

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for specified confidential treatment of staff audit workpapers for Affiliate Transaction Audit for calendar year 1997 (Audit Control No. 98-082-2-1) by Tampa Electric Company.

DOCKET NO. 981462-EI
ORDER NO. PSC-99-0901-CFO-EI
ISSUED: May 6, 1999

ORDER GRANTING TAMPA ELECTRIC COMPANY'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION

On October 29, 1998, Tampa Electric Company (Utility), pursuant to Section 366.093, Florida Statutes, requested confidential classification of certain portions of the staff working papers filed by staff in Document 11433-98. On November 16, 1998, the Utility filed a second request for confidential classification covering parts of the audit report. As modified by letter filed January 12, 1999, that request also includes Documents 12109-98 and 12845-98.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine". Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential business information, the disclosure of which will cause the company or its ratepayers harm.

Pursuant to Section 366.093(3),

Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless

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disclosed pursuant to a statutory provision, an order of the Court or administrative body, or private agreement that provides that the information will not be released to the public. 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.

As noted in Attachment I, all of the materials for which confidential classification is sought have been found, on review, to meet the requirements of either Section 366.093(3)(d) or 366.093(3)(e). Such information includes

(a) Coal price charged to Tampa Electric by vendors, cost of coal incurred by the Utility's affiliate Gatliff Coal Company, and the price charged for coal by Gatliff to Tampa Electric;

(b) Price of river barging, ocean barging and rail transportation of coal;

(c) Information which would make calculating the aforementioned coal transportation prices possible.

(d) Information regarding revenues, operating income, operating results, taxable income, tax computations or profitability of non-regulated subsidiary companies.

As noted by the Utility, disclosing the amounts paid to Tampa Electric's affiliates would eliminate any negotiating leverage which the affiliates have in marketing their services to others. Similarly, as noted by the Commission in Order No. PSC-98-1312-CFO-EI,

disclosure of ... rail rate per ton ... would adversely affect the ability of [Tampa Electric] and its affiliates to negotiate favorable rail rates with the various suppliers serving areas in the vicinity of [Tampa Electric's] coal suppliers

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As to confidentiality of the financial records of unregulated affiliated subsidiary companies, the Utility notes:

Disclosure of these operating results for our non-regulated [affiliated] companies will put them at a competitive disadvantage since their non-regulated competitors are not required to publish the type of operating financial information contained in these schedules...

Documents which meet the requirements for confidential classification, as do these pursuant to Section 366.093(3)(d) and (e), are normally so classified for 18 months pursuant to Section 366.093(4), unless good cause is demonstrated to justify a longer term. In this case, the Utility asked that the information not be disclosed for a 24-month period of competitive negotiation or renegotiation of contracts for coal, coal transportation and unregulated goods and services. Good cause having been shown, the documents listed in Attachment I will be accorded confidential classification for 24 months.

Based on the foregoing, it is therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of those portions of Documents Nos. 11433-98, 12109-98 and 12845-98 listed in Attachment I is granted. It is further

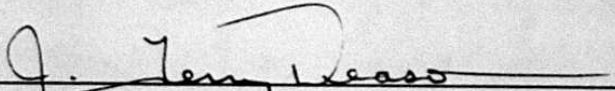
ORDERED that, pursuant to Section 366.093, Florida Statutes and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the material specified herein shall expire twenty-four (24) months from the date of issuance of this Order in the absence of a renewed request for confidentiality 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. It is further

ORDERED that this docket is closed.

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By ORDER of Commissioner J. Terry Deason as Prehearing Officer
this 6th day of May, 1999.



J. TERRY DEASON
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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT I

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
Documents 11433-98 and 12845-98					
Audit Report	6	3		Grant	Reports protected contractual price information
Audit Report	15	1,2		Grant	Reports competitive information of an unregulated affiliate
Audit Report	16	1		Grant	Reports competitive information of an unregulated affiliate
Documents 11433-98 and 12109-98					
1	2 of 3	25,26		Grant	Reports competitive information of an unregulated affiliate
1	3 of 3	5		Grant	Reports competitive information of an unregulated affiliate
10-4/1	1	1,3,5,7,8,9		Grant	Reports protected contractual price information
10-4/2	1	1,3,5,7		Grant	Reports protected contractual price information
10-8/2	1 of 2	1 All	e a,b,c,f,g, h,i,j,k,l, m,n,o	Grant	Reports competitive information of an unregulated affiliate

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
10-8/2	2 of 2	1 All	b,m a,c,d,e,f,g, h,i,j,k,l,n, o,p,q,r	Grant	Reports competitive information of an unregulated affiliate
10-8/3	1 of 3	1 All	e,q a,b,c,f,g,h, i,j,k,l,m,o, p	Grant	Reports competitive information of an unregulated affiliate
10-8/3	2 of 3	1 All	k.l a,b,c,d,e, f,g,h,i,j,m, o,p,q,r,s	Grant	Reports competitive information of an unregulated affiliate
Documents 11433-98 and 12109-98					
10-8/3	3 of 3	All	a,b,c,d,e,f	Grant	Reports competitive information of an unregulated affiliate
10-8/4	1 of 2	1 All	h a,c,d,e,f,g, i,j,k,l,m	Grant	Reports competitive information of an unregulated affiliate

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
10-8/4	2 of 2	1	a,b,c,d,e,f, g,h,i,j,k,l, m,n,o,p,q,r	Grant	Reports competitive information of an unregulated affiliate
		2,3,4,5	All		
		All Other Lines	a,b,d,e,f,g, h,i,j,k,l,m, n,o,p,q,r		
10-8/5	1 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	2 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	3 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	4 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	5 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	6 of 10	All		Grant	Reports competitive information of an unregulated affiliate
Documents 11433-98 and 12109-98					
10-13/1	1	1-31	b,c	Grant	Reports protected contractual price information
		32-34	a		
		35-38	b		

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
10-13/1-1	1 of 6	3,4,5,12,13,15	e,g	Grant	Reports protected contractual price information
		3,4,5,7,8,10,12,13,15	a,b,c,d,f,h,i,j,k,l,m		
		17,18,20	d,e,m		
		23,25	a,b,c,e,g,i,j,k,l,m		
10-13/1-1	2 of 6	2,3,4,5,12,13,15	a,b,c,d,e,f,g,h,i,j,k,l,m	Grant	Reports protected contractual price information
		7,8,10	g,h,i,j,m		
		17,18,20	a,b,m		
		22,23,25	h,m		
Documents 11433-98 and 12109-98					
10-13/1-1	3 of 6	3,5	e,m	Grant	Reports protected contractual price information
		7,8,9,10	c,m		
		13,15	j,m		
		17,18,20	b,c,d,e,f,g,h,i,j,k,l,m		
		22,23,25	a,b,c,d,m		

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
10-13/1-1	4 of 6	3,4,5 7,8,9,10 13,15 18,20 22,23,25	a,b,c,d,e,f,m c,d,e,f,g,h,i,j,k,l,m c,d,e,f,m k,m a,m	Grant	Reports protected contractual price information
Documents 11433-98 and 12109-98					
10-13/1-1	5 of 6	2,3,5,7,8,10,12,13,15,22,23,25 2,3,5 7,8,10,22,23,25 12,13,15, 17,18,20,28,30	a,b,d,e,f,g,h,i,j,k,m l c,l c c,m	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
10-13/1-1	6 of 6	2,3,5 7,8,10 12,13,15 18,20 22,23,25 27,28,30	f,k,m c,m g,h,i,j,k,l,m a,f,m d,m g,i,j,k,l,m	Grant	Reports protected contractual price information
10-13/1-2	1	1-5 1-7	b c	Grant	Reports protected contractual price information
10-28/2	1	1,4,9,12-15 10	c b	Grant	Reports protected contractual price information
Documents 11433-98 and 12109-98					
10-28/2-1	1	1-31 32-34 35-38	b,c a c	Grant	Reports protected contractual price information
10-29/1	1 of 2	13,14,17		Grant	Reports competitive information of an unregulated affiliate
10-29/3	10-29/3	All	a,b,c	Grant	Reports competitive information of an unregulated affiliate

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
10-29/5	10-29/5	All	b,c,d,e	Grant	Reports competitive information of an unregulated affiliate
43-5 Summary	1	1,2		Grant	Reports competitive information of an unregulated affiliate
43-5 Summary	2	1		Grant	Reports competitive information of an unregulated affiliate
43-5	1	2-15 12-15	g,h,i,j,l o	Grant	Reports competitive information of an unregulated affiliate
45-1	1	1,3,5,7,8,9		Grant	Reports protected contractual price information
45-2	1	1-31 32-34 35-38	b,c a b	Grant	Reports protected contractual price information
Documents 11433-98 and 12109-98					
45-2/1	1 of 6	3,4,5,12,13,15 3,4,5,7,8,10,12,13,15 17,18,20 23,25	e,g a,b,c,d,f,h,i,j,k,l,m d,e,m a,b,c,e,g,i,j,k,l,m	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
45-2/1	2 of 6	2,3,4,5,12, 13,15 7,8,10 17,18,20 22,23,25	a,b,c,d,e,f, g,h,i,j,k,l, m g,h,i,j,m a,b,m h,m	Grant	Reports protected contractual price information
45-2/1	3 of 6	3,5 7,8,9,10 13,15 17,18,20 22,23,25	e,m c,m j,m b,c,d,e,f,g, h,i,j,k,l,m a,b,c,d,m	Grant	Reports protected contractual price information
Documents 11433-98 and 12109-98					
45-2/1	4 of 6	3,4,5 7,8,9,10 13,15 18,20 22,23,25	a,b,c,d,e,f, m c,d,e,f,g,h, i,j,k,l,m c,d,e,f,m k,m a,m	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
45-2/1	5 of 6	2,3,5,7,8, 10,12,13, 15,22,23, 25 2,3,5 7,8,10,22, 23,25 12,13,15 17,18,20 28,30	a,b,d,e,f,g, h,i,j,k,m l c,l c c,m c,m	Grant	Reports protected contractual price information
Documents 11433-98 and 12109-98					
45-2/1	6 of 6	2,3,5 7,8,10 12,13,15 18,20 22,23,25 27,28,30	f,k,m c,m g,h,i,j,k,l, m a,f,m d,m g,i,j,k,l,m	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
45-2/2	1	1-22 3-5,7,9,10, 12,15,19, 20,24 28-33,35 39 44 43-44 48 47-52	d i,j,k l i d i d,h i	Grant	Reports protected contractual price information
Documents 11433-98 and 12109-98					
45-2/2-1	1	1,23-25, 28-30 2-4,6,9, 12-15,18, 19,21,22 5,7,8,10, 11,16,17, 20,26,27	c b b,c	Grant	Reports protected contractual price information
45-3	1	1,3,5,7		Grant	Reports protected contractual price information

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Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Disposition	Type of Confidential Information
45-3/2	1	1-5 1-7	b c	Grant	Reports protected contractual price information
45-4	1	1,3,5		Grant	Reports protected contractual price information