

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of portions of review of fuel procurement hedging practices of Florida's investor-owned electric utilities, by Tampa Electric Company.

DOCKET NO. 080436-EI  
ORDER NO. PSC-08-0680-CFO-EI  
ISSUED: October 15, 2008

ORDER GRANTING TAMPA ELECTRIC COMPANY'S REQUEST FOR  
CONFIDENTIAL CLASSIFICATION OF DOCUMENT NOS. 00535-08,  
05184-08, 05270-08, 05368-08, 05436-08 AND 06505-08  
(CROSS REF. 05270-08, 05368-08 AND 05436-08)

On January 22, 2008, Tampa Electric Company (TECO) requested that certain portions of its responses to Staff's First Data Request (Nos. 1-14) in the above-referenced matter be exempted from public access in accordance with Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.). The portions of the responses that are subject to the request are contained on Bates stamp pages 128-770, 773 and 774-777 (Document No. 00535-08).

On June 18, 2008, TECO requested that certain portions of staff's draft audit report dated June 2008 in the above-referenced matter be exempted from public access, also in accordance with Section 366.093, F.S., and Rule 25-22.006, F.A.C. The portions of the draft audit report that are subject to the request are contained on Bates stamp pages 20, 23, 24, 30 and 31 (Document No. 05184-08). On June 19, 2008, TECO filed a supplement to its June 18, 2008, request, to include information contained in a one-page document identified as Attachment B to the staff's draft audit report entitled "Companies' Hedging Strategies Comparative Analysis," that TECO inadvertently omitted from its June 18, 2008, request (Document No. 05270-08). TECO adopts the same justification for Attachment B as is contained in the June 18, 2008, filing for Bates stamp page numbers 20, 23 and 24 of the draft audit report (See Attachment A).

On June 23, 2008, TECO requested confidential classification of the highlighted information contained on Bates stamp page 1 of its responses to Staff's Third Data Request (Nos. 1-2) in regards to the above-referenced matter (Document No. 05368-08).

On June 24, 2008, TECO requested confidential classification of the highlighted information contained on Bates stamp pages 1 through 10 of certain audit staff workpapers utilized by staff in the above-referenced matter (Document No. 05436-08).

TECO's justifications for the confidential treatment of the above-described requested information is contained on Attachment A to this Order, which is incorporated herein by reference. TECO requests that these materials be treated as confidential for a period of 18 months.<sup>1</sup>

<sup>1</sup> TECO originally requested that the duration of the confidential classification be for a minimum of three years and subsequently withdrew that request.

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Section 366.093(1), F.S., 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), F.S., 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)(b)(d) and (e), F.S., provide that proprietary confidential business information includes, but is not limited to “[i]nternal auditing controls and reports of internal auditors,” “[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate 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 the information falls within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. TECO states that this information is intended to be and is treated by TECO as private and has not been publicly disclosed.

Upon review, it appears that the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information and shall be treated as confidential. The information constitutes “[i]nternal auditing controls and reports of internal auditors,” “[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate 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), F.S., 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), F.S., unless TECO 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 Nathan A. Skop, as Prehearing Officer, that Tampa Electric Company’s Requests for Confidential Classification of Document Nos. 00535-08, 05184-08, 05270-08, 05368-08, 05436-08 are hereby granted. Document No. 06505-08 (cross ref. 05270-08, 05368-08 and 05436-08) is also granted confidential classification. It is further

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall

expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093. 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 Nathan A. Skop, as Prehearing Officer, this 15th day of October, 2008.



NATHAN A. SKOP  
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, 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 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.

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED  
PORTIONS OF TAMPA ELECTRIC'S RESPONSES TO STAFF'S FIRST  
DATA REQUEST (NOS. 1-14) (FILED JANUARY 22, 2008)**

<u>Data Request</u> <u>No.</u>	<u>Bates Page</u> <u>Nos.</u>	<u>Detailed Description</u>	<u>Rationale</u>
10b	128-770	All of the Information on the Listed Pages	(1)
12a	773	The Highlighted Amounts	(1)
12b	774-777	The Highlighted Amounts	(2)

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- (1) The information contained on the listed pages contains specific fuel and purchased power hedging strategy, pricing and volume. This type of information on a commodity 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, likewise, harmful to the competitive interests of Tampa Electric and its affiliates. This is the specific type of information described in Section 366.093(3)(d) and (e) as being entitled to confidential protection and exemption from the Public Records Law.
- (2) The information contained on the listed pages discloses a detailed split of Tampa Electric's coal procurement strategy during the period (2006-2007). Inasmuch as the company has not already contracted for all of its expected coal needs for future periods, public disclosure of this information would harm the company's negotiating position in its attempts to purchase coal at the most economic rate. Consequently, this information, as well, is entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED  
PORTIONS OF TAMPA ELECTRIC'S RESPONSES TO STAFF'S DRAFT  
AUDIT REPORT OF FUEL PROCUREMENT HEDGING PRACTICES OF  
FLORIDA INVESTOR-OWNED ELECTRIC UTILITIES**

<u>Bates Stamp Page No.</u>	<u>Confidential Information</u>	<u>Justification</u>
20	Yellow Highlighted Information	(1)
23	Yellow Highlighted Information	(1)
24	Yellow Highlighted Information	(1)
30	Yellow Highlighted Information	(2)
31	Yellow Highlighted Information	(2)

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- (1) The information in question discloses details regarding Tampa Electric's physical or financial hedging strategy in that it discloses a breakdown of actual or targeted natural gas purchases by percentage. Disclosing the highlighted information in the draft audit report would provide highly sensitive information to recipients regarding the manner and timing of Tampa Electric's entry into the fuel market. Knowledge of this information would allow others an opportunity for market manipulation through transactions made in anticipation of the company's natural gas purchasing priorities. Market manipulations based on knowledge of the highlighted information could significantly increase the price of natural gas purchased by Tampa Electric and paid for by its customers. Such disclosure would impair the efforts of Tampa Electric to contract for goods and services on favorable terms for the benefit of its customers. The Commission on a number of occasions has granted Tampa Electric's request for confidential classification of portions of the company's Risk Management Report consisting of the same type of information for which confidential classification is sought in the draft Staff audit report filed this date.
- (2) The information in question discloses details concerning the counterparties with which Tampa Electric has counterparty relationships including the identities of the counterparties and details regarding their credit rankings and credit limits. There are a number of present and potential counterparties with whom Tampa Electric may wish to deal in executing its hedging strategy. Disclosure of the identities of current counterparties, their credit ratings and credit limits would arm other potential counterparties with information concerning what Tampa Electric deems acceptable counterparty qualifications. All of these present and potential counterparties compete with each other for business and disclosure of the details concerning counterparties which whom Tampa Electric currently has relationships could adversely affect Tampa Electric's efforts to retain existing counterparty relationships and/or negotiate new relationships. Disclosure of this type of information could lessen Tampa Electric's ability to negotiate

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Exhibit A

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for goods and services on favorable terms and thereby increase costs to the company's customers. As such, the information in question is entitled to protection against public disclosure pursuant to Section 366.093, Florida Statutes, and the Commission's Rule 25-22.006, Florida Administrative Code.

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED  
PORTIONS OF TAMPA ELECTRIC'S RESPONSES TO STAFF'S AUDIT  
WORKPAPERS RELATIVE TO STAFF'S REPORT OF FUEL PROCUREMENT  
HEDGING PRACTICES OF FLORIDA INVESTOR-OWNED ELECTRIC UTILITIES**

<u>Bates Stamp</u> <u>Page No.</u>	<u>Confidential Information</u>	<u>Justification</u>
1, 7 & 9	All of the Highlighted Information	(1)
2-6, 8 & 10	All of the Highlighted Information	(2)

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- (1) The information in question discloses details concerning the counterparties with which Tampa Electric has counterparty relationships, specifically the identities of the counterparties and/or credit profiles and credit limits of individual counterparties. There are a number of present and potential counterparties with whom Tampa Electric may wish to deal in executing its hedging strategy. Disclosure of the identities and or credit worthiness and credit limits of current counterparties would enlighten other potential counterparties regarding the counterparty qualifications Tampa Electric deems acceptable. All of these present and potential counterparties compete with each other for business and disclosure of the identities of counterparties with whom Tampa Electric currently has relationships could adversely affect Tampa Electric's efforts to retain existing counterparty relationships and/or negotiate new relationships. This could, in turn, adversely affect Tampa Electric's ability to negotiate for goods and services on favorable terms and thereby increase costs to the company's customers. As such, this information is entitled to protection against public disclosure pursuant to Section 366.093, Florida Statutes, and the Commission's Rule 25-22.006, Florida Administrative Code.
- (2) The information in question discloses details regarding Tampa Electric's physical or financial hedging strategy in that it discloses a breakdown of actual or targeted natural gas purchases by percentage and other hedged strategies and hedging plan components, the public disclosure of which would provide recipients sensitive information relative to the manner and timing of Tampa Electric's entry into fuel markets. The Commission has recognized that public disclosure of this type of information regarding hedging strategy and plans would be harmful to Tampa Electric and its customers and potentially lead to market manipulation through transactions made in anticipation of the company's natural gas purchasing priority. This could significantly increase the price of natural gas purchased by Tampa Electric and paid for by its customers. Such disclosure would impair the efforts of Tampa Electric to contract for goods and services on favorable terms for the benefit of its customers. The Commission on a number of occasions has granted Tampa Electric's request for confidential classification of portions of the company's Risk Management Report consisting of the same type of information for which confidential classification is sought in the Staff's audit workpapers. As such, the information is entitled to protection against public disclosure pursuant to Section 366.093, Florida Statutes, and the Commission's implementing rule.

Exhibit "A"

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED  
PORTIONS OF TAMPA ELECTRIC'S RESPONSES TO STAFF'S  
THIRD DATA REQUEST (NOS. 1-2) (FILED MAY 5, 2008)**

<u>Data Request</u> <u>No.</u>	<u>Bates Page</u> <u>No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
1	1	The Highlighted Information	(1)

- (1) The information contained on the listed page contains hedged fuel prices. This type of information on a commodity have been recognized by the Commission on numerous occasions to constitute proprietary confidential business information and the disclosure of which would be harmful to Tampa Electric's ability to contract for goods and services on favorable terms and, likewise, be harmful to the competitive interests of Tampa Electric. This is the specific type of information described in Section 366.093(3)(d) and (e) as being entitled to confidential protection and exemption from the Public Records Law.

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Exhibit "A"