

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power ) DOCKET NO. 960001-EU  
Cost Recovery Clause and ) ORDER NO. PSC-96-0232-CFO-EU  
Generating Performance Incentive ) ISSUED: February 19, 1996  
Factor. )  
\_\_\_\_\_)

ORDER GRANTING TAMPA ELECTRIC COMPANY  
REQUEST FOR CONFIDENTIAL TREATMENT  
OF CERTAIN AUDIT WORKPAPERS

Pursuant to Rule 25-22.006(4), Florida Administrative Code, Tampa Electric Company (TECO) has requested specified confidential treatment of portions of the Commission Staff's Audit Work Papers pertaining to the Commission Staff's routine fuel expense audit for the period ending March 31, 1995 (Document Nos. 05776-95 and 06422-95).

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

The Florida Legislature has determined that "[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" is proprietary confidential business information. Section 366.093(3)(d), Florida Statutes.

To establish that material is proprietary confidential business information under Section 366.093(3)(d), Florida Statutes, a utility must demonstrate (1) that the information is contractual data, and (2) that the disclosure of the data would impair the efforts of the utility to contract for goods or services on favorable terms. The Commission has previously recognized that this latter requirement does not necessitate the showing of actual impairment, or the more demanding standard of actual adverse

DOCUMENT NUMBER-DATE

01894 FEB 19 1996

FPSC-RECORDS/REPORTING

results; instead, it must simply be shown that disclosure is "reasonably likely" to impair the company's contracting for goods or services on favorable terms.

TECO argues that many of the workpapers are copies of schedules which it has previously submitted to the Commission as part of its fuel expense monthly filings. These pages have previously been granted confidentiality and justified on a line-by-line basis, therefore TECO requests that the confidentiality of these documents be carried forward.

Other workpapers for which TECO seeks confidential status contain the total cost of third party purchases made by TECO during the period April 1994 to March 1995. TECO argues that this information could be used to calculate the weighted average price which TECO paid to its suppliers during the twelve-month period. Competing suppliers could use this information to potentially or actually control the pricing of gas either by all quoting a particular price or by adhering to a price offered by one of TECO's suppliers. Disclosing this information might also make other suppliers less willing to make price concessions, thereby increasing the cost for Peoples' ratepayers. These same workpapers also contain amounts, which used either together or separately, would allow other suppliers to derive TECO's total cost of third party purchases. This information would allow such suppliers to derive contractual information which, if made public, "would impair the efforts of [TECO] to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. TECO notes that it has previously requested and received confidential treatment for this same type of information in its monthly Schedules.

In addition, TECO also requests confidential treatment of information in the workpapers which were drawn from individual invoices TECO submitted with its monthly filings. This information contains the total cost of each purchase and the names of TECO's suppliers. To the extent that some of this information has already been granted confidential status in previous orders, TECO incorporates by reference its monthly Requests for Confidential Treatment during the period April 1994 through March 1995. TECO argues that the names of its suppliers should be protected in order to prevent third party intervention in TECO'S business relationships with its suppliers. TECO also requests that certain corresponding entries which could be used to derive the total cost of an individual purchase be kept confidential.

TECO argues that the information for which it seeks confidential treatment is treated by TECO as confidential and has not been publicly disclosed.

The specific audit workpaper numbers and lines relating to the documents that petitioner has requested confidential treatment, together with my findings, are listed in the table which follows:

Staff  
 Working  
 Paper

	Line	Column	Recommend	Reason
10-13 (page 3)	7	c,f,i,l	Approve	Reports information which either directly or by a computation with other data reports confidential information in the following categories:  Segmented transportation costs or price, including transloading or ocean barging;  Rail cost or price;  River transportation cost or price;  In transit barge transportation cost or price;  In transit rail transportation cost or price;  Rail coal cost or price; or  Coal cost or price.
	8	c,d,f,i,j,l		
	9	i,l		
	10	i,l		
	29	c,e,g,i,k,m,q		
	30	c,e,g,i,m,q		
	31	c,e,g,i,m,o,q		
	32	c,e,g,i,m,q		
	37	c,e,g,i,o,q		
	38-43	c,e,g,i,k,m,o,q		
	45	c,e,g,i,k,m,o		
	49-52	c		
	55,56	c,m		
57-60	c			

43-1B/2-1	7	c,f,i,l	Approve	<p>Reports information which either directly or by a computation with other data reports confidential information in the following categories:</p> <p>Segmented transportation costs or price, including transloading or ocean barging;</p> <p>Rail cost or price;</p> <p>River transportation cost or price;</p> <p>In transit barge transportation cost or price;</p> <p>In transit rail transportation cost or price;</p> <p>Rail coal cost or price; or</p> <p>Coal cost or price.</p>
	8	c,d,f,i,j,l		
	9	i,l		
	10	i,l		
	29	c,e,g,i,k,m,o,q		
	30-32	c,e,g,m,o,q		
	33	e,o,q		
	34,37	e,o		
	38,39	c,e,g,m,o,q		
	40-47	c,e,g,i,k,m,o,q		
	52-53	c,f		
	54	c		
	55	c,f		
	56,57	c,k		
	58	c		
59-62	c,f			
63,64	f			

43-1B/2-2	7	c, f, i, l	Approve	<p>Reports information which either directly or by a computation with other data reports confidential information in the following categories:</p> <p>Segmented transportation costs or price, including transloading or ocean barging;</p> <p>Rail cost or price;</p> <p>River transportation cost or price;</p> <p>In transit barge transportation cost or price;</p> <p>In transit rail transportation cost or price;</p> <p>Rail coal cost or price; or</p> <p>Coal cost or price.</p>
	8	c, d, f, i, j, l		
	9, 10	i, l		
	29	c, e, g, i, k, m, o, q		
	30-32	c, e, g, m, o, q		
	33	e, o, q		
	34, 37	e, o		
	38, 39	c, e, g, m, o, q		
	40-47	c, e, g, i, k, m, o, q		
	52-55	c, f		
	56, 57	c, k		
	58	c		
	59-62	c, f		
63, 64	f			

45-3 A	1 2 3-6	e,g,h d,e e,g,h	Approve	<p>Reports information which either directly or by a computation with other data reports confidential information in the following categories:</p> <p>Segmented transportation costs or price, including transloading or ocean barging;</p> <p>Rail cost or price;</p> <p>In transit rail transportation cost or price;</p> <p>Coal cost or price.</p>
45-3 B	1,2 3 4-6	e,g,h d,e e,g,h	Approve	<p>Reports information which either directly or by a computation with other data reports confidential information in the following categories:</p> <p>Segmented transportation costs or price, including transloading or ocean barging;</p> <p>Rail cost or price;</p> <p>In transit rail transportation cost or price; or</p> <p>Coal cost or price.</p>

45-5 A	32	b	Approve	Reports a component of the segmented rail transportation cost.
	33	a		
	36	b		
	37	a		
48 A	1-7	b,d	Approve	Reports information which either directly or by a computation with other data reports coal transportation cost or price.
48 B	1-7	b,d	Approve	Reports information which either directly or by a computation with other data reports:  Coal transportation cost or price.
59	1	e,g	Approve	Reports information which either directly or by a computation with other data reports:  Actual coal price; or  Limestone price.
	2-4	c,d,e,g		
	5-6	c,e,g		
	7	c,d,e,f, g		
	8-10	c,e,g		
	11-13	c,d,e,g		
	14	c,d,e,f, g		
	15	c,e,g		

TECO requests that this information be held confidential for a period of 24 months, as allowed by Section 366.093(4), Florida Statutes. TECO argues that this period is necessary to allow it and its affiliated companies to negotiate future contracts. Should this information be revealed earlier, TECO competitors would have

ORDER NO. PSC-96-0232-CFO-EU  
DOCKET NO. 960001-EU  
PAGE 8

access to information that would adversely affect TECO ability to negotiate such contracts on favorable terms. It is noted that this time period will ultimately protect TECO and its customers.

Based on the foregoing, it is therefore


ORDERED that Tampa Electric Company Request for Confidential Treatment of Certain Audit Workpapers, Document Nos. 05776-95 and 06422-95 is hereby granted. It is further

ORDERED that documents that are granted confidential treatment herein, shall not be declassified for a period of twenty-four (24) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality. It is further

ORDERED that documents that have been granted confidential treatment by previous Orders, shall be declassified on the date specified by the respective Order in which confidential treatment was originally granted. 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 J. Terry Deason, as Prehearing Officer, this 19th day of February, 1996.

  
\_\_\_\_\_  
J. TERRY DEASON, Commissioner and  
Prehearing Officer

( S E A L )

LW



ORDER NO. PSC-96-0232-CFO-EU  
DOCKET NO. 960001-EU  
PAGE 9

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), 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 Director, Division of Records and Reporting, 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.