

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 070001-EI  
ORDER NO. PSC-07-0106-CFO-EI  
ISSUED: February 6, 2007

ORDER GRANTING TAMPA ELECTRIC COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
AND MOTION FOR TEMPORARY PROTECTIVE ORDER  
FILED IN DOCKET NO. 060001-EI (DOCUMENT NO. 09984-06)

On October 30, 2006, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Tampa Electric Company ("TECO") filed a request for confidential classification of portions of its response to Interrogatory No. 44, Bates Stamp page 3, to Staff's Sixth Set of Interrogatories. By the same filing, TECO also requested a Temporary Protective Order, pursuant to Rule 25-22.006(6), Florida Administrative Code, covering the same above-referenced document. Staff requested, in its Sixth Set of Interrogatories, No. 44, that the company provide an analysis of realized losses or gains from natural gas hedging positions, for the period January through September, 2006. This request was filed in Docket No. 060001-EI.

Request for Confidential Classification

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, "[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).

TECO contends that the redacted portions of its response to No. 44 of Staff's Sixth Set of Interrogatories falls 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. TECO states that this information is intended to be and is treated by TECO as private and has not been publicly disclosed.

DOCUMENT NUMBER-DATE

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TECO contends that the information contained in portions of its response concerns information regarding the MMBTU values, the weighted average hedge price, hedge value and gain or loss from hedging positions which would thus reveal TECO's hedging strategy, the disclosure of which would adversely affect TECO's competitive position. TECO asserts that the information contains details regarding the implementation of its hedging activities, the disclosure of which would impair TECO's efforts to contract for goods and services on favorable terms.

The Commission has previously ruled that information concerning TECO's hedging activities are confidential. In Order No. PSC-06-0831-CFO-EI, issued October 6, 2006, in Docket No. 060001-EI and Order No. PSC-05-0508-CFO-EI, issued May 9, 2005, in Docket No. 050001-EI, the Commission granted confidential treatment to the hedging strategies of the company's risk management plan, finding that the information relates to its competitive interests, the disclosure of which would impair its competitive businesses. Additionally, in Order No. PSC-05-0583-CFO-EI, issued May 26, 2005, in Docket No. 050001-EI, the Commission found that disclosing TECO's risk exposure levels on a monthly basis would provide an indicator of vulnerability to market price, therefore, this information could be used by suppliers of fuel and purchased power to the competitive detriment of TECO.

Upon review, it appears that the above-referenced information 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. 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 favorable terms" or "[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 TECO or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

#### Motion for Temporary Protective Order

TECO also seeks protection of the documents as provided in Section 366.093(2), Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, while the material is in the possession of the OPC. Section 366.093(2), Florida Statutes, directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to public records law as confidential and exempt from the public records law, Section 119.07(1), Florida Statutes. Rule 25-22.006(6), Florida Administrative Code, codifies the Commission's policy protecting confidential information from public

disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006, in pertinent part, states:

(6)(a) In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure. The protective order shall specify how the confidential information is to be handled during the course of the proceeding and prescribe measures for protecting the information from disclosure outside the proceeding.

In addition, Rule 25-22.006(6)(c), Florida Administrative Code, states that if a party allows OPC to inspect or take possession of utility information, then that “utility may request a temporary protective order exempting the information from section 119.07(1), F.S.”

Upon consideration, TECO’s Motion for Temporary Protective Order is granted. TECO has demonstrated that the material is proprietary confidential business information. Accordingly, this information will be protected from disclosure pursuant to Rule 25-22.006(6), Florida Administrative Code.

Based on the foregoing, it is

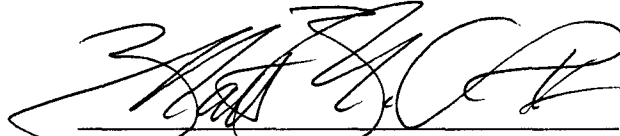
ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Tampa Electric Company’s Request for Confidential Classification of Document No. 09984-06 is granted. It is further

ORDERED that the information in Document No. 09984-06 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. It is further

ORDERED that the Motion for Temporary Protective Order filed by Tampa Electric Company is granted.

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 6th  
day of February, 2007.



MATTHEW M. CARTER II  
Commissioner and Prehearing Officer

( S E A L )

LCB/pz

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.