

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Allied Universal Corporation and Chemical Formulators, Inc. against Tampa Electric Company for violation of Sections 366.03, 366.06(2), and 366.07, F.S., with respect to rates offered under commercial/industrial service rider tariff; petition to examine and inspect confidential information; and request for expedited relief.

DOCKET NO. 000061-EI  
ORDER NO. PSC-01-0232-CFO-EI  
ISSUED: January 25, 2001

ORDER GRANTING IN PART AND DENYING IN PART REQUEST FOR  
CONFIDENTIAL CLASSIFICATION OF  
DOCUMENTS NOS. 12556-00 AND 12557-00

On January 20, 2000, Allied Universal Corporation and Chemical Formulators, Inc. (Allied) filed a formal complaint against Tampa Electric Company (TECO). The complaint alleges that: 1) TECO violated Sections 366.03, 366.06(2), and 366.07, Florida Statutes, by offering discriminatory rates under its Commercial/Industrial Service Rider (CISR) tariff; and, 2) TECO breached its obligation of good faith under Order No. PSC-98-1081A-FOF-EI. Odyssey Manufacturing Company (Odyssey) and Sentry Industries (Sentry) are intervenors. They are separate companies but have the same president. Allied, Odyssey and Sentry manufacture bleach.

On October 3, 2000, Tampa Electric Company filed, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, a request for confidential classification of:

1. Portions of the supplemental testimony and exhibit WRA-2 of William R. Ashburn (Document No. 12556-00); and,
2. Portions of the supplemental testimony and exhibit CDS-2 of C. David Sweat (Document No. 12557-00).

DOCUMENT NUMBER-DATE

01126 JAN 25 2001

FPSC-RECORDS/REPORTING

Section 366.093, Florida Statutes, defines "proprietary confidential business information" as:

[I]nformation, 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 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.

1. Mr. Ashburn's Supplemental Testimony and Exhibit WRA-2

TECO requests confidential classification for numerous phrases and numbers on pages two through nine of Mr. Ashburn's supplemental testimony. In addition, TECO requests confidential classification for several documents in Exhibit WRA-2, as follows:

- (1) Document No. 1, Page 1 of 1, entire page
- (2) Document No. 2, Page 1 of 6 through Page 4 of 6, entire page
- (3) Document No. 2, Page 5 of 6 and Page 6 of 6, specific portions
- (4) Document No. 3, Page 1 of 1, specific portions

TECO states that the portions Mr. Ashburn's supplemental testimony for which it requests confidentiality disclose details of TECO's CISR negotiations with Odyssey and Allied. TECO states that public disclosure of this information would cause competitive harm to both customers and TECO and undermine the usefulness of the CISR tariff as a tool for the creation of ratepayer benefits.

I find that all the pages and lines TECO identified, except the lines listed below, meet the confidentiality criteria of Section 366.093, Florida Statutes. The confidential portions of the testimony and exhibit contain specific information regarding the CISR rates TECO negotiated with Odyssey and Allied and address

the results of TECO's Ratepayer Impact Measure (RIM) analysis. Public disclosure of this information would harm TECO's ability to negotiate future contracts.

TECO's request for confidentiality is denied for the following excerpts:

- (1) Page 3, lines 7 through 9
- (2) Page 5, lines 11 through 14
- (3) Page 7, lines 7 through 17

Items (1) and (2) do not contain specific information regarding TECO's CISR negotiations or proprietary business information. Item (3) discusses, in general terms, the RIM model and does not reveal any customer-specific information.

2. Mr. Sweat's Supplemental Testimony and Exhibit CDS-2

The specific portions of Mr. Sweat's supplemental testimony for which TECO requests confidentiality are on pages 1 through 3 of the testimony. In addition, TECO requests confidentiality for Document No. 1, Page 1 of 1, of exhibit CDS-2.

TECO states that the portions of the testimony for which it requests confidential treatment disclose details of TECO's CISR negotiations with Odyssey. TECO states that public disclosure of this information would cause competitive harm to both Odyssey and TECO and undermine the usefulness of the CISR tariff as a tool for the creation of ratepayer benefits.

I find that all the pages and lines TECO identified meet the confidentiality criteria of Section 366.093, Florida Statutes. These excerpts contain specific information on concessions made by Odyssey for the purpose of obtaining a CISR rate from TECO. Public disclosure of this information would harm Odyssey's and TECO's ability to negotiate future contracts.

Because the parties have executed non-disclosure agreements, they shall have access to the confidential portions of Mr. Ashburn's and Mr. Sweat's supplemental testimony.

ORDER NO. PSC-01-0232-CFO-EI  
DOCKET NO. 000061-EI  
PAGE 4

Section 366.093(4), Florida Statutes, provides that "any finding by the Commission that records contain proprietary confidential business information is effective for a period not to exceed 18 months, unless good cause is shown for a specified longer period." TECO did not specify a time period in its request. Therefore, this information shall be granted confidential classification for a period of 18 months from the date this Order is issued.

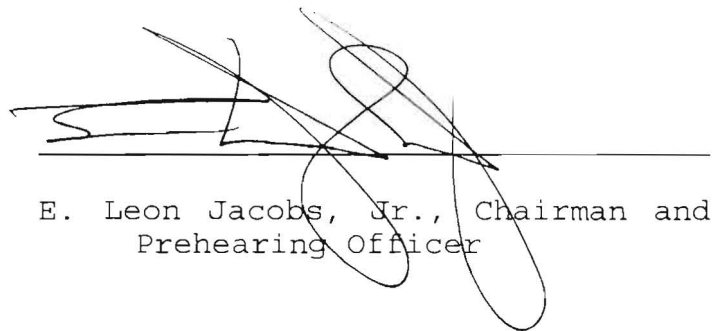
Based on the foregoing, it is

ORDERED by Chairman E. Leon Jacobs, Jr., as Chairman and Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Mr. William R. Ashburn's supplemental testimony and exhibit (Document No. 12556-00) is granted in part and denied in part, as described in the body of this Order. It is further

ORDERED that Tampa Electric Company's Request for Confidential Classification of Mr. C. David Sweat's supplemental testimony and exhibit (Document No. 12557-00) is granted.

ORDERED that this Order shall be the only notification by the Commission to the parties that the date of declassification of the materials granted confidential status shall be 18 months from the date this Order is issued.

By ORDER of Chairman E. Leon Jacobs, Jr., Chairman and Prehearing Officer this 25th day of January, 2001.



E. Leon Jacobs, Jr., Chairman and  
Prehearing Officer

( S E A L )

MKS

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.