

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor. | DOCKET NO. 040001-EI
ORDER NO. PSC-04-1058-CFO-EI
ISSUED: October 28, 2004

ORDER GRANTING IN PART AND DENYING IN PART REQUEST
FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 10650-04)

On October 4, 2004, 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 portions of its responses to Staff's First Set of Interrogatories (Nos. 1-7) (Document No. 10650-04).

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), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[t]rade secrets" (subsection a); "[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" (subsection d); and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" (subsection e).

Tampa Electric contends that portions of its responses to Staff's First Set of Interrogatories (Nos. 1-7) fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Tampa Electric requests confidential classification for the following information contained in its responses to Interrogatory Nos. 1 and 2: Pages 2, 3, 5, and 6, "Contract Counterparty" column, lines 1-3; Page 2, "Actual/Estimated Monthly Purchase" columns and "Maximum" column, lines 1-3 and 6-9; Page 3, "Actual/Estimated Monthly Purchase" columns and "Total" column, lines 1-3 and 6-14; Page 5, "Actual/Estimated Monthly Purchase" columns and "Maximum" column, lines 1-3 and 6-8; Page 6, "Actual/Estimated Monthly Purchase" columns and "Total" column, lines 1-3 and 6-12. Tampa Electric states that the information on Pages 2, 3, 5, and 6, "Contract Counterparty" column, lines 1-3, discloses the identities of particular cogenerators who are also customers of Tampa Electric. According to Tampa Electric, it has a policy of not disclosing individual customer information in order to protect customers' privacy claims or desires. Tampa Electric contends that these customers

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might have proprietary business reasons for not having their identities as sellers of electric power to Tampa Electric made public. Tampa Electric asserts that the remaining information for which it seeks confidential classification discloses the amount and prices of Tampa Electric's actual and expected power purchases for 2004 and expected purchases for 2005 from cogenerators and other suppliers. Tampa Electric states that this information is not disclosed in this degree of detail in any other documents submitted by Tampa Electric. According to Tampa Electric, this information contains contractual data, the disclosure of which would impair the efforts of Tampa Electric to contract for goods and services on favorable terms. Tampa Electric further states that this information relates to its competitive interests, the disclosure of which would impair the competitive business of Tampa Electric. Tampa Electric contends that the information could be used by wholesale competitors and competitive suppliers of power to Tampa Electric to model the company's system and/or to affect the company's purchases from third party suppliers. Tampa Electric states that this information is intended to be and is treated by Tampa Electric as private and has not been publicly disclosed.

Upon review, I find that the requested information is confidential for the reasons identified by the company, with the exception of the information on Pages 2-3, "Contract Counterparty" column, lines 1-3. The information contained therein references the identity of cogenerators for actual purchases and sales. While the identity of these entities is not made public for estimated purchases, the identity of these entities is disclosed for actual data in Tampa Electric's A8 schedules filed with the Commission. Therefore, confidential classification is denied for Pages 2-3, "Contract Counterparty" column, lines 1-3, of Tampa Electric's response to Staff's First Set of Interrogatories (Nos. 1-7).

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

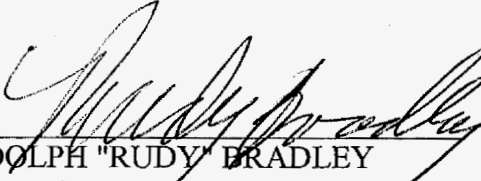
ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document No. 10650-04 is granted in part and denied in part, as set forth in the body of this order. It is further

ORDERED that the information in Document No. 10650-04 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 Rudolph "Rudy" Bradley, as Prehearing Officer, this 28th day of October, 2004.



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.

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.