its July, 1990 423 forms period. We find, however, that TECO has failed to show good cause for the Commission to extend its protection of the identified confidential information from 18 months to 2 years.

TECO's rationale for extending the period of confidential classification from 18 months to 2 years is based on conclusions. TECO asserts that 2 years are needed in order to avoid bestowing upon competitors an economic advantage. Nowhere in the request, however, does TECO explain why 2 years, rather than 18 months, are needed. Consequently, we find that TECO has not shown good cause for the Commission to extend its protection of the identified confidential information from 18 months to 2 years. For guidance on this matter, the Commission recommends that TECO review the declassification rationale in FPL and FPC's recent 423 filings.

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In consideration of the foregoing, it is

ORDERED that Tampa Electric Company's request for confidential treatment on Form 423-1(a) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of line 1 of column I and J on Form 423-1(b) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-10 of columns G and H on Form 423-2 relating to the Big Bend Station Transfer Facility (1) is granted. It is further

ORDERED that Tampa Electric Company's requests for confidential treatment of lines 1-10 of columns H, J, and L on Form 423-2(a) relating to the Big Bend Station Transfer Facility (1) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-10 of columns G, I, K, L, M, N, O, and P on Form 423-2(b) relating to the Big Bend Station Transfer Facility (1) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-3 of columns G and H on Form 423-2 relating to the Gannon Station Transfer Facility (1) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-3 of columns H, J, and L on Form 423-2(a) relating to the Gannon Station Transfer Facility (1) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-3 of columns G, I, K, L, M, N, O, and P on Form 423-2(b) relating to the Gannon Station Transfer Facility (1) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of line 1 of columns G and H on Forms 423-2 relating to Big Bend Station and lines 1-2 of the same columns on the same forms relating to Gannon Station is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of line 1 of columns H, J, and L on Form 423-2(a)

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relating to Big Bend Station and lines 1-2 of the same columns on the same form relating to Gannon Station is granted. It is further


ORDERED that Tampa Electric Company's request for confidential treatment of line 1 of columns G, I, K, L, M, N, O, and P of Forms 423-2(b) relating to Big Bend Station and lines 1-2 of the same columns on the same form relating to Gannon Station is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of lines 6-9 of columns J and K on Form 423-2(c) is granted. It is further

ORDERED that Tampa Electric Company's request for the declassification dates included in the text of this Order is denied. It is further

ORDERED that if a protest is filed within 14 days of the date of this Order it will be resolved by the appropriate Commission panel pursuant to Rule 25-22.006(3)(d), Florida Administrative Code.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 8th day of November, 1990.


BETTY EASLEY, Commissioner
and Prehearing Officer

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