

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-05-0585-CFO-EI
ISSUED: May 26, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 10488-03)

On November 7, 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 prefiled direct testimony of Commission staff witness William B. McNulty and accompanying Exhibit WBM-1 filed in Docket No. 030001-EI (Document No. 10488-03).

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 specified portions of the prefiled direct testimony of witness McNulty and his Exhibit WBM-1 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. 10488-03 is granted. It is further

ORDERED that the information in Document No. 10488-03 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

(S E A L)

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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 CONFIDENTIAL INFORMATION CONTAINED IN THE
PREPARED DIRECT TESTIMONY OF WILLIAM B. MCNULTY
AND ACCOMPANYING EXHIBIT (WBM-1)**

<u>Testimony Page & Line No.</u>	<u>Description</u>	<u>Rationale</u>
Page 5, lines 3 and 8	The highlighted reference to the proposed bidder	(1)
Page 12, lines 13, 16, 21, 22, 23 and 24	The highlighted reference to the proposed bidder	(1)
Page 13, lines 2, 4, 6, 7 and 12	The highlighted reference to the proposed bidder	(1)
Page 14, lines 8, 10, 14, 20, 21 and 23	The highlighted reference to the proposed bidder	(1)
Page 15, lines 1, 3 and 6	The highlighted reference to the proposed bidder	(1)
Page 5, lines 5, 6 and 7	The highlighted dollar amounts	(2)
Page 13, line 25	The highlighted percentage	(3)
Page 14, line 12	The highlighted amount	(4)
Page 14, line 24	The highlighted dollar amount	(4)
Page 15, lines 3 and 4	The highlighted dollar amount	(2) and (4)
Page 16, line 12, 13 and 14	The highlighted percentage amount and the dollar amounts	(5)
<u>Exhibit (WBM-1) – Page 1 of 1</u>		
Columns (D), (E), (F), (G), (H), (I) and (J)	All highlighted values	(2) and (4)
	The dollar amount shown in Footnote (1)	(4)
<u>Exhibit (WBM-3) – Page 1 of 1</u>		
Columns (B), (D), (F) and (H)	All highlighted values	(5)

- (1) This information discloses the identity of coal transportation contract bidders. Public disclosure of this information would harm the competitive interests of TECO Transport and would also compromise Tampa Electric's competitive position in future efforts to negotiate waterborne transportation services. Disclosing bidders identities would discourage those bidders from participation in future RFPs as they do not desire for their competitors to have knowledge as to the contracts they bid on. Consequently, public disclosure of the information in question would adversely affect the competitive interests of TECO Transport and the ability of Tampa Electric to contract for goods and services on favorable terms. As such, the information in question is entitled to confidential protection under Section 366.093(d) and (e), Florida Statutes.
- (2) The values in question disclose or would enable someone to use this information with other publicly available information to ascertain the transportation contract rate under the 2004 - 2008 Tampa Electric/TECO Transport contract. Public disclosure of this information would harm the competitive interests of Tampa Electric and TECO Transport. Public disclosure of existing contractual data would adversely affect the competitive and contractual positions of the parties to the agreement. As such, the information in question is entitled to confidential protection under Section 366.093(d) and (e), Florida Statutes.
- (3) This shows the witness's calculation of the extent to which Tampa Electric's coal requirements for 2005 have not been locked up by Tampa Electric as of October 3, 2003. This discloses the extent to which the company may or may not have flexibility to purchase additional coal which provides suppliers valuable information when negotiating to meet Tampa Electric's future coal requirements. Disclosure of this information would adversely affect Tampa Electric's position in future coal supply contract negotiations. As such, the information in question is entitled to confidential treatment under Section 366.093(d) and (e), Florida Statutes.
- (4) This information discloses a specific and significant component of a bid proposal received by TECO Transport. Public disclosure of this information would harm the competitive interests of TECO Transport and would also compromise Tampa Electric's competitive position in future efforts to negotiate waterborne transportation services. Consequently, the information in question is entitled to confidential treatment under Section 366.093(d) and (e), Florida Statutes.
- (5) The values in question would enable one to determine the negotiated price Tampa Electric has been paying and continues to pay for coal transportation services under contract with its affiliate, TECO Transport. Public disclosure of this information would adversely affect Tampa Electric and TECO Transport in that it would disclose confidential contractual terms and conditions. This would adversely affect both companies in future contract negotiations. Accordingly, the information is entitled to confidential treatment under Section 366.093(3)(d) and (e), Florida Statutes.