

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into Earnings)
for 1995 and 1996 of Tampa Electric)
Company.)
_____)

DOCKET NO. 950379-EI
FILED: March 8, 1995

**TAMPA ELECTRIC COMPANY'S
MOTION FOR PROTECTIVE ORDER**

Tampa Electric Company ("Tampa Electric" or "the company") moves the Commission for entry of a protective order designating as confidential proprietary business information and exempting from public disclosure certain data requested in Staff's Interrogatory No. 17, contained within Staff's Second Set of Interrogatories in the above docket, and as grounds therefor, says:

1. In Staff's Second Set of Interrogatories (Interrogatory No. 17) Tampa Electric has been asked to supply certain transportation cost information concerning rail transportation, water transportation and truck transportation of coal to the Polk Power Station. Such information is proprietary confidential business information entitled to exemption from the Public Records Law pursuant to Section 366.093, Florida Statutes. Tampa Electric is simultaneously providing the Division of Records and Reporting under a separate cover letter requesting confidential treatment one copy each of the two pages containing confidential information (pages 1 of 5 and 5 of 5 of Tampa Electric's Answer to Staff's Interrogatory No. 17) with the confidential information highlighted in yellow. Attached hereto as Exhibit "A" is a detailed justification for the requested confidential treatment of the highlighted portions of the two pages in question.

DOCUMENT NUMBER-DATE
02901 MAR-8 1995
FPSC-RECORDS/REPORTING

2. Tampa Electric requests that the information for which the company seeks confidential classification not be declassified but, instead, be returned to Tampa Electric at the conclusion of this proceeding. As an alternative, Tampa Electric requests that the information in question not be declassified until the dates specified in Exhibit "B" to this Motion. The time periods requested are to allow Tampa Electric and its affiliates to negotiate future contracts without their competitors (and other customers) having access to information which would adversely affect the ability of these entities to negotiate future contracts. The period of time requested will ultimately protect Tampa Electric and its customers.

3. The information for which confidential classification is sought is intended to be and is treated by Tampa Electric and its affiliates as private and has not been disclosed.

WHEREFORE, Tampa Electric moves the Commission for entry of a protective order exempting from public disclosure the pertinent portions of Tampa Electric's answer to Interrogatory No. 17 for the reasons identified in Exhibit "A". The company further requests that the information requested be maintained as confidential by the Commission and returned to Tampa Electric at the conclusion of Staff's review of such information. Alternatively, Tampa Electric requests that the information in question not be declassified until at least the dates identified in Exhibit "B".

DATED this 8th day of March, 1996.

Respectfully submitted,



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that a true copy of the foregoing Motion for Protective Order, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (*) on this 8th day of March, 1996 to the following:

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Florida Public Service
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ATTORNEY

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**Justification for Confidentiality of Certain Data Supplied
in Tampa Electric's Answer to Staff Interrogatory No. 17:**

<u>Interrogatory Page</u>	<u>Line</u>	<u>Column</u>	<u>Rationale</u>
1 of 5	15	1-2	1
1 of 5	16	1	1
5 of 5	1	1	2
5 of 5	2	2-3	3
5 of 5	3	3	1
5 of 5	4	2	2
5 of 5	5	1-3	4
5 of 5	7	1-3	5

Rationale for Confidentiality:

1. Staff has requested that Tampa Electric provide on a \$/ton basis the estimated transportation costs for coal transportation that was competitively bid and awarded to a local transportation company. The transportation cost per ton is a competitively bid item of expense. Public disclosure of the requested information could adversely affect Tampa Electric's ability to negotiate a favorable transportation contract when the existing contract expires. As such, this information is proprietary business information, the disclosure of which would adversely affect Tampa Electric's ability to contract for goods or services on favorable terms. Thus, it is entitled to confidential treatment and exemption from public disclosure pursuant to Section 366.093, Florida Statutes.

Transportation companies that bid on coal transportation services for Tampa Electric clearly would be interested in knowing the existing contract price being paid by Tampa Electric for such services. This knowledge would enable our suppliers to prepare bids which target the existing transportation rate when the existing contract comes up for renewal or replacement. This would enable many bidders to bid rates which are higher than the bidder might otherwise submit if the bidder did not know the existing contract rate. Thus,

Exhibit "A"

public disclosure of the transportation costs for 1996 would adversely affect Tampa Electric's ability to contract transportation services in the future. This could adversely affect the company's customers by driving up future transportation costs.

2. Disclosure of the rail rate paid per ton quoted to Tampa Electric could adversely affect Tampa Electric's ability to take advantage of a lower than otherwise available rate, to the ultimate detriment of Tampa Electric's customers. Such disclosure will result in demands by shippers other than Tampa Electric that the railroad lower any rates that are above the disclosed rates. The effect of such disclosure could result in an increase in the rail rates available to Tampa Electric. Thus, disclosure of this information could adversely affect Tampa Electric's ability to contract for goods and services on favorable terms, and is entitled to confidential protection under Section 366.093, Florida Statutes.
3. Disclosure of the water transportation rate to Big Bend Station paid by Tampa Electric would impair the efforts of Tampa Electric to contract for goods and services on favorable terms. Section 366.093(3)(d), Florida Statutes. This information shows the actual rate paid by Tampa Electric to its affiliated waterborne transportation suppliers for river and ocean barge transportation. This type of information is entitled to confidential proprietary treatment in that its disclosure would adversely affect Tampa Electric's future fuel and transportation contracts by informing potential bidders of current prices paid for services provided. This type of information has been recognized by the Commission to be entitled to confidential protection. See, e.g., Order No. PSC-96-0231-CFO-EI, at pages 5 and 6, issued in Docket No. 960001-EI on February 19, 1996.
4. Disclosure of the subtotal transportation charges in line 5, column 1 would enable an interested person to determine the direct rail rate in line 1, column 1 of which confidential protection has been requested in rationale 2. Disclosure of the subtotal transportation charges in line 5, column 2 and line 5, column 3 would enable an interested person to reasonably estimate the segmented Rail to Polk transportation charge in line 4, column 2 and Truck to Polk transportation charge in line 3, column 3 which would then disclose the water to Big Bend segmented transloading and waterborne transportation rate that is currently provided confidential protection in the Commission Form 423-2 and 423-2(b) for Electro-Coal Transfer Facility - Big Bend. It is this segmented transportation cost data which is entitled to confidential treatment in that disclosure would adversely affect Tampa Electric's future fuel and transportation contracts by informing potential bidders of current prices paid for services provided.

5. Disclosure of the transportation charges in line 7, columns 1-3 when used in conjunction with the publicly disclosed information in line 6, columns 1-3 would enable an interested person to back into the information on line 5, which would adversely affect Tampa Electric's ability to contract for goods and services on favorable terms as discussed in rationale 4. Section 366.093(3)(d), Florida Statutes.

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Date of Declassification:

**Interrogatory
Page**

Line

Column

Date

1 of 5	15	1-2	7/1/2000
1 of 5	16	1	7/1/2000
5 of 5	1	1	3/8/1998
5 of 5	2	2-3	3/8/1998
5 of 5	3	3	7/1/2000
5 of 5	4	2	3/8/1998
5 of 5	5	1-2	3/8/1998
5 of 5	5	3	7/1/2000
5 of 5	7	1-2	3/8/1998
5 of 5	7	3	7/1/2000

Rationale for March 8, 1998

Coal and Coal Transportation Data

1. The disclosure of rail transportation rates will result in demands by other shippers to lower any rates which are above the disclosed rates. The effect of disclosure could likely be to increase the lower rate as the transportation provider will seek to protect the rates charged on other routes. The delay of this disclosure for two years will be of direct benefit to ratepayers by delaying any increases that might occur as a result of such disclosure.

2. TECO Transport & Trade provides bulk commodity transportation services in the open non-regulated marketplace. The prices at which their services are provided are not publicly disclosed anywhere by publication or voluntary dissemination because it would materially lessen their competitive posture with customers other than Tampa Electric. Outside customers who negotiate for coal transportation services are placed at a competitive advantage for these goods or services if they know the cost of the goods or services.

Exhibit "B"

3. An analyst for an outside customer of TECO Transport & Trade who reads the written transcripts of public fuel hearings or reads the written orders of the FPSC can easily discover that until November 1, 1988, Tampa Electric paid a cost based rate for coal transportation from TECO Transport. Further, the publication of the stipulation agreement between the parties in 1988 indicated that the initial benchmark price was close to cost and subsequent testimony indicates the revised contract escalates from cost.

4. As long as an outside customer does not know how such an escalation clause changes price, the cost cannot be calculated. However, publicizing the price of coal transportation services will tell an outside customer how much the escalation has been and make it easy for him to calculate cost. Because of seasonality of costs in this business, a full year's cost data is necessary for an accurate cost measurement.

5. A second year must pass before one full year can be compared with a second year to measure the escalation accurately. So a perceptive vendor seeks two years of data to make his cost estimates. The competitive industries recognize that data beyond two years is not helpful to them, as enough factors may change in that time frame for costs to be much different from what was incurred. Any data less than two full years old is extremely valuable to outside customers in contracting for services with TECO Transport. The difference of small amounts per ton can mean millions of dollars' difference in cost.

6. A loss of outside business by TECO Transport will affect not only TECO Transport, but if large enough it could affect the credibility of the companies. The prices negotiated with Tampa Electric by these vendors took into consideration their costs and revenues at the time of negotiation, including the revenues from outside customers. A significant loss of outside business could cause TECO Transport to fail, since under market pricing regulation Tampa Electric will not make up the difference to them in cost. In turn, a failure of this vendor would leave Tampa Electric and its customers with only higher cost alternatives for coal transportation to Tampa, a higher cost that would be paid by Tampa Electric's ratepayers. So the continued credibility of TECO Transport is important to protect Tampa Electric's ratepayers from higher cost alternatives.

Rationale for July 1, 2000

Truck Transportation Data

7. Tampa Electric's contract with the independent coal transportation firm trucking coal from Big Bend Station to the Polk Power Station runs through the end of 1999. By not declassifying the confidential per ton transportation costs until six months after the expiration of such contract (July 1, 2000), Tampa Electric will be able to negotiate and have in place a new contract without the bidders on that contract having this information

available when they prepare their bids. This would tend to produce lower contract bids for coal transportation than would otherwise be made when that contract is rebid. This would tend to produce a lower overall cost to Tampa Electric's customers for this service.

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