

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20240026-EI

In re: Petition for approval of 2023 depreciation and dismantlement study, by Tampa Electric Company.

DOCKET NO. 20230139-EI

In re: Petition to implement 2024 generation base rate adjustment provisions in paragraph 4 of the 2021 stipulation and settlement agreement, by Tampa Electric Company.

DOCKET NO. 20230090-EI  
ORDER NO. PSC-2024-0448-CFO-EI  
ISSUED: October 15, 2024

ORDER GRANTING IN PART AND DENYING IN PART  
TAMPA ELECTRIC COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
and  
REQUEST FOR PROTECTIVE ORDER  
(DOCUMENT NO. 08315-2024)

On August 8, 2024, Tampa Electric Company (TECO) filed a Request for Confidential Classification and Request for Temporary Protective Order, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), pertaining to certain information contained in its Report on Customer Services Hearings. The information in Exhibit 1 of the motion can be described as customer account information. The information in Exhibit 2 of the motion can be described as a customer complaint from the Florida Public Service Commission's Customer Activity Tracking System. (Document No. 08315-2024).

Request for Confidential Classification

TECO contends that the information in Exhibit A of the Request constitutes proprietary and confidential business information entitled to protection under Section 366.093(3)(e), F.S., and Rule 25-22.006, F.A.C. TECO asserts that the information at issue relates to personal account information of customers, the disclosure of which would impair its competitive business interests. For that reason, TECO argues the information is entitled to confidential classification pursuant to Section 366.093(3)(e), F.S.

Ruling

A movant seeking confidential classification of information bears the burden of proof by preponderance of the evidence to establish that the information is proprietary confidential business information. Section 366.093(1), F.S.; Section 120.57(1)(j), F.S.; Rule 25-22.006(4)(e), F.A.C.

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 controlled by the company 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:

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

The Commission has treated certain customer account information as confidential in the past when produced by a utility company.<sup>1</sup> The customer account numbers contained in the far right column of Exhibit 1, on their face, clearly fall within the bounds of proprietary confidential business information based on our precedent. Release of this information could result in unauthorized access to electricity accounts by third parties and thus harm ratepayers. I therefore confer confidential classification to the customer account numbers contained in Exhibit 1.

However, it is unclear how disclosure of the remaining information contained in Exhibit 1 of the motion will impair TECO’s competitive business interests. As justification for its confidentiality request, TECO relies solely upon subsection (3)(e) of Section 366.093, F.S.<sup>2</sup> TECO does not assert any argument or facts as to how the customer account information could otherwise be entitled to confidential classification under the more general language contained in Section 366.093(3), F.S., and thus, my decision is limited to the arguments raised by TECO in the instant case.<sup>3</sup>

Here, the one-page summary also summarizes payments made by certain organizations on behalf of those account holders on particular dates. Any customer account holder of TECO must necessarily reside within that utility’s service territory. Furthermore, the names of local organizations that provide bill assistance to customers could favorably affect TECO’s business in as much as customers could approach those organizations to pay electricity bills they otherwise would not pay. Given the lack of underlying factual support for confidentiality, it appears the

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<sup>1</sup> Order No. PSC-11-0323-CFO-EG, issued July 28, 2011, in Docket No. 20110002-EG, *In re: Energy conservation cost recovery clause*; Order No. PSC-02-0356-CFO-EI, issued Mar. 15, 2002, in Docket No. 20000824-EI, *In re: Review of Fla. Power Corp.’s earnings, including effects of proposed acquisition of Fla. Power Corp. by Carolina Power & Light*. Cf. Order No. PSC-2016-0277-CFO-WU, issued July 19, 2016, in Docket No. 20150199-WU, *In re: Application for staff-assisted rate case in Lake Cty. by Raintree Waterworks, Inc.*; Order No. PSC-11-0540-PCO-WS, issued Nov. 21, 2011, Docket No. 20100330-WS, *In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, & Washington Ctys. by Aqua Utils. Fla., Inc.*

<sup>2</sup> Document No. 08313-2024, Docket No. 20240026-EI, filed Aug. 8, 2024.

<sup>3</sup> *Fla. Power & Light Co. v. Fla. Pub. Serv. Comm’n*, 31 So.3d 860, 866 (reversing Commission denial of confidentiality where party expressly argued confidential classification was warranted under general definition section and submitted evidentiary support).

remaining information in Exhibit 1 of Document No. 08315-2024, as specifically detailed in Exhibit A, does not satisfy the criteria set forth in Section 366.093(3)(e), F.S., for classification as proprietary confidential business information. Thus, I do not find TECO's conclusory assertion that disclosure will harm its competitive business interests to be persuasive.

Meanwhile, Exhibit 2 of the motion falls squarely outside the bounds of proprietary confidential business information. That document originates from this very Commission's own Customer Activity Tracking System. If the Commission received a public records request pursuant to Section 119.07(1), F.S., for this document, the information contained therein would be provided without redaction because it is a public record.

Other than the customer account numbers in Exhibit 1, nothing in these documents constitutes "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the remaining information identified in Document No. 08315-2024 shall not be granted confidential classification.

Pursuant to 25-22.006(10), F.A.C., the material for which confidential classification was denied shall remain protected from disclosure until the time for filing an appeal has expired. TECO or another person may request continued confidential treatment until judicial review is complete by filing such request in writing with the Office of Commission Clerk.

Pursuant to Section 366.093(4), F.S., the customer account numbers granted confidential classification herein shall remain protected from disclosure for a period of up to 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.

#### Request for Temporary Protective Order

TECO also seeks protection of the documents as provided in 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 the 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

For the reasons stated above, I find that confidentiality of Document No. 08315-2024 is warranted in relation to the customer account numbers in Exhibit 1 only. That information will therefore be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Confidentiality of the remaining information is unwarranted. TECO's assertions of the confidential nature of the information contained in its filing, Document No. 08315-2024, is not persuasive and I hereby deny that portion of TECO's Request for Temporary Protective Order. As a result, this information shall remain protected from disclosure pursuant to Rule 25-22.006(10), F.A.C., until the time for filing an appeal has expired.

Based on the foregoing, it is hereby

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document No. 08315-2024 is GRANTED IN PART and DENIED IN PART. Only the customer account numbers in Exhibit 1 of the motion will receive confidential classification. It is further

ORDERED that Tampa Electric Company's Request for Temporary Protective Order of the information in Document No. 08315-2024 is GRANTED IN PART and DENIED IN PART. Only the customer account numbers in Exhibit 1 of the motion will receive confidential classification. It is further

ORDERED that the information in Document No. 08315-2024 for which confidential classification was GRANTED 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 the material in Document No. 08315-2024 for which confidential classification was DENIED shall remain protected from disclosure for a period of 30 days 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.

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20230139-EI, 20230090-EI  
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By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 15th day of October, 2024.



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GARY F. CLARK  
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.

CMM

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. 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.