

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company.

DOCKET NO. 20210034-EI

In re: Petition for approval of 2020 depreciation and dismantlement study and capital recovery schedules, by Tampa Electric Company.

DOCKET NO. 20200264-EI
ORDER NO. PSC-2021-0298-CFO-EI
ISSUED: August 4, 2021

ORDER GRANTING TAMPA ELECTRIC COMPANY'S
MOTIONS FOR PROTECTIVE ORDERS
(DOCUMENT NOS. 04114-2021, 06382-2021, 07672-2021,
04570-2021 [AS AMENDED BY 08279-2021],
AND
07070-2021[AS AMENDED BY 08280-2021])

On May 17, June 7, 21, 28, and July 9, 2021, Tampa Electric Company (TECO or Company) filed Motions for Temporary Protective Orders, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), for identified information provided via SharePoint in response to the following discovery served by the Office of Public Counsel (OPC), the Florida Industrial Power Users' Group (FIPUG), and the West Central Florida Hospital Utility Alliance (WCFHUA):

OPC's First Set of Interrogatories (Nos.1-46) and First Request for Production of Documents Nos. (1-18) (Document No. 04114-2021);

OPC's Second Set of Interrogatories (Nos. 47-60) and Second Request for Production of Documents Nos. (19-33) (Document No. 04570-2021);

OPC's Third Set of Interrogatories (Nos. 61-75) and Third Request for Production of Documents Nos. (34-40) (Document No. 07070-2021);

FIPUG's First Set of Interrogatories (Nos. 1-13) and First Request for Production of Documents (Nos.1-21) (Document No. 06382-2021); and

WCFHUS's First Set of Interrogatories (Nos. 1-70) and First Request for Production of Documents (Nos.1-52) (Document No. 07672-2021);

On July 23, 2021, TECO filed two Amended Motions for a Temporary Protective Orders. The first (Document No. 08279-2021) amended TECO's June 7, 2021 Motion for Temporary

Protective Order¹ to remove a reference to a document entitled "(BS 96) BV study vs TECO FutureSolar.xlsx." The second (Document No. 08280-2021) amended TECO's June 28, 2021 Motion for a Temporary Protective Order² to remove references to two files - entitled "(BS 20-264) OPC_IRR_66_CONF bates.pdf and "(BS_04) POD_35 No 5 TECO Affiliate Transactions Summary.xlsx." In each instance, TECO has determined that the removed information does not constitute proprietary confidential business information.

Motion for Temporary Protective Order

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 the Commission's policy regarding the protection of confidential information from public disclosure during the discovery process. 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.

In addition, Rule 25-22.006(6)(c), F.A.C., 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." The rule further requires the utility to file a specific request for a protective order under paragraph (a) of the rule if the information is to be used in the proceeding before the Commission.

In its specific requests, TECO contends: that the identified information constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C.; that the information has not been disclosed publicly; and that disclosure of the information would adversely affect the economic interests of Tampa Electric and its customers. TECO argues the identified information is comprised of the following: internal auditing controls and reports of internal auditors; 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; or information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Thus, TECO argues the information is entitled to confidential classification pursuant to Section 366.093(b), (d), or (e), F.S.

¹ Document No. 04570-2021 (related to TECO's response to Office of Public Counsel's Second Set of Interrogatories (Nos. 47-60) and Second Request for Production of Documents (Nos. 19-33)).

² Document No. 07070-2021 (related to TECO's response to OPC's Third Set of Interrogatories (Nos. 61-75) and Third Request for Production of Documents (Nos. 34-40)).

Ruling

Upon consideration of TECO's assertions of the confidential nature of the information contained in identified portions of the discovery responses, TECO's Motions for Temporary Protective Orders, as amended, are hereby granted. As a result, this information shall be protected from disclosure as set forth in Rule 25-22.006(6), F.A.C., and Section 366.093(2), F.S.

Based on the foregoing, it is hereby

ORDERED by Commissioner Art Graham as Prehearing Officer, that Tampa Electric Company's Motions for Temporary Protective Orders (Document Nos. 04114-2021, 06382-2021, 07672-2021, 04570-2021 [as amended by Document No. 08279-2021], and 07070-2021 [as amended by Document No. 08280-2021]) are hereby granted. It is further

ORDERED that the identified information shall remain protected from disclosure for a period of up to 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 Commissioner Art Graham, as Prehearing Officer, this 4th day of August, 2021.



ART GRAHAM
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.

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.