

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Cargill Fertilizer, Inc. for permanent approval of self-service wheeling to, from, and between points within Tampa Electric Company's service area.

DOCKET NO. 020898-EQ
ORDER NO. PSC-03-1174-CFO-EQ
ISSUED: October 21, 2003

ORDER GRANTING REQUESTS FILED BY TAMPA ELECTRIC COMPANY FOR
CONFIDENTIAL CLASSIFICATION OF INFORMATION CONTAINED IN:

- (I) CORRECTIONS TO EIGHT PREVIOUSLY FILED QUARTERLY REPORTS;
(II) QUARTERLY REPORT FOR SECOND QUARTER OF 2003;
(III) PREFILED DIRECT TESTIMONIES OF CARGILL WITNESSES FERNANDEZ
AND KORDECKI AND KORDECKI EXHIBITS (GJK-1) THROUGH (GJK-4);
(IV) EXHIBIT (WRA-1) ATTACHED TO PREFILED TESTIMONY OF TECO
WITNESS ASHBURN; AND (V) CORRECTIONS TO BATES STAMP PAGES
88 AND 132 OF ASHBURN EXHIBIT (WRA-1) (DOCUMENTS NOS. 07305-03,
07558-03, 08599-03, 09015-03, AND 09989-03)

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Tampa Electric Company (TECO) has filed five more requests for specified confidential treatment of certain information filed relevant to the Cargill Fertilizer, Inc. (Cargill) self-service wheeling pilot program (program). The program was approved by Order No. PSC-00-1596-TRF-EQ, issued September 6, 2000, consummated by Order No. PSC-00-1808-CO-EQ, issued October 3, 2000, in Docket No. 001048-EQ.

Requests for Confidential Classification

I. On August 8, 2003, TECO filed a request for confidential classification of corrections which TECO contemporaneously filed to Section 1 of the eight quarterly reports filed thus far regarding the program. The corrections to the quarterly reports have been identified as Document No. 07305-03. The quarterly reports identify the costs and revenues associated with the program. Along with the corrections, TECO filed an Exhibit A, which consists of an explanation of the corrections and a quantification of the net dollar impact associated with each correction, and an Exhibit B, which is a justification for the confidential classification of certain highlighted portions thereof.

DOCUMENT NUMBER DATE

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As justification for confidential treatment of the values shown for "Avoided Energy Cost" under Item (11) in each report and the unnumbered line item entitled "Net Impact," TECO states that this information is not proprietary per se, but can be used to arithmetically derive the highly proprietary values shown under Item (9) of each quarterly report, in the line entitled "Avoided Fuel and Purchased Power Expense." As a consequence, these values need to be treated confidentially as well, in order to protect against inadvertent disclosure of the "Avoided Fuel and Purchased Power Expense." TECO points out that the Commission has recently ruled, by Order No. PSC-03-0711-CFO-EQ, issued June 16, 2003, in this docket, that this same marginal fuel cost information contained in its quarterly report on the program is entitled to confidential classification.

II. On August 15, 2003, TECO filed a request for confidential classification of certain portions of its quarterly report submitted with respect to the program for the second quarter of 2003. This material has been identified as Document No. 07558-03.

As justification for confidential treatment of the values shown for "Avoided Energy Cost" under Item (11) in the report and the unnumbered line item entitled "Net Impact," TECO states that this information is not proprietary per se, but can be used to arithmetically derive the highly proprietary values shown under Item (9) of the quarterly report, in the line entitled "Avoided Fuel and Purchased Power Expense." As a consequence, these values need to be treated confidentially as well, in order to protect against inadvertent disclosure of the "Avoided Fuel and Purchased Power Expense." This request is for confidential treatment of the same type of information as is contained in TECO's request for confidential classification of Document No. 07305-03, discussed above.

III. On September 11, 2003, TECO filed a request for confidential classification of certain highlighted information contained in the prefiled direct testimonies of Cargill's witnesses Gerard J. Kordecki and Roger F. Fernandez, and in the Exhibits (GJK-1) through (GJK-4) that accompany Mr. Kordecki's prefiled direct testimony. This material has been identified as Document No. 08599-03. These documents were filed in this docket on September 3, 2003, on behalf of Cargill and pursuant to a Notice of

Intent to Request Specified Confidential Classification. All of the confidential information consists of numeric values. Specifically, these numeric values appear on page 3, line 12, page 22, lines 5 and 12, and page 25, lines 6, 20, and 22, of Mr. Kordecki's prefiled direct testimony, on page 1 of 1 on Exhibits (GJK-1) through (GJK-4), on lines 7 and 13 of columns 1 and 2 of each exhibit, and on page 6, line 23 and page 7, lines 3, 11, and 12, of Mr. Fernandez's prefiled direct testimony. Exhibit A to this request consists of redacted versions of these confidential pages.

Exhibit B to this request is TECO's justification for designating the above-described information confidential. According to TECO, the amounts shown can be used with other publicly available information to derive or "back into" TECO's incremental fuel cost of generation. Public disclosure of TECO's incremental fuel cost would harm TECO's ability to compete in the wholesale power supply market. The same type of information has been afforded confidential treatment by the Commission in the quarterly reports which TECO has filed in connection with the program.

IV. On September 19, 2003, TECO filed a request for confidential classification of certain highlighted information contained in the Exhibit (WRA-1) of William R. Ashburn. This request was filed contemporaneously with Mr. Ashburn's prefiled direct testimony filed on behalf of TECO. This material has been identified as Document No. 09015-03. A single copy was filed under separate transmittal marked "confidential," with the confidential information highlighted. Specifically, the highlighted information appears on page 2 of Document No. 2, consisting of the entire graph; on page 3 of Document No. 3, lines 9, 11, and 14, on page 2 of Document No. 4, lines 9, 11, and 14; and on page 2 of Document No. 12, lines 9, 11, and 14.

Exhibit A to this request is TECO's justification for designating the above-described information confidential. With respect to the graph which appears on page 2 of Document No. 2, TECO states that this information, if made public, would disclose operational characteristics of Cargill, such as the generator capability, operational characteristics, and production data. This is information that could be useful to a competitor. As such, it

is information relating to competitive interest, the disclosure of which would impair the competitive business of Cargill. With respect to the remaining highlighted information contained on Documents Nos. 3, 4, and 12, TECO states that the amounts shown can be used with other publicly available information to derive or "back into" TECO's incremental fuel cost of generation. Public disclosure of TECO's incremental fuel cost would harm TECO's ability to compete in the wholesale power supply market. The same type of information has been afforded confidential treatment by the Commission in the quarterly reports which TECO has filed in connection with the program.

V. On October 13, 2003, TECO filed, on a confidential basis, corrected versions of Bates stamp pages 88 and 132 of Exhibit (WRA-1) that accompanied Mr. William R. Ashburn's prefiled direct testimony filed in this docket on September 19, 2003. This material has been identified as Document No. 09015-03. The redacted version of Bates stamp page 88 did not change, however the redacted version of Bates stamp page 132 did. The highlighted amounts can be used with other publicly available information to derive or "back into" TECO's incremental fuel cost of generation. Public disclosure of TECO's incremental fuel cost would harm TECO's ability to compete in the wholesale power supply market. The same type of information has been afforded confidential treatment by the Commission in the quarterly reports which TECO has filed in connection with the program.

Analysis and Ruling

TECO states that it actively participates in the wholesale power market and has many competitors in that market. Any entity competing against TECO which will make wholesale sales to third parties would derive a significant competitive advantage by knowing information reflecting on the probable price or price range that TECO is willing to charge for a particular sale. Disclosing TECO's avoided incremental fuel and purchased power expense would disclose to its wholesale competitors valuable information regarding the cost that TECO could be expected to incur in making a particular sale. Armed with this cost information, TECO's competitors could more accurately project the price at which TECO would offer to sell wholesale power. This would enable competitors to structure their own offers to undercut TECO's price and thereby secure a sale at

the expense of TECO and its general body of ratepayers, who benefit from such sales.

Moreover, TECO states that disclosing its avoided incremental fuel and purchased power expense would arm potential purchasers of TECO's wholesale power with valuable cost information and enable them to offer to buy power from TECO at slightly above the company's incremental fuel and purchased power cost. This would reduce the gains that TECO might otherwise obtain from wholesale power sales, to the ultimate detriment of TECO and its general body of ratepayers. As such, the avoided incremental fuel and purchased power expense is information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information, and the information is thus entitled to confidential treatment pursuant to Section 366.093(3)(e), Florida Statutes.

For all of the foregoing reasons, TECO states that the above-described information is entitled to confidential treatment pursuant to Section 366.093(3)(e), Florida Statutes. Upon review, it appears that the information is proprietary confidential business information, within the meaning of Section 366.093(3), Florida Statutes, for the reasons expressed by TECO. Therefore, TECO's requests for confidential classification of this information is granted.

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 requests. Therefore, this information shall remain confidential for a period of 18 months from the issuance of this order. At the conclusion of the 18 month period, TECO may, at its discretion, renew its requests for confidentiality. Moreover, as prescribed by Section 366.093(2), Florida Statutes, the subject information shall be returned to TECO if not entered into the record.

Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Tampa Electric Company's Requests for Confidential

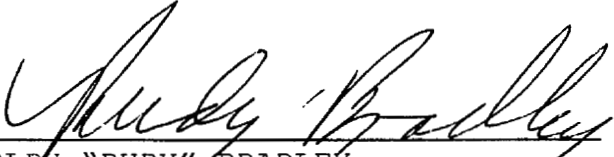
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Classification of Documents Nos. 07305-03, 07558-03, 08599-03, 09015-03, and 09989-03 are granted. It is further

ORDERED that the information described within the body of this order and contained in Documents Nos. 07305-03, 07558-03, 08599-03, 09015-03, and 09989-03 is granted confidential classification for a period of 18 months from the issuance date of this order. It is further

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

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 21st day of October, 2003.



RUDOLPH "RUDY" BRADLEY
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.

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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; 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 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.