

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Review of Tampa Electric Company's  
waterborne transportation contract with TECO  
Transport and associated benchmark.

DOCKET NO. 031033-EI  
ORDER NO. PSC-05-1141-CFO-EI  
ISSUED: November 15, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NOS. 06645-04, 06652-04, 06654-04)

BY THE COMMISSION:

On October 4, 2005, Tampa Electric Company (Tampa Electric) filed a request for confidential classification of portions of Hearing Exhibits 69, 84, and 89, which were introduced into evidence in this proceeding by other parties who had received the documents from Tampa Electric through discovery on a confidential basis pursuant to confidentiality agreements or other requests for temporary protection from public disclosure. (Document Nos. 06645-04, 06652-04, and 06654-04, respectively.) In its request, Tampa Electric indicated that Hearing Exhibit 70 (Document No. 06646-04), which also was introduced into evidence in this proceeding as a confidential document by another party, no longer requires confidential treatment.

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 which is owned or controlled by the company, 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 its 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, information concerning bids or other contractual information, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms (Section 366.093(3)(d)); and information relating to competitive interests, the disclosure of which would impair the competitive business of the information's provider (Section 366.093(3)(e)).

In its request, Tampa Electric asserts that portions of Hearing Exhibits 69, 84, and 89 contain proprietary confidential business information as defined in Section 366.093(3), Florida Statutes. With respect to Hearing Exhibit 69, Tampa Electric seeks confidential classification for all of the information shown on Bates-stamp page 21. Tampa Electric asserts that the information on this page includes information about the contract terms and rates that were paid for transportation services under its contracts with TECO Transport during the period 1998 through 2003 or that will be paid for such services under its contract with TECO Transport that took effect January 1, 2004. Tampa Electric maintains that this information is competitive contractual information, the disclosure of which would be harmful to TECO Transport in negotiating future contracts with other clients. Tampa Electric further maintains that disclosing

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this information would harm Tampa Electric's position in determining rates for future transportation contracts because a provider's bid responses might be influenced if it had knowledge of the previous or current contract rates. Tampa Electric concludes that disclosure of this information would be harmful to TECO Transport's competitive interests and to the ability of Tampa Electric to contract for goods and services on reasonable terms, thus this information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes.

With respect to Hearing Exhibit 84, Tampa Electric seeks confidential classification for all of the information shown on Bates-stamp pages 817, 818, and 819. Tampa Electric asserts that each page contains information about the contract terms and rates that were paid for transportation services under its contracts with TECO Transport during the period 1998 through 2003 or that will be paid for such services under its contract with TECO Transport that took effect January 1, 2004. For the reasons set forth in the previous paragraph, Tampa Electric maintains that this information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes.

Tampa Electric asserts that pages 817, 818, and 819 of Hearing Exhibit 84 also contain information that reveals the identity of bidders that submitted proposals in response to Tampa Electric's RFP for transportation services. Tampa Electric maintains that disclosing bidders' identities and the information included in their confidential proposals would discourage those bidders from participation in future RFPs because they do not desire for their competitors to have access to the terms and conditions under which they will bid on transportation services. Tampa Electric concludes that public disclosure of this information would adversely affect the competitive interests of the bidders and the ability of Tampa Electric to contract for goods and services on favorable terms, thus this information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes.

Tampa Electric asserts that page 817 of Hearing Exhibit 84 also contains information that discloses Tampa Electric's commodity contract rates and transportation rates, by contract on a projected basis going out a number of years into the future. Tampa Electric maintains that public disclosure of this information would provide in minute detail its projected rates for all of the detail components of its projected fuel and fuel transportation costs. Tampa Electric asserts that these types of rates on a commodity and segmented transportation basis have been recognized by the Commission on numerous occasions to constitute proprietary confidential business information, the disclosure of which would be harmful to Tampa Electric's ability to contract for goods and services on favorable terms and harmful to the competitive interests of Tampa Electric and TECO Transport. Thus, Tampa Electric concludes that this information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes.

With respect to Hearing Exhibit 89, Tampa Electric seeks confidential classification for all of the information shown on Bates-stamp pages 207-229. Tampa Electric asserts that the information on these pages reveals the identity of bidders that submitted proposals in response to Tampa Electric's RFP for transportation services. For the reasons set forth above, Tampa Electric maintains that this information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes.

Tampa Electric states that all of the information for which it seeks confidential classification under this request is intended to be and is treated by Tampa Electric as private and that its confidentiality has been maintained.

Upon review, I find that the information for which Tampa Electric seeks confidential classification is proprietary confidential business information, as defined in Section 366.093(3), Florida Statutes, for the reasons identified by Tampa Electric. 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.

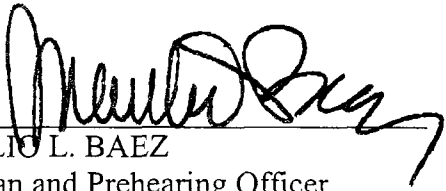
Based on the foregoing, it is

ORDERED by Chairman Braulio L. Baez, as Prehearing Officer, that Tampa Electric Company's request for confidential classification of specified portions of Document Nos. 06645-04, 06652-04, and 06654-04 is granted. It is further

ORDERED that the information in Document Nos. 06645-04, 06652-04, and 06654-04 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

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 Chairman Braulio L. Baez, as Prehearing Officer, this 15th day of November, 2005.

  
BRAULIO L. BAEZ  
Chairman 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, if issued by a Prehearing Officer; (2) 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.