

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 010001-EI
ORDER NO. PSC-01-2526-CFO-EI
ISSUED: December 28, 2001

ORDER GRANTING CONFIDENTIAL CLASSIFICATION FOR CERTAIN
INFORMATION SUPPLIED BY TAMPA ELECTRIC COMPANY IN RESPONSE TO
STAFF'S SECOND SET OF INTERROGATORIES (NOS.9-130)
(DOCUMENT NO. 11033-01)

On September 5, 2001, Tampa Electric Company (TECO) filed on a confidential basis its answers to Staff's Second Set of Interrogatories, Interrogatories Nos. 63, 65, 67 and 69, together with a Notice of Intent to Seek Confidential Classification pursuant to Rule 25-22.006, Florida Administrative Code. On September 26, 2001, TECO, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, filed a request for confidential classification for certain information supplied in the September 5, 2001 answers. The information for which TECO seeks confidential classification was filed with the Commission as Document No. 11033-01. TECO asserts that the portions of the information contained in the answers to Staff's Second Set of Interrogatories, for which confidential classification is sought, are proprietary, confidential business information within the meaning of Section 366.093(d) and (e), Florida Statutes. TECO also states that disclosure of the specified information contained in Document No. 11033-01 would impair TECO's competitive interests.

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

Specifically, TECO requests that confidential classification be provided for the following information:

- (1) Natural gas pricing information contained in TECO's Answers to Staff's Interrogatories Nos. 63 and 65.

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- (2) Information contained in TECO's residual oil commodity contracts in TECO's Answers to Staff's Interrogatories Nos. 67 and 69.

Answers to Interrogatories Nos. 63 and 65.

TECO asserts that the highlighted portions of the confidential answers to Interrogatories Nos. 63 and 65 contain highly proprietary pricing information regarding negotiated purchases of natural gas from TECO suppliers. TECO states that public disclosure of the highlighted contractual information would harm TECO's ability to negotiate favorable natural gas pricing with other potential suppliers in that it would disclose to them the prices that TECO has been willing to pay in recent periods. Such disclosure, TECO contends, would establish a floor on prices offered by prospective suppliers who desire to secure as great a price as possible for the natural gas they sell. This would tend to increase price offers from natural gas suppliers from the price levels that otherwise would have been offered in the absence of the suppliers' access to this information. TECO maintains that the disclosure of this natural gas pricing information to TECO's competitors in the wholesale power market would provide them with information useful in competing with TECO for the wholesale sale of electricity because the information would disclose TECO's cost information thereby enabling TECO's wholesale competitors to better profile TECO's price flexibility for the power it sells.

TECO asserts that the information in its answers to Staff's Interrogatories Nos. 63 and 65 concerns bids or other contractual data, the disclosure of which would impair the efforts of TECO to contract for goods or services on favorable terms. In addition, TECO states, such information relates to competitive interests, the disclosure of which would impair the competitive business of TECO, the provider of the information. As such, this information is specifically covered under Section 366.093(3)(d) and (e), Florida Statutes, should be treated as confidential, and should not be disclosed to the public or to any competitor of TECO in the wholesale power market.

Answers to Interrogatories 67 and 69.

TECO states it's answers to Interrogatories Nos. 67 and 69 supply the same type of information TECO has supplied with respect to natural gas contracts in its answers to Interrogatories Nos. 63 and 65 with respect to the company's residual oil commodity contracts.

This highlighted information shows the terms and conditions of the price per barrel of oil negotiated between TECO and its suppliers. Public disclosure of this information or disclosure of it to any competitor of TECO in the wholesale electric power market would have the same adverse impacts on TECO and its customers as disclosure of the natural gas pricing information discussed in connection with the company's answers to Staff's Interrogatories Nos. 63 and 65. The arguments with respect to the need for confidential treatment of the natural gas pricing details in answers to Staff's Interrogatories Nos. 63 and 65 apply equally to oil commodity contract pricing. Therefore, TECO's answers to Staffs Interrogatories Nos. 67 and 69 are also confidential proprietary business information and exempt from public records disclosure.

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.

Section 366.093(4), Florida Statutes provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, unless the Commission finds good cause to specify a longer period. TECO did not request an extension to this period of classification. As such, the information contained in Document No. 11033-01 shall be granted confidential classification for a period of eighteen months from the date of issuance of this Order.

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Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification is granted as set forth in the body of this Order. It is further

ORDERED that pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the information described within the body of this Order and contained in Document No. 11033-01 is granted confidential classification for a period that shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093(4). 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 Lila A. Jaber, as Prehearing Officer, this 28th day of December, 2001.



LILA A. JABER
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 the Commission Clerk and Administrative Services, 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.