

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power) DOCKET NO. 940001-EI
Cost Recovery Clause and) ORDER NO. PSC-94-1017-CFO-EI
Generating Performance Incentive) ISSUED: August 23, 1994
Factor)
_____)

ORDER GRANTING IN PART AND DENYING IN PART
CONFIDENTIAL CLASSIFICATION

On June 30, 1993, Tampa Electric Company (TECO or the company) filed a Request for Confidential Classification for certain portions of the documents provided to Commission staff in their performance of its annual fuel expense audit ending March 31, 1993. Document No. 7033-93 was assigned to the documents for which confidential classification is sought. Document No. 6485-93 is a set of staff audit workpapers which correspond to this request.

Florida law provides, in Section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. The only exceptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This law derives from the concept that government should operate in the "sunshine." In the instant matter, the value that all parties would receive by examining and utilizing the information contained in this document must be weighed against the legitimate concerns of TECO regarding disclosure of business information which it considers proprietary.

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, TECO has the burden to show that the material submitted is qualified for confidential classification. Rule 25-22.006, Florida Statutes, provides that the company may fulfill its burden by demonstrating that the information falls under one of the statutory examples set out in Section 366.093, Florida Statutes, or by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the company or its ratepayer harm.

Section 366.093(3), Florida Statutes, provides several examples of proprietary confidential business information. Included in this list are "[i]nformation concerning bids or other contractual data" and "information relating to competitive interests."

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FPSC-RECORDS/REPORTING

TECO asserts that the information for which it seeks confidential status as proprietary business information is intended to be and is treated by TECO and its affiliates as private and has not been disclosed publicly.

TECO requests confidential classification for various workpapers which deal with rail and sea transportation costs. On workpaper page 10-5, P.2, line 2, column b, the amount is taken from workpaper 45-3(A), (1 of 1), column (d), line 1, with respect to which TECO also addresses later the need for confidentiality. TECO claims that one could determine the amount on line 3 (transloading and ocean barging segmented transportation) by subtracting the amounts on the remaining lines in column (b) from the total shown on line 6. The Commission has long determined that segmented transportation data constitutes proprietary confidential business information for which TECO is entitled to confidential treatment.

On workpaper 10-5, p.2, line 3, columns (b), (c), and (d), the information is taken from workpaper 45-3(A), (1 of 1) column (e). TECO asserts that the information set forth, when used in conjunction with units on workpaper 45-3A (1 of 1), column (c) lines 1, 4 and 5 and with FPSC Form 423-2, would enable one to derive the segmented transportation costs, including transloading and ocean barging. This is contractual data the disclosure of which would impair the efforts of Tampa Electric to contract for goods and services on favorable terms.

In addition, as to line 4, columns (c) and (d) on workpaper 10-5, p.2, TECO asserts that the coal in-transit (rail) information in columns (c) and (d), line 4, can be used with information publicly disclosed in workpaper 45-3A (1 of 1), column (f), lines 4 and 5, to compute the actual price per ton paid for Gatliff coal. This would adversely affect Tampa Electric's ability to contract for goods and services on favorable terms. The Commission has found previously that disclosure of rates would be contrary to the policy set forth in the Staggers Rail Act that provides for confidential treatment of contract information about actual rail freight rates to ensure a competitive market.

In like manner, the rail freight information in line 5, columns (c) and (d), on workpaper 10-5, p.2, can be used with information publicly disclosed in workpaper 45-3A (1 of 1), column (f), lines 4 and 5, to determine the actual CSX rail transportation cost per ton. The disclosure of this information would impair the company's ability to contract for goods and services as discussed above.

The information on workpaper 10-5, P.2 delineated above is found to be proprietary business information in accordance with Section 366.093, Florida Statutes.

On workpaper page 10-5/1-1, line 2, columns (c), (f), (i), (l) and (o), TECO states that the dollar amounts shown in these lines and columns, when used in conjunction with the FPSC Form 423-2, would enable one to determine the segmented transportation costs, including transloading and ocean barging. This is contractual data. As such, this information is entitled to confidential protection. This will prevent competitors of Tampa Electric's affiliates in the barge transportation and transloading business from obtaining an unfair advantage over these affiliates and thereby driving up the cost of coal transportation to Tampa Electric.

On workpaper 10-5/1-1, line 3, columns (c), (d), (f), (g), (i), (j), (l), (m) and (o) the subject information represents the actual rate and amounts for transloading and ocean barging. Disclosure of the total transportation charges would impair TECO's contracting ability by enabling a competing provider of transportation services to determine the segmented transportation charges paid by TECO.

As to line 4, columns (l) and (o), on workpaper 10-5/1-1, TECO argues that the data reflects the price per ton of rail coal, which involves permissible cost allocation between Tampa Electric and an affiliate, Gatliff Coal Company. This would provide details of Gatliff's costs per ton of coal from information contained on Commission Forms 423. In addition, disclosure of the rail rate per ton would ultimately disclose the rail rate per ton paid to CSX as shown on Commission Forms 423. Consequently, TECO's ability to contract for coal supplies and transportation services on favorable terms would be adversely affected. In addition, such disclosure would be contrary to the policy of the Staggers Rail Act.

Further, the dollars in line 5, column (l) and (o), on workpaper 10-5/1-1, rail freight, can be divided by the tons in line 4, column (k) and (n), to derive the rail rate per ton. This would impair the ability of TECO and its affiliates to negotiate favorable rail rates with the various railroads serving areas in the vicinity of TECO's coal suppliers.

The items on workpaper 10-5/1-1 delineated above are found to be proprietary business information and granted confidential status without regard to the Staggers Rail Act.

On workpaper 10-5/1-2, line 1, columns (c), (f), (h), (k), and (n), TECO asserts that the dollar amounts shown in these lines and columns, when used in conjunction with the FPSC Form 423-2, would enable one to determine the segmented transportation costs, including transloading and ocean barging. The non-disclosure of this information will prevent competitors of TECO's affiliates in the barge transportation and transloading business from obtaining an unfair advantage over these affiliates and thereby driving up the cost of coal transportation to TECO.

On workpaper 10-5/1-2, line 2, columns (c), (f) and (h), represent the actual rate and amounts for transloading and ocean barging. As discussed previously above, this is proprietary business information.

On workpaper 10-5/1-2, line 3, columns (k) and (n), the data reflects the price per ton of rail coal, which involves permissible cost allocation between Tampa Electric and an affiliate, Gatliff Coal Company. This would provide details of Gatliff's costs per ton of coal from information contained on Commission Forms 423. In addition, disclosure of the rail rate per ton would ultimately disclose the rail rate per ton paid to CSX as shown on Commission Forms 423. Such disclosure would be contrary to the policy stated in the Staggers Rail Act. TECO states that the company's ability to contract for coal supplies and transportation services on favorable terms would adversely affected.

In addition, the dollars on workpaper 10-5/1-2, line 4, column (k) and (n), rail freight, can be divided by the tons in line 3, column (j) and (m), to derive the rail rate per ton. This would impair the ability of Tampa Electric and its affiliates to negotiate favorable rail rates with the various railroads serving areas in the vicinity of Tampa Electric's coal suppliers.

The limestone and freight information contained on workpaper 10-5/1-2, line 5, columns (k) and (n) represents the limestone purchased in dollars. Disclosure would allow one to derive the cost per ton for limestone by dividing the dollars by the quantity in columns (j) or (m). TECO argues that its ability to contract for limestone on favorable terms would be impaired if this information is disclosed. This same information is currently entitled to confidential treatment on the FPSC Forms 423.

As to line 6 columns (b), (c), (d), (e), (f), (f1), (g), (h), (i), (j), (k), (l), (m) and (n), on workpaper 10-5/1-2, TECO asserts that the information contained in these lines and columns can be used to compute the charge-out price (total available minus beginning balance for each coal pile). The charge-out price, when

used with Forms 423 allows the Electro-Coal Transfer and Gulfcoast Transit charges per ton for deliveries to the station to be determined. Consequently, the company's ability to contract for goods and services on favorable terms would be impaired because competitors would know the segmented transportation charges paid by TECO. The information in columns (c), (e), (f1), (h), (j), (l), and (n) is found to be entitled to confidential classification as proprietary business information. However, as to columns (b), (d), (f), (g), (i), (k) and (m), these columns represent tons of coal. Without the associated cost data, calculations cannot be made of unit price. Therefore, disclosure of this information should not harm future company negotiations by disclosing price sensitive information. Based on the foregoing, columns (b), (d), (f), (g), (i), (k) and (m) are denied confidential classification.

As to line 13, columns (c), (e), (f1), (h), (l) and (n), on workpaper 10-5/1-2, these amounts are the segmented river transportation charges. TECO argues that disclosure would adversely affect the ability of TECO and its transportation affiliate, Midsouth Towing, from contracting for transportation services on favorable terms. Higher transportation rates could result in an increase in electric rates.

As to lines 14 through 18, columns, (b), (c), (d), (e), (f), (f1), (g), (h), (i), (k), (l), (m) and (n), and line 19, columns (c), (d), (e), (f1), (h), (j), (l) and (n), on workpaper 10-5/1-2, TECO asserts that when this information is used in conjunction with Forms 423 it would allow one to compute segmented transloading and ocean barging transportation per ton. Line 18 minus line 14 enables one to compute the charge out price per ton as shown on line 19. While segmented transportation rates have been recognized by the Commission to constitute confidential business information, columns (b), (d), (f), (g), (i), (k) and (m), on lines 14 - 18, merely represent tons of coal. As discussed previously, without the associated cost data, calculations cannot be made of unit price. Because disclosure of this information would not harm future company negotiation by revealing price sensitive information, columns (b), (d), (g), (i), (k) and (m) are hereby denied confidential classification.

As to lines 20 - 23, and 26 - 28, columns (b) and (c), on workpaper 10-5/1-2, TECO again argues that the data reflects the price per ton of rail, which involves permissible cost allocation between TECO and an affiliate, Gatliff Coal Company. This would provide details of Gatliff's costs per ton of coal from information contained on Commission Forms 423. In addition, such disclosure would be contrary to the requirements of the Staggers Rail Act. As previously discussed the data in column (c) is proprietary business

information. However, based on the rationale previously stated, confidential classification is denied for the information in column (b), as it represent tons of coal.

As to line 25, column (g), on workpaper 10-5/1-2, the data is the in-transit water barge transportation dollars associated with the tons shown in line 18, column (m) on the same workpaper and when divided by these tons, TECO argues, would enable one to compute the segmented transloading and ocean barging transportation rate per ton between Tampa Electric and its waterborne affiliates, Electro-Coal Transfer and Gulf Coast Transit. Consequently, TECO's ability to contract for goods or services on favorable terms would be adversely affected.

As to line 26, column (g), on workpaper 10-5/1-2, the data is the in-transit rail transportation dollars associated with the tons shown in line 28, column (b), on the same workpaper and when divided by these tons would enable one to compute the CSX rail transportation rate per ton. Public disclosure could adversely affect TECO's ability to contract for services on favorable terms.

Except for the specific items noted above where confidential classification has been denied, the information on workpaper 10-5/1-2 as delineated above is found to be proprietary business information and granted confidential status.

On workpaper 10-10, p.2, lines 1 through 282, columns (b) and (d) are random line number lists of voucher numbers for coal pile additions at Electro-Coal Transfer. The same voucher numbers are shown on workpaper 58-1, page 1 of 2. TECO asserts that voucher numbers are confidential because they may be used with dollar amounts by voucher number to disclose the price paid to individual suppliers. This produces a cost per ton by vendor. Then, this cost per ton can be used in conjunction with Forms 423 to derive the segmented transportation costs per ton for Mid-South Towing Company. Thus, TECO's ability to contract for coal supplies on favorable terms could be adversely affected. Confidential classification is denied for columns (b) and (d) because these columns merely show voucher numbers. Without the corresponding dollar amounts, no calculations can be made which would indicate prices paid to vendors. Consequently, disclosure would not harm future company negotiations by disclosing price sensitive information.

As to columns (c) and (e), on workpaper 10-10, p.2, these are the dollars related to the voucher numbers discussed above. TECO argues that if the voucher numbers are referenced in any other audit workpapers, they could be cross-referenced with the dollars

shown on workpaper 10-10 to compute a cost per ton by coal supplier. The same amounts are shown on workpaper 58-1, page 1 of 2. The information when used in conjunction with FPSC Form 423-2, would enable one to derive the segmented transportation costs, including transloading and ocean barging. This is contractual data. The foregoing information is found to be proprietary business information and is granted confidential status.

The information on workpaper 10-10, p. 3, lines 3, 5, 7, 9, 12, 14, 16, 18, 20 and 22, columns (a) and (b), is analogous to the issue discussed two paragraphs above. These columns show voucher numbers and dollar amounts for oil purchases. Confidential classification is granted for column (b) which represents the dollar amounts paid to individual suppliers and is proprietary business information. However, confidential classification is denied for column (a), showing voucher numbers, for the same rationale stated above.

As to workpaper 10-13, p.2, lines 1-14, column (c), this is the actual price per ton paid to the coal suppliers listed. This cost per ton can be used in conjunction with Forms 423 to derive the segmented transportation costs per town for Mid-South Towing Company. This is found to be proprietary business information and granted confidential status.

On workpaper 45-3A, p.1, line 1, column (d), TECO states that the information needs confidential treatment because one could determine the amount on line 1, column (e) (transloading and ocean barging segmented transportation) by subtracting the amounts in the remaining columns from the total shown on line 1, column (j). Segmented transportation data has long been determined by the Commission to constitute proprietary confidential business information. Further, as to the information on lines 1 -6, column (e), when used in conjunction with units in column (c) or with units on FPSC Forms 423-2, would enable one to derive the segmented transportation costs, including transloading and ocean barging. In addition, as to lines 2-6, column (g), the in-transit rail coal information can be used with information publicly disclosed in column (f) to compute the actual price per ton paid for Gatliff coal. Not only would this adversely affect TECO's ability to contract for goods and services on favorable terms, it would be contrary to the policy set forth in the Staggers Rail Act. Besides, the rail transportation information on lines 2-6, column (h) can be used with information publicly disclosed in column (f) to determine the actual CSX rail transportation cost per ton. This information is found to be proprietary business information and granted confidential status.

On workpaper 45-3B, p.1, lines 1-6, columns (d), (e), (g) and (h), TECO argues, that for the same reasons discussed immediately above, similar information would be revealed when certain computations are made with publicly disclosed information in other columns on the subject schedule. Therefore, the items on workpaper 45-3 B, as delineated are found to be proprietary business information and granted confidential status.

As to the information on workpaper 48A, lines 3-6 and 12-18, columns (a), (b), (c), (d), (e), (f) and (g), and workpaper 48B, lines 3-6, 12-15 and 18, columns (a), (b), (c), (d), (e), (f) and (g), TECO states that the information in question discloses amounts paid to TECO's affiliates, Gatliff Coal, Mid-South Towing, Electro-Coal Transfer and Gulfcoast Transit. It also discloses amounts paid to CSX for rail freight and limestone/iron ore purchases. When used in conjunction with Forms 423 this information would permit the costs per ton for coal, coal transportation and transloading, rail freight transportation and limestone/iron ore to be ascertained. Consequently, it would affect the ability of TECO to contract for goods and services. Therefore, the items on workpaper 48A, as delineated are found to be proprietary business information and granted confidential status.

Once again TECO requests confidential classification for vouchers numbers in column (a) on workpapers 48-1A, p.1, lines 1-48; 48-1A, p.2, lines 1-56; 48-1A, p.3, lines 1-51; 48-1A, p.4, lines 1-56; 48-1A, p.5, lines 1-46; and 48-1A, p.6, lines 1-50. As stated previously, without corresponding dollar amounts, no calculations can be made which would indicate prices paid to vendors, only total vouchers. Therefore, confidential classification is denied to column (a) on each of the workpapers noted above. However, column (d) on p.1, lines 1-47; p.2, lines 1-55; p.3, lines 1-51; p.4, lines 1-56; p.5, lines 1-46; and p.6, lines 1-50, on workpaper 48-1A, for which TECO requests confidential classification, represents the actual price per ton paid to the coal suppliers listed, and TECO asserts when used in conjunction with Form 423 the segmented transportation costs per ton for Mid-South Towing Company may be ascertained. In addition, as to p.1, lines 1, 2, 4, 5, 8, 10, 12-24, 26, 27, 29, 33-35 and 37-48; p.2, lines 1-11, 13, 15-32, 36, 37 and 39-56; p.3, lines 1, 2, 4-6, 9-12, 16-28, 30-32, 34, 36 and 38-51; p.4, lines 1-10, 18-23, 27-30, 32-36, 38 and 40-56; p.5, lines 1-7, 10-24 and 26-46; and p.6, lines 1-11, 15, 16, 18-25, 28-33 and 38-50, column (e), on workpaper 48-1A, TECO argues that these are the dollar amounts relative to the voucher numbers in column (a). Some represent transactions between the company and an affiliate, Gatliff Coal for coal purchase and with the transportation affiliates Mid-South Towing, Electro-Coal Transfer and Gulfcoast Transit, for segmented

transportation costs. The information when used in conjunction with FPSC Form 423-2, would enable one to derive the segmented transportation costs, including transloading and ocean barging. The company claims that this is contractual data the disclosure of which would impair TECO's efforts to contract for goods and services on favorable terms.

Further, as to p.1, lines 6, 8, 37, 48 and 50; p.2, lines 6, 8, 41, 56 and 58; p.3, 10, 12, 38, 49, 51 and 53; p.4, lines 6, 8, 41, 53, 56 and 58; p.5, lines 5, 7, 28, 43, 46 and 48; and p.6, lines 6, 8, 36, 48, 50 and 52, column (f) on workpaper 48-1A, pages 1-6, TECO states that these are the same total dollars as shown on workpaper 48A, p. 1, column (a), discussed above.

Except for the specific items noted above where confidential classification has been denied, the information on workpaper 48-1A, pages 1-6, as delineated above is found to be proprietary business information and granted confidential status.

TECO asserts the same rationales for the respective columns on workpapers 48-1B, pages 1-6 as it did for workpapers 48-1A, pages 1-6. Confidential classification is denied for column (a) on p.1, lines 1-51; p.2, lines 1-51, p.3; lines 1-48, p.4; lines 1-43; p.5, lines 1-25; and p.6, lines 1-71, on workpaper 48-1B, pages 1-6 for the reason stated previously, these are merely voucher numbers. However, column (d) on p. 1, lines 1-51; p.2, lines 2-51; p.3, lines 1-48, p.4, lines 3-43; p.5, lines 1-25 and p. 6, lines 1-71 is found to be proprietary business information. Column (e) on p.1, lines 1-3, 7-13, 15-19, 23-27, 29, 31 and 34-51; p.2, lines 2-12 and 15-51; p.3, lines 1-10, 13-18, 21-23 and 26-48; p.4, lines 3-6, 9-26 and 28-43; p.5, lines 1-10 and 12-25; and p.6, 1-21, 23-24, 27-28, 30, 32-39 and 45-71 is found to be proprietary business information. Column (f) on p.1, lines 9, 11, 32, 44, 51 and 53; p.2, lines 7, 9, 31, 48, 51 and 53; p.3, lines 8, 10, 33, 45, 48 and 50; p.4, lines 10, 12, 38, 41, 43 and 45; p.5, lines 4, 6, 18, 25 and 27; and p.6., lines 6, 8, 45, 67, 71 and 73, is found to be proprietary business information. The information as delineated on workpaper 48-1B, pages 1-6, in columns (d), (e) and (f) is granted confidential status.

As to workpaper page 52-2/1A, line 1, column (a) the information sought to be protected is the capacity payment rate per calculation components which are for the negotiated firm contracts for cogeneration. Because of the highly competitive nature of this type of transaction, TECO claims disclosure could impair the company's ability to contract for similar goods or services on favorable terms and adversely affect TECO's Customers. However, this information relates to the Conserv, Inc. QF contract which

expired December 31, 1992 and has not been renewed. Further, this contract was not treated as confidential information and consequently, it has been publicly disclosed. TECO is also requesting confidential classification for the following workpapers 59-1, 59-1/1, 59-4, 59-4/1, p. 1, which all relate to the Conserv, Inc. contract. Since the Conserv, Inc. contract has now expired and because data once disclosed to the public is not entitled to confidential status, TECO's request for confidential classification of the subject workpapers is denied.

For workpaper 53-3 B, pages 1 through 12, a schedule of TECO's matrix identifying the company's rationale for each line is marked Attachment A and made a part hereof. Confidential classification is granted for all items requested on p.1 and pages 6-12. As to pages 2-4, lines 2-5, column (b) and p.5, line 12-13, column (a), lines 5-6, column (b), and lines 4-6, 12 and 13, column (c), confidential classification is denied. These pages are Interchange Billing Schedules D. Line 1 on each page is the recoverable energy charge and can be found on public documents, such as Schedule A7 filed monthly with the Commission. Further, the remaining information appeared in Composite Exhibit 37 in TECO's last rate case. The exhibit included letters of commitment between TECO and FMPA, New Smyrna Beach, Reedy Creek, and Wauchula and these documents would include the same information.

As to workpaper 53-5 B, lines 1-3, column (c) the amounts shown are the actual costs pertaining to the contract sale. TECO claims that because of the highly competitive nature of this type of transaction, disclosure could impair the company's ability to contract for similar goods or services on favorable terms and adversely affect their customers. Confidential classification is denied. These numbers are cross-referenced to other schedules which have been held as public information as the utility did not request confidential classification for them. Data already disclosed to the public is not entitled to confidentiality.

On workpaper 53-5/1 B, lines 4 and 5, columns (b) and (c) the information sought to be protected is the capacity reservation charge calculation components which are for the negotiated firm contracts for scheduled interchange. Further, as to lines 1-3, column (c), TECO asserts that the information is the recoverable energy and nonrecoverable energy charge calculation which are for the negotiated firm contracts for scheduled interchange. Divided by the mwhs sold, the rate per mwh could be computed. TECO claims that because of the highly competitive nature of this type of transaction, the company's ability to contract for similar goods or services on favorable terms may be impaired. However, Line 1, column (c) is the recoverable energy charge and it can be found on

public documents, such as Schedule A7 filed monthly with the Commission. Therefore confidential status is denied for Line 1. column (c). Confidential classification is granted for the balance of the information for which confidential status is sought on this workpaper. confidential status is granted. has been previously disclosed

On workpaper 53-6B, lines 1-3, column (c) TECO asserts that the amounts shown are the actual costs pertaining to the contract sale. Because of the highly competitive nature of this type of transaction, disclosure could impair the company's ability to contract for similar goods or services on favorable terms and adversely affect TECO's Customers. Confidential classification is denied. These numbers are cross-referenced to other schedules which have been held as public information since the utility did not request confidential classification for them.

As to workpaper 53-6/1B, lines 4,5, columns (b) and (c), the information sought to be protected is the capacity reservation charge calculation components which are for the negotiated firm contracts for scheduled interchange. Further, on lines 1-3, column (c), the information sought to be protected is the recoverable energy and nonrecoverable energy charge calculation for the negotiated firm contracts for scheduled interchange. Divided by the mwhs sold, the rate per mwh could be computed. TECO claims that because of the highly competitive nature of these types of transactions, disclosure could impair the company's ability to contract for similar goods or services on favorable terms and adversely affect TECO's Customers. This is found to be proprietary business information and confidential status is granted.

Confidential Classification is denied for workpapers 58-1, p.1, lines 1-277, column (b) and 58-1, p.2, lines 1-15, column (b) because column (b) shows voucher numbers. As previously discussed, without the corresponding dollar amounts, no calculation can be made which would indicate prices paid to vendors. This does not represent confidential information. However, on workpapers 58-1, p.1, lines 1-277, column (c) and 58-1, p.2, lines 1-15, column (c) show the dollars related to the voucher numbers in column (b). In addition, on workpaper 58-1, p.1, lines 81 and 83, column (d) the amounts are handwritten notes made by the Commission auditor which represent the same amount shown in column (c) on the same page. TECO argues the voucher numbers in column (b) may be cross-referenced with the dollars on workpaper 58-1, p.1 and 2, or workpaper 10-10 to compute a cost per ton by coal supplier and a cost per barrel by vendor, respectively. Suppliers would be reluctant to provide significant price concessions to an individual utility if prices were disclosed because other purchasers would

seek similar concessions. In addition, the cost per ton can be used in conjunction with Forms 423 to derive the segmented transportation costs per ton for Mid-South Towing Company.

Except for the specific items noted above where confidential classification has been denied, the information on workpaper 58-1, p.1, and 58-1, p.2, as delineated above is found to be proprietary business information and granted confidential status.

On workpaper 58-2, lines 1-14, column (c) is the actual price per ton paid to the coal suppliers listed. This cost per ton can be used in conjunction with FPSC Forms 423 to derive the segmented transportation costs per ton for Mid-South Towing Company. As TECO asserts, this could adversely affect the ability of the company to contract for coal supplies on favorable terms. Therefore, this is proprietary business information and is granted confidential status. However, line 15, column (b) of workpaper 58-2, shows only voucher numbers and, for the reasons discussed previously, this is not proprietary business information. Confidential classification is denied.

For workpaper 58-2/1, consisting of 12 pages, a matrix, prepared by TECO, marked Attachment B is attached hereto and made a part hereof. On all of the pages and columns denoted this is the actual price per ton paid to the coal suppliers listed. This cost per ton can be used in conjunction with FPSC Forms 423 to derive the segmented transportation costs per ton for Mid-South Towing Company. Consequently, the ability of TECO to contract for coal supplies on favorable terms could be adversely affected. This is proprietary business information and confidential status is granted.

On workpaper 58-3, p.1, lines 7-9, 13, column (b); lines 1, 14, 16, column (c); lines 2, 3, 6, 15 and 17, column (d); line 4, column (e); lines 4,6 and 11, column (f); and lines 10 and 12, column (g), the company claims that this is the actual contract pricing information, both pricing and annual tonnage requirements. This pricing information can be used in conjunction with FPSC Forms 423 to derive the segmented transportation costs per ton for Mid-South Towing Company. These numbers, however, represent tons of coal. Without the associated cost data, calculations can not be made of unit price. Therefore, future company negotiations will not be harmed by the disclosure of price sensitive information. Confidential classification is denied for the items mentioned above. TECO's argument though is acceptable for the lines 4-8, 10 and 18, column (c) and line 16, column (d) on workpaper 58-3, p.1. These items are granted confidential classification.

On workpaper 58-3, p.2, lines 1 and 2, column (d), once again these are numbers which represent tons of coal. As stated previously, this is not considered proprietary business information and confidential classification is denied. As to lines 1 and 2, column (c), TECO maintains that this is the actual contract pricing information, both pricing and annual tonnage requirements. This pricing information can be used in conjunction with FPSC Forms 423 to derive the segmented transportation costs per ton for Mid-South Towing Company. Further, as to lines 3 and 4, column (a), TECO claims that this is the actual contract pricing information for heavy oil purchases. Knowledge of the pricing structure would provide a competitor with an unfair advantage and reduce or eliminate any opportunity for a major buyer, like TECO, to use its market presence to gain price concessions from individual suppliers. The result is reasonably likely to be increased heavy oil prices and increased electric rates.

Except for the specific items noted above where confidential classification has been denied, the information on workpaper 58-3, p.2, as delineated above is found to be proprietary business information and granted confidential status.

Finally, as to workpapers 59-1, lines 1-2, columns (a) and (b); 59-1/1, line 1, column (a); 59-4, line 1, column (a); and 59-4/1, p.1, line 34, column (i) and line 38, column (c), TECO asserts that the information sought to be protected is the capacity payment rate per calculation components which are for the negotiated firm contracts for cogeneration. Because of the highly competitive nature of this type of transaction, disclosure could impair the company's ability to contract for similar goods or services on favorable terms and adversely affect TECO's Customers. This is proprietary business information and is granted confidential classification.

DECLASSIFICATION

TECO seeks protection of the coal and coal transportation contract information specified as confidential for a minimum period of two years. The need for two or more years of confidentiality is vital not only to the company and its ratepayers, but to the vendors of coal and coal transportation services as well. The company set forth the following justification for this position:

Bidders for the sale of coal seek to optimize their profit margin. Disclosure of the prices paid by the utility for coal enables the bidder to increase price bids, which would ultimately bring detriment to the ratepayers. TECO firmly believes that the

disclosure of information concerning prices paid within the last two years will increase the price TECO must pay for coal, which would be detrimental to its ratepayers.

Recent bids received by TECO contained a \$4.17 per ton spread between the bids. The low bid undoubtedly would have been higher had the bidders had full knowledge of prices paid by TECO. Bidders will always seek to optimize their profits by submitting bids that are as high as the market will bear. If market data is disclosed, this would discourage suppliers from bidding competitively, because the suppliers would increase their bids to the level of past payments made by TECO to its suppliers.

Gatliff Coal and TECO Transport and Trade sell coal and bulk commodity transportation services in the open non-regulated marketplace. The prices at which their goods and services are sold are not publicly disclosed anywhere by publication or voluntary dissemination because it would materially lessen their competitive posture with customers other than TECO. Outside customers who negotiate for coal or coal transportation services are placed at a competitive advantage for these goods or services if they know the cost of the goods or services.

An analyst for an outside customer of Gatliff or TECO Transport who reads the written transcripts of public fuel hearings or reads the written orders of the FPSC can easily discover that until November 1, 1988, Tampa Electric paid cost for coal from Gatliff and for coal transportation from TECO Transport. Further, the publication of the stipulation agreement between the parties in 1988 indicated that the initial benchmark price was close to cost and subsequent testimony indicates the revised contract escalates from cost.

As long as an outside customer does not know how such an escalation clause changes price, the cost cannot be calculated. However, publicizing the price of coal or coal transportation services will tell an outside customer how much the escalation has been and make it easy for him to calculate cost.

Because of the seasonality of costs in both businesses, a full year's cost data is necessary for an accurate cost measurement. A second year must pass before one full year can be compared with a second year to measure the escalation accurately. So a perceptive vendor seeks two years of data to make his cost estimates. The competitive industries recognize that data beyond two years is not helpful to them, as enough factors may change in that time frame for costs to be much different from what was incurred. Any date less than two full years old is extremely valuable to outside

customers in contracting for services with Gatliff or TECO Transport. The difference of small amounts per ton can mean millions of dollars' difference in cost.

A loss of outside business by Gatliff or TECO Transport will affect not only Gatliff or TECO Transport but, if large enough, it could affect the credibility of the companies. The prices negotiated with Tampa Electric by these vendors took into consideration their costs and revenues at the time of negotiation, including their costs and revenues at the time of negotiation, including the revenues from outside customers. A significant loss of outside business could cause Gatliff or TECO Transport to fail, since under market pricing regulation TECO will not make up the difference to them in cost. In turn, a failure of these vendors would leave TECO and its customers with only higher cost alternatives for Blue Gem coal and for coal transportation to Tampa, a higher cost that would be paid by TECO's ratepayers. So the continued credibility of Gatliff and TECO Transport is important to protect the company's ratepayers from higher cost alternatives.

In addition, TECO requests that the confidential information relating to fuel oil contract data also not be declassified until at least two years after it is classified confidential. TECO argues that ideally, TECO's interests would be best protected by adopting a declassification date which is at least six months beyond the expiration of the contract pursuant to which the prices in question were determined.

TECO's ability to negotiate future contracts for No. 2 and No. 6 oil would reasonably likely be impaired if pricing information as described above were disclosed during the contract period or prior to the negotiation of a new contract. TECO typically renegotiates its No.2 and No. 6 fuel oil contracts and fuel related services contracts prior to the end of such contracts. On occasion some contracts are renegotiated after the end of the current contract period. In this situation, renegotiations are normally completed within six months. Therefore, it is necessary to maintain the confidentiality of the information for six months after the end of the individual contract period to which the information relates.

TECO's No. 2 contract was renegotiated effective October 1, 1990 and its No. 6 contract was renegotiated effective September 1, 1990. In many instances the declassification date proposed above would be beyond two years from the date the information is classified. Therefore, and in order to simplify the determination of a date of declassification date, TECO states that it is willing to settle for a declassification date which is two years from the

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date the material in question is initially classified. TECO claims this will avoid having to refer to contract expiration dates which vary from contract to contract. At the same time, it will afford the company some minimum period of protection from having this sensitive information disclosed publicly.

TECO has shown good cause to extend the period for confidential classification beyond the statutory 18 month limit. Accordingly, the proprietary business information detailed above shall be confidential for a period of two years from the date of this Order.

It is, therefore

ORDERED by Susan F. Clark, as prehearing officer that confidential classification is granted in part and denied in part for Document No. 7033-93 and corresponding staff audit workpapers (Document No. 6485-93) filed by Tampa Electric Company, as discussed in the body of this Order. It is further

ORDERED that confidential classification granted to the proprietary business information specified herein shall expire two years from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093, Florida Statutes. 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 Susan F. Clark, as Prehearing Officer, this 23rd day of August, 1994.



SUSAN F. CLARK, Commissioner and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.