

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-07-0860-CFO-EI  
ISSUED: October 26, 2007

ORDER GRANTING TAMPA ELECTRIC COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 07996-07)

On September 4, 2007, 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 for the highlighted portions of information on pages 4, 8, and 9 of the company's Risk Management Plan (Document No. 07996-07).

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)(d) and (e), 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;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

TECO contends that information contained in the redacted portions of pages 4, 8, and 9 of the company's Risk Management Plan falls within these categories and thus constitutes 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.

TECO contends that disclosure of the highlighted information on pages 4, 8, and 9 of the Risk Management Plan would reveal its purchasing strategy and planned risk exposure. TECO asserts that companies who wish to supply TECO's fuel and purchased power needs could use this information to force more favorable terms to the detriment of TECO and its ratepayers. Suppliers could learn of the company's plans and needs and use that information to obtain better prices. Furthermore, TECO claims that disclosing the company's risk exposure levels on a monthly basis would provide an indicator of vulnerability to market price and would-be suppliers could withhold supply and then price its fuel or purchase power offerings at a higher level. Power suppliers could perform maintenance on their units during months when the company's

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exposure is low, so that it would have its power available to sell at high prices during months that TECO's exposure is high.

TECO also alleges that disclosure of the highlighted information on pages 4, 8, and 9 of the Risk Management Plan would provide highly sensitive information to recipients regarding the manner and timing of TECO's entry into the fuel and purchased power markets. Such knowledge would allow market manipulation through transactions made in anticipation of TECO's entry into those markets, thereby increasing the price of fuel and purchased power paid by TECO's customers, as well as the price paid by TECO to hedge the price of fuel and purchased power.

#### TIME PERIOD FOR CONFIDENTIAL CLASSIFICATION

TECO requests confidential classification for this information for a period exceeding 18 months. According to Section 366.093(4), Florida Statutes, confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless "the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period." TECO requests that the information be treated as confidential for a period of three years.

In support of its request for extended confidential treatment, TECO asserts that the Plan provides detailed strategies, many of which are of a continuing nature and which could be in place beyond the eighteen month period. According to TECO, the various risk management strategy components build upon each other and disclosing the company's basic plan sooner than three years after it is submitted would arm would-be suppliers of goods and services, as well as TECO's competitors, with the bulk of the Plan's components. TECO argues that a minimum of three years is essential to prevent those entities in the fuel and purchased power markets from having access to information they could use to the competitive disadvantage of TECO, which would increase the fuel and purchased power costs borne by TECO's customers. TECO states that the Commission has previously granted TECO's request for a three year confidentiality period for TECO's Risk Management Plan filed September 1, 2006, by Order No. PSC-06-0831-CFO-EI, issued October 6, 2006, in Docket No. 060001-EI.

Upon review, it appears that the highlighted information on pages 4, 8, and 9 of the Risk Management Plan 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.

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, absent good cause shown. TECO appears to have shown good cause to

extend the period of confidentiality to three years. Accordingly, the information identified in Document No. 07996-07, shall be granted confidential classification for a period of three years from the issuance of this Order.


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. 07996-07 is granted. It is further

ORDERED that the information in Document No. 07996-07 for which confidential classification has been granted shall remain protected from disclosure for a period of three years 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 Commissioner Matthew M. Carter II, as Prehearing Officer, this 26th day of October, 2007.

  
MATTHEW M. CARTER II  
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 Commission Clerk, Office of Commission Clerk, 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.