

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of 2020-2029 Storm Protection
Plan pursuant to Rule 25-6.030, F.A.C., Tampa
Electric Company.

DOCKET NO. 20200067-EI
ORDER NO. PSC-2020-0261-CFO-EI
ISSUED: July 24, 2020

ORDER GRANTING TAMPA ELECTRIC COMPANY 'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
AND
MOTIONS FOR PROTECTIVE ORDER
(DOCUMENT NO. 02868-2020)

Pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), on June 1, 2020, Tampa Electric Company (TECO or Company) filed a Request for Confidential Classification (Request) for information provided in response to specified discovery requests.¹ On April 29, and May 11, 2020, TECO filed Motions for Temporary Protective Order related to this information (collectively, Motions for Temporary Protective Order).² This sequencing of filings occurred because the information at issue was initially provided to the Office of Public Counsel (OPC), over time, subject to the Motions for Temporary Protective Order. The information was not contemporaneously provided to the Commission. When our staff asked for the information, it was grouped together and provided with the single Request.

Request for Confidential Classification

The Company contends that the information highlighted in Document No. 02868-2020, and identified and described in the body of the Request and Exhibit A attached thereto, constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. TECO asserts that this information is intended to be and is treated by the Company as private and has not been publicly disclosed.

TECO contends that the identified information in Slide 56 of its "TECO SPP DRAFT Framework & Results" (Slide 56) consists of reactive storm replacement costs that are based in part on actual, historical pricing data from previous storm events. TECO avers that the identified information in its Project Cost Estimates and Unit Replacement Rates within its "Lateral Underground Costs Workpaper" (Underground Costs) consists of its estimates of the cost to convert overhead lateral lines to underground. These estimates were developed using GIS to estimate the length of each lateral and the number of assets on each lateral. This information was then multiplied by unit cost estimates that were based upon supplier information and previous undergrounding projects. TECO argues that the disclosure of the identified information in Slide 56 and the Underground Costs would be harmful to the Company's ability to contract for goods

¹ Document No. 02867-2020.

² Respectively, Documents Nos. 02256-2020, and 02502-2020.

and services on favorable terms and would also be harmful to the competitive interests of TECO and the party with which it contracts. For these reasons TECO argues that the information is entitled to confidential classification pursuant to Sections 366.093(d) and (e), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. 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), F.S., provides that proprietary confidential business information includes, but is not limited to:

(d) Information 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.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3)(d) and (e), F.S., for classification as proprietary confidential business information. The information constitutes "information 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 "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information shall be 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.

Motions for Temporary Protective Order

TECO also seeks protection of the information as provided by Section 366.093, F.S., and Rule 25-22.006, F.A.C. Section 366.093(2), F.S., 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 the public records law as confidential and exempt from Section 119.07(1), F.S., the public records law. Rule 25-22.006(6), F.A.C., codifies this Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in

a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), F.A.C., in pertinent part, states:

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.

Ruling

Upon consideration of TECO's assertions of the confidential nature of the information contained in portions of the discovery responses, TECO's Motions for Temporary Protective Order are hereby granted. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.³

Based on the foregoing, it is hereby

ORDERED by Commissioner Donald J. Polmann as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document No. 02868-2020 is granted. It is further

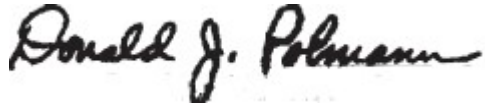
ORDERED that the information in Document No. 02868-2020 for which confidential classification has been granted, shall remain protected from disclosure for 18 months from the date of issuance of this Order. It is further

ORDERED that Tampa Electric Company's Motions for Temporary Protective Order are granted. 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.

³ Whether separately as initially provided to OPC, or grouped together as provided to the Commission in Document No. 02868-2020.

By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 24th day of July, 2020.



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Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CWM

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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.