

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 980001-EI
ORDER NO. PSC-98-1351-CFO-EI
ISSUED: October 12, 1998

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO PORTIONS OF
DOCUMENT NUMBER 06631-98

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Tampa Electric Company (TECO) requests confidential classification of the Exhibit of TECO Witness, Mr. Rod Burkhardt, Document No. 06631-98. TECO asserts that the portions of the information contained in the Exhibit for which confidential classification is sought, are proprietary, confidential business information within the meaning of Section 366.093(d) and (e), Florida Statutes. TECO requests that the information for which it seeks confidential classification remains protected from public disclosure until July 30, 2000. As justification therefor, TECO asserts that public disclosure of the information prior to that date could adversely affect the competitive interests of TECO's affiliates. TECO maintains that this, in turn, would adversely affect the ability of TECO to contract for transportation services on favorable terms.

TECO contends that the time period requested is reasonable because it would allow TECO's affiliated transportation companies to negotiate future contracts without their competitors having access to the information. If the competitors or customers had access to this information, TECO asserts that the ability of its affiliates to negotiate future contracts would be adversely affected.

TECO asserts that the information for which confidential classification is sought has been treated as confidential by TECO and its affiliates and has not been publicly disclosed. TECO also maintains that this type of information has been recognized by the Commission "on numerous recent occasions" to constitute proprietary, confidential business information under Section 366.093, Florida Statutes.

DOCUMENT NUMBER-DATE

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TECO RECORDS/REPORTING

MATERIAL FOR WHICH CONFIDENTIALITY IS REQUESTED

TECO requests that the information in the following table be granted confidential classification.

TABLE 1: TOTAL PRICE AND WEIGHTED AVERAGE PER TON WATER TRANSPORTATION PRICE

DOCUMENT	PAGE	LINE	DESCRIPTION/ LABEL
EXHIBIT RB-1, DOCUMENT 1	2/2	1	TAMPA ELECTRIC WEIGHTED AVERAGE PER TON, WATER TRANSPORTATION PRICE FROM ALL TAMPA ELECTRIC COAL SOURCES
EXHIBIT RB-1, DOCUMENT 1	2/2	3	OVER/ (UNDER) BENCHMARK
EXHIBIT RB-1, DOCUMENT 1	2/2	5	TOTAL TRANSPORTATION COST IN 1997
EXHIBIT RB-1, DOCUMENT 1	2/2	7	TOTAL COST OVER/ (UNDER) BENCHMARK - 1997
EXHIBIT RB-1, DOCUMENT 1	2/2	8	PRIOR YEAR'S CUMULATIVE BENEFIT (1988- 1996)
EXHIBIT RB-1, DOCUMENT 1	2/2	9	NET BENEFIT FOR 1988-1997

TECO asserts that the total price and the weighted average per ton water transportation price from all TECO coal sources shown on line one is entitled to confidential classification under Section 366.093(d) and (e), Florida Statutes. TECO asserts that disclosure of this information would impair its efforts to contract for goods

and services on favorable terms. TECO also maintains that disclosure of the information in these lines would harm the competitive interests of TECO's transportation affiliates and thereby ultimately harm TECO and its customers. TECO asserts that the prices shown on line one can be used with other publicly available data to determine the segmented transportation prices for river barge transportation services as well as for ocean barge transportation services.

TECO claims that the market for bulk commodity transportation is very competitive. Aside from the coal transportation services performed for TECO, TECO Transport and Trade affiliates currently transport coal and other bulk commodities for other customers as well. TECO maintains that disclosing the amounts charged by these affiliates to TECO would permit the affiliates' other customers, who may be paying higher prices for similar services, to bargain for more favorable terms from the affiliates.

TECO contends that the Over/(Under) Benchmark shown on line three requires confidential classification for the same reasons discussed above for the protection of information found in line one. TECO asserts that the information contained in line three is an arithmetic function of lines one and two. TECO maintains that disclosure of the amount on line three would enable competitors to determine the value of line one. TECO asserts that for this reason, the figure in line three is entitled to confidential classification for the same reasons as the amounts shown in line one.

TECO maintains that the information concerning total transportation cost shown in line five and in the description of the line one amount is entitled to confidential protection. TECO claims that this is because line five is an arithmetic function of the total tons transported shown in line four and the weighted average water transportation price shown in line one. Therefore, the total transportation cost is entitled to confidential protection for the same reasons referred to above with respect to the line one amount.

TECO asserts that the total cost (over\under) benchmark amount shown on line seven is also an arithmetic function of the preceding lines which can be used to calculate the weighted average water transportation cost shown on line one. Therefore, according to TECO, the line seven amount is entitled to confidential protection for the same reasons cited above with respect to the amount shown on line one.

TECO contends that the prior year's cumulative benefit shown on line eight is entitled to confidential protection. This number is an arithmetic function of the prior years' weighted average price for transportation services and its disclosure would enable a competitor to determine that weighted average price from the total tons transported.

TECO maintains that the net benefit of 1988-1996 shown on line nine is entitled to confidential protection. TECO asserts that this number is an arithmetic calculation of lines seven and eight. TECO contends that disclosure of this information would allow a competitor to calculate those amounts. Therefore, TECO asserts that line nine is entitled to confidential protection for the same reasons as the amounts on lines seven and eight.

Additionally, TECO requests confidential classification for the information in the following table.

TABLE 2: WEIGHTED AVERAGE PER TON PRICE OF COAL PURCHASED

EXHIBIT	PAGE	LINE	DESCRIPTION/ LABEL
EXHIBIT RB-1 DOCUMENT 2	2/2	1	TAMPA ELECTRIC WEIGHTED AVERAGE PER TON PRICE OF COAL PURCHASED
EXHIBIT RB-1 DOCUMENT 2	2/2	3	OVER/ (UNDER) BENCHMARK
EXHIBIT RB-1 DOCUMENT 2	2/2	5	TOTAL COST IN 1997
EXHIBIT RB-1 DOCUMENT 2	2/2	7	TOTAL COST OVER/ (UNDER) BENCHMARK - 1996

TECO asserts that the information contained in these lines concerns the weighted average per ton price of coal purchased reflected in line one. TECO claims that this information is protected under Section 366.093(d) and (e), Florida Statutes. TECO asserts that if the contractual price charged by Gatliff Coal Company to TECO for coal supplies under the parties' current contract is made public,

it will adversely affect Gatliff's ability to negotiate higher prices with other purchasers. TECO maintains that if other potential purchasers know how low Gatliff is willing to price coal sold to TECO, that particular price may be viewed by the other potential purchasers as a ceiling on the amount that they are willing to pay for Gatliff coal. According to TECO, this would place Gatliff coal at a competitive disadvantage in the negotiating process.

TECO maintains that the information in line three (over/under benchmark) is entitled to confidential classification because it can be used in conjunction with the coal price benchmark shown on line 2 to determine the TECO weighted average price of coal purchased shown on line one.

TECO asserts that the total cost shown on line five is entitled to confidential classification because it, too, is a function of the average price of coal purchased times the total tons purchased. TECO maintains that the disclosure of the total cost would reveal the weighted average price of coal shown in line one.

TECO contends that the total cost over/under benchmark shown on line seven is entitled to confidential classification. TECO asserts that this number is an arithmetic function of the weighted average price of coal purchased and its disclosure would enable a competitor to determine that weighted average price.

TECO maintains that disclosure of the weighted average price per ton of Gatliff coal or any information which would enable one to derive that price would also enable one to derive TECO Transport and Trade's segmented transportation prices using other publicly available information.

DATE OF DECLASSIFICATION

TECO seeks confidential classification of the information described above until July 30, 2000. As justification for requesting this two-year period, TECO asserts that this information relates to coal and coal transportation and is vital not only to TECO but also to TECO's ratepayers. TECO claims that this time period is necessary to protect TECO, its ratepayers and its vendors and affiliates as contemplated by Section 366.093(3)(d), Florida Statutes. TECO asserts that bidders for the sale of coal will always seek to optimize their profit margin. Full knowledge of the prices paid by the utility for coal enables the bidder to increase

the price bid and thereby optimize the bid from the viewpoint of the seller and to the detriment of the ratepayer. TECO maintains that the disclosure of information on prices paid within the last two years will increase the price TECO will be required to pay for coal and will be detrimental to ratepayers. TECO asserts that if market information is disclosed which discourages suppliers from bidding competitively, they will increase their bids to the level of past payments to other supplies by the buyer.

TECO asserts that Gatliff Coal and TECO Transport & 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. TECO asserts that an analyst for an outside customer of Gatliff or TECO Transport who read the written transcripts of public fuel hearings or reads the written orders of the FPSC can easily discover that until November 1, 1988, TECO paid cost for coal from Gatliff and for coal transportation from TECO Transport and Trade. Further, TECO asserts that 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.

TECO contends that as long as an outside customer does not know how the escalation clause in the revised contract between TECO and its transportation affiliates changes price, the cost cannot be calculated. TECO cautions, however, that publicizing the price of coal or coal transportation services will tell an outside customer how much the escalation has been and will make it easy to calculate the cost. Because of the seasonality of costs in both businesses, a full year's cost data is necessary for an accurate cost measurement. According to TECO, 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 effective cost estimates. Competitive industries recognize that data beyond two years is not helpful to them, because enough factors may change in that time for costs to be much different from what was incurred. Any date less than two full years, however, according to TECO, is extremely valuable to outside customers in contracting for services with Gatliff or TECO

Transport & Trade. 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 & Trade will affect not only Gatliff or TECO Transport & Trade, but, if large enough, it could affect the credibility of these two companies. The prices negotiated with TECO by these vendors took into consideration 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 & Trade to fail, because 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 customer with only higher cost alternatives for Blue Gem coal and for coal transportation to Tampa. According to TECO, this higher cost would have to be paid by TECO's ratepayers. TECO concludes that the continued credibility of Gatliff and TECO Transport is important to protect TECO's ratepayers from higher cost alternatives. TECO also asserts that information such as it has presented above has been granted confidential classification by the Commission in this docket before in Order no. PSC-96-0995-CFO-EI, issued August 5, 1996.

CONCLUSION

Upon review, it appears as if the foregoing information is "proprietary confidential business 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." Section 366.093(3)(d), Florida Statutes. This information also appears to be "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e), Florida Statutes. Accordingly, it is granted confidential classification.

TECO appears to have provided enough information concerning the harm which could arise from not protecting this information for a minimum of two years. The two year confidential classification period is reasonable.

It is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the information described within the body of this Order and

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contained in Document No. 06631-98, is granted confidential classification. It is further

ORDERED that the information described within the body of this Order and contained in Document No. 06631-98 is granted confidential classification until July 30, 2000. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the declassification date of this material.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 12th day of October, 1998.



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 120.569(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, 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.