

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of investor-owned
electric utilities' risk
management policies and
procedures.

DOCKET NO. 011605-EI
ORDER NO. PSC-03-0020-CFO-EI
ISSUED: January 6, 2003

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 06489-02, 06490-02)

On June 11, 2002, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Tampa Electric Company (Tampa Electric) filed a request for confidential classification of specified information on pages 65, 66, 71, and 72 of the draft copy of the Commission Staff's audit report entitled "Internal Controls of Florida's Investor-Owned Utilities for Fuel and Wholesale Energy Transactions" (Document No. 06489-02). On June 24, 2002, Tampa Electric filed a request for confidential classification of specified information on pages 71, 72, 77, and 78 of the final version of the Commission Staff's audit report (Document No. 06490-02).

Section 366.093(1), Florida Statutes, provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3)(d), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to, "[i]nformation 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." Further, Section 366.093(3)(e), Florida Statutes, provides that proprietary confidential business information includes "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

DOCUMENT NUMBER-DATE

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Tampa Electric contends that the specified information for which it seeks confidential classification falls within the category of information concerning contractual data, the disclosure of which would impair Tampa Electric's ability to contract for goods or services on favorable terms, and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Tampa Electric states that this information is intended to be and is treated by Tampa Electric as private and has not been publicly disclosed.

Tampa Electric asserts that page 65 of the draft audit report (Document No. 06489-02) makes reference to the duration of a gas transportation supply contract. Tampa Electric asserts that two percentage amounts shown in paragraph 5 on page 71 of the final audit report (Document No. 06490-02) similarly disclose the duration of fuel supply arrangements. Tampa Electric states that disclosing the duration of the agreement, a negotiated contractual term, would inform other potential suppliers concerning the extent to which Tampa Electric is willing to enter into gas supply contracts of a given term. Tampa Electric contends that this could adversely affect Tampa Electric in future negotiations and ultimately have an adverse impact on Tampa Electric's retail ratepayers.

Tampa Electric asserts that the information contained in subsection B, appearing at pages 71 and 72 of the draft audit report (Document No. 06489-02), and appearing at pages 77 and 78 of the final audit report (Document No. 06490-02), discloses Tampa Electric's fossil fuel procurement and wholesale purchased power plans. Tampa Electric contends that disclosure of this information would put Tampa Electric at a competitive disadvantage in procuring fossil fuel and purchased power by disclosing to potential suppliers the company's strategic plans, enabling the suppliers to tailor their bids in a manner likely to cause higher costs to Tampa Electric and its general body of ratepayers.

Tampa Electric asserts that the information contained in Exhibit 19, appearing on page 66 of the draft audit report (Document No. 06489-02), and appearing in page 72 of the final audit report (Document No. 06490-02), discloses a portion of Tampa Electric's purchasing plan. Tampa Electric contends that

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disclosure of this information would put the company at a competitive disadvantage in fuel procurement because it would disclose to potential suppliers Tampa Electric's priority concerning reliance on different types of fuels and the duration of fuel contracts.

Upon review, it appears that the specified information on pages 65, 66, 71, and 72 of the draft audit report (Document No. 06489-02) and on pages 71, 72, 77, and 78 of the final audit report (Document No. 06490-02) satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. Specifically, this information constitutes "[i]nformation 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." Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), Florida Statutes, unless Tampa Electric or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document Nos. 06489-02 and 06490-02 is granted. It is further

ORDERED that the information in Document Nos. 06489-02 and 06490-02 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. It is further

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

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 6th day of January, 2003.



MICHAEL A. PALECKI
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)

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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.