

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 050001-EI
ORDER NO. PSC-05-0584-CFO-EI
ISSUED: May 26, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 10145-03)

On October 16, 2003, 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 contained in the supplemental direct testimony and exhibit of witness Brent Dibner filed in Docket No. 030001-EI (Document No. 10145-03).

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).

In its request, Tampa Electric contends that portions of the supplemental direct testimony and exhibit of witness Dibner fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes. The specific information for which Tampa Electric requests confidential classification is listed in Attachment A to this Order, which is incorporated herein by reference. Tampa Electric's justification for its request for confidential classification of this data is also set forth in Attachment A. Tampa Electric states that the information at issue is intended to be and is treated by Tampa Electric as private and has not been publicly disclosed.

Upon review, I find, for the reasons identified by Tampa Electric in Attachment A, that the information for which Tampa Electric requests confidential classification 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. In particular, the 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

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favorable terms” and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” 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 Rudolph “Rudy” Bradley, as Prehearing Officer, that Tampa Electric Company’s request for confidential classification of specified portions of Document No. 10145-03 is granted. It is further

ORDERED that the information in Document No. 10145-03 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

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 Rudolph "Rudy" Bradley, as Prehearing Officer, this 26th day of May, 2005.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

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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.

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED
PORTIONS OF TAMPA ELECTRIC WITNESS DIBNER'S
SUPPLEMENTAL DIRECT TESTIMONY AND MR. DIBNER'S EXHIBIT
ACCOMPANYING HIS SUPPLEMENTAL DIRECT TESTIMONY**

<u>Page</u>	<u>Line No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
<u>Supplemental Testimony of Brent Dibner</u>			
10	10	All Yellow Highlighted Information	(1)
19	12	All Yellow Highlighted Information	(2)
23	2,3,9,12, 13,15,16	All Yellow Highlighted Information	(2)

Dibner Maritime Associates LLC Final Report

Pages 1 of 78 Through 78 of 78	All of the Information on the Listed Pages	(1)
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- (1) The information contained on the listed pages contains the proprietary work product of Tampa Electric's consultant, Dibner Maritime Associates or "DMA". The disclosure of this information could allow duplication of the consultant's work without compensation for the consultant's efforts to gather and update the information and develop methods of analysis. This information is in the nature of a trade secret owned by DMA. It is also in the nature of information relating to competitive interests, the disclosure of which would impair DMA's competitive business interests by diminishing the demand for DMA's proprietary work product. As such, the information in question is entitled to confidential treatment pursuant to Section 366.093 (3)(a) and (e), Florida Statutes.
- (2) The information contained on the listed pages contains information about the contract rates that will be paid for transportation services under Tampa Electric's contract with TECO Transport that takes effect January 1, 2004. This information is competitive contractual information, the disclosure of which would be harmful to the position of TECO Transport in negotiating future contracts with other clients. The disclosure of this information would therefore be harmful to TECO Transport's competitive interests, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.