

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Tampa Electric Company) DOCKET NO. 940772-EI
Polk Power Station Contract) ORDER NO. PSC-95-0091-CFO-EI
Audit Report - 94-014-2-1.) ISSUED: January 17, 1995

ORDER GRANTING TAMPA ELECTRIC COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

On July 7, 1994, Tampa Electric Company (TECO) filed its Request for Confidential Classification of certain materials related to the Polk Power Station Contract Audit. The request was given Document No. 06713-94. The confidential version of the documents attached to the request was assigned Document No. 06715-94. Document No. 06113-94 comprises the audit workpapers which correspond to this request. Attached as Exhibit "A" to the Request are detailed justifications for confidential treatment of portions of the workpapers.

Pursuant to Section 366.093, Florida Statutes, a utility requesting confidential classification must demonstrate that the document contains proprietary confidential business information. The Florida Legislature has determined that proprietary confidential business information means information, owned or controlled by the utility, which is intended to be and is treated as private in that disclosure would cause the utility or its ratepayers harm and has not been disclosed, unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Section 366.093(3), Florida Statutes.

Section 366.093(3), Florida Statutes, provides several examples of proprietary confidential business information. Included in this list is "information concerning bids and other contractual data, the disclosure of which would impair the efforts of the utility or its affiliates to contract for goods or services on favorable terms." To establish that material is proprietary confidential business information under Section 366.093(3)(d), Florida Statutes, a utility must demonstrate (1) that the information is contractual data, and (2) that the disclosure of the information would impair the efforts of the utility to contract for goods and services on favorable terms.

As indicated by the chart included as Attachment I, TECO has demonstrated that the contract bid information listed is entitled to confidential classification pursuant to Section 366.093(3)(d),

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Florida Statutes. Pages in the original audit workpapers for which TECO did not request confidentiality shall be declassified.¹

TECO requests that this material not be declassified until it can be returned to the utility and that the material be returned as soon as practicable. However, Section 366.093(4), Florida Statutes, states that confidentiality findings "are effective for a period set by the Commission not to exceed 18 months, unless the Commission finds, for good cause shown, that the protection from disclosure shall be for a specified longer period." [e.s.] Clearly, the Statute does not permit the Commission to grant confidentiality for the unspecified period of time requested. Therefore, the appropriate length of time for confidential classification of these workpapers is until June 30, 1996. At that time, TECO can request an extension of the time period.

In consideration of the foregoing, it is

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that the Request for Confidential Classification of listed portions of Document No. 06113-94 and Document No. 06715-94 filed by Tampa Electric Company is granted. It is further

ORDERED that this information shall be classified as proprietary confidential business information for the period discussed in the body of this Order. It is further

ORDERED that this Order will be the only notification by the Commission concerning the expiration of the confidentiality period.

¹ Declassified pages in Document Number 06113-94 are as follows: WP 10-9, p. 3 of 6; WP 10-9, p. 4 of 6; WP 10-9, p. 5 of 6; WP 29-1, p. 3 of 4; WP 29-2, p. 5 of 5.

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BY ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 17th day of January, 1995.


DIANE K. KIESLING, Commissioner
and Prehearing Officer

RCB
Attachments

(S E A L)

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,

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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.

94-014.mrd

<u>IDENTIFICATION AND LOCATION OF INFORMATION FOR WHICH CONFIDENTIALITY IS BEING SOUGHT</u>			<u>DESCRIPTION OF DATA</u>	<u>DETERMINATION</u>	
DOCUMENT NO.	PAGE NO(S).	LINE NO(S).	COMPANY'S DESCRIPTION OF DATA/MATERIAL	DENY OR GRANT	DETERMINATION ANALYSIS IN LIGHT OF PREVIOUS COMMISSION ACTIONS
BOTH	10-9 pg 6 of 6	1-2	Names of bidders	Grant	In the past the Commission has held the names of bidders confidential.
"	27-4 pg 1 of 1	1-17	"	"	"
"	27-6 pg 1 of 2	1	Evaluators of the bids	"	Knowledge of the persons and departments which will be evaluating the bids may adversely affect the bids.
"	27-6 pg 1 of 2	2-3	Evaluation criteria	"	Knowledge of this information could adversely affect future bids.
"	27-6 pg 1 of 2	9-13	Evaluators of the bids	"	Same as above
"	27-6 pg 1 of 2	14-15	Names of bidders	"	"
"	27-6 pg 2 of 2	1-26	Evaluation criteria	"	"
"	27-7 pg 1 of 2	1-7, 13, 14, 16, 20	Names of bidders	"	"
"	27-7 pg 1 of 2	7-12, 16-19	Other factors identifying bidders	"	Same as names of bidders
"	27-7 pg 1 of 2	16-19	Evaluation criteria	"	Same as above
"	27-7 pg 2 of 2	1-26	Evaluation criteria	"	"
"	29-1 pg 1 of 4	1-9	Names of bidders	"	"
"	29-1 pg 1 of 4	4-5	Evaluation criteria	"	"
"	29-1 pg 1 of 4	6-9	Other factors identifying bidders	"	"

DOCUMENT NO.	PAGE NO(S).	LINE NO(S).	COMPANY'S DESCRIPTION OF DATA/MATERIAL	DENY OR GRANT	DETERMINATION ANALYSIS IN LIGHT OF PREVIOUS COMMISSION ACTIONS
"	29-1 pg 2 of 4	1-18	Evaluation criteria	"	"
"	29-1 pg 4 of 4	1-6	Names of bidders	"	"
"	29-1/1	all	Evaluation criteria	"	"
"	29-1/1-2 pg 1 of 3	1-4	Names of bidders and Evaluation criteria	"	"
"	29-1/1-2 pg 2 of 3	1-10	Names of bidders and Evaluation criteria	"	"
"	29-1/1-2 pg 3 of 3	1-5	Evaluation Criteria	"	"
"	29-1/1-3	1-3	Bid prices	"	This could adversely affect future bids
"	29-1/1-3	4	Names of Bidders	"	Same as above
"	29-2 pg 1 of 5	1-9	Names of bidders and Evaluation Criteria	"	"
"	29-2 pg 2 of 5	1-17	Names of bidders and evaluation criteria	"	"
"	29-2 pg 3 of 5	1-17	Evaluation criteria	"	"
"	29-2 pg 4 of 5	1-16	Evaluation criteria	"	"
"	29-2/1 pg 1 of 2	1-2	Person hours for job	"	Similar to bid prices and should also be confidential
"	29-2/1 pg 2 of 2	1-3	Person hours for job	"	"