



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

981462-EI

DATE: October 14, 1998
TO: Mary A. Bane, Deputy Executive Director/Technical
FROM: Bob Trapp, Assistant Director, Division of Electric and Gas
Tim Devlin, Director, Division of Auditing and Financial Analysis
RE: Request to provide access to Roberta Bass and Todd Bohrmann to confidential sections of Affiliated Transactions Audit for Tampa Electric Company for Calendar Year 1997, AFA Control Number 98-082-2-1.

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RECORDS AND REPORTING
KZT

Please add Roberta Bass and Todd Bohrmann to the list of individuals who may access the following confidential sections of Affiliated Transactions Audit for Tampa Electric Company for Calendar Year 1997, AFA Control Number 98-082-2-1: WP 45-2/2-1; WP 45-3; WP 45-3/2; and WP 45-4/1. These documents contain information about costs incurred by Tampa Electric that are recoverable through the Fuel and Purchased Power Cost Recovery Clause.

cc: Division of Records and Reporting
Roberta Bass
Todd Bohrmann

OK
MBB
10/15/98

DOCUMENT NO
16922-99



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: January 21, 1999
TO: DIVISION OF LEGAL SERVICES (BELLAK)
FROM: DIVISION OF AUDITING AND FINANCIAL ANALYSIS
(VANDIVER, FREEMAN)

RE: RECOMMENDATION CONCERNING TAMPA ELECTRIC COMPANY'S (TAMPA ELECTRIC'S) REQUEST FOR CONFIDENTIAL CLASSIFICATION FOR PORTIONS OF THE STAFF AUDIT WORKING PAPERS OBTAINED DURING PREPARATION OF STAFF AUDIT REPORT NUMBERED 98-082-1-1, TAMPA ELECTRIC COMPANY'S AFFILIATE TRANSACTIONS FOR THE 12 MONTH PERIOD ENDED DECEMBER 31, 1997, DOCKET NO. 981462-EI, DOCUMENT NOS. 11433-98, 12109-98 AND 12845-98

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RECORDS AND REPORTING

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On October 14, 1998, staff filed document 11433-98 consisting of portions of the staff audit report and certain staff working papers prepared during the Commission staff's audit of the Tampa Electric's Affiliate Transactions for the 12-month period ended December 31, 1998. When an audit exit conference was held with the utility on October 8, 1998, the utility requested that these documents be temporarily exempted from public access in accordance with the provisions of Rule 25-22.006 (3)(a)(2), Florida Administrative Code.

On October 22, 1998, staff sent a letter to the utility (document 11912-98) providing portions of the audit report to the utility and advising the utility that portions of the audit report contained additional information which would also be subject to the utility's request for temporary exemption. Staff's letter to the utility provided that a request for exemption filed on or before November 16, 1998 would be considered timely.

On October 29, 1998, the utility filed a request pursuant to Section 366.093, Florida Statutes, that certain portions of the staff working papers filed by staff in document 11433-98 receive confidential classification. On November 16, 1998, and in accordance with instructions provided in staff's letter, the utility filed a second request pursuant to Section 366.093, Florida Statutes, for confidential classification covering parts of the audit report. On January 8, 1999, after discussions and correspondence with staff, the utility filed a letter making final modifications to its requests. The utility's requests include highlighted documents specifying confidential material (Documents 12109-98 and 12845-98) and edited documents for public inspection (Documents 12110-98 and 12846-98).

Pursuant to Section 119.07, Florida Statutes, documents submitted to this Commission are public records. The only exemptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. Sections 366.093(3)(d) and (e), Florida Statutes, provide the following exemptions:

“Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person’s or company’s business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides the information will not be released to the public. 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 other services on favorable terms.

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

Analysis of Tampa Electric’s Request

Confidential Information Covered

The utility seeks confidential classification for the portions of staff’s audit working papers and audit report which contain information pertaining to:

- a) Coal price to include the price of coal charged to Tampa Electric by vendors, cost of coal incurred by affiliate Gatliff Coal Company and the price charged for coal by Gatliff to Tampa Electric;

The utility request states, in part,: “....Total cost can be used in conjunction with total tons purchased...to compute the weighted average per ton price of coal purchased.... The weighted average per ton price of coal purchased, is contractual data, the disclosure of which would adversely affect the ability of Tampa Electric and Gatliff to contract for the purchase and sale, respectively, of goods, (coal) on favorable terms. As such, this information is protected under Section 366.093 (3) (d) and (e), Florida Statutes. If the contractual price charged by Gatliff Coal Company to Tampa Electric for coal supplied under the parties’ current contract is made public, it will adversely affect Gatliff’s ability to renegotiate higher prices with other purchasers. If other potential purchasers know how low Gatliff was willing to price coal to Tampa Electric, that price may be viewed by other purchasers as a ceiling on the amount they are willing to pay for Gatliff coal. This would place Gatliff coal at a competitive disadvantage in the negotiating process. Disclosure of the weighted average price per ton of Gatliff coal, or any information which would enable one to derive that price, would also enable one to derive the segmented transportation prices using other publicly available information....”

Analysis of Tampa Electric's Request (Continued)

Confidential Information Covered (Continued)

b) Price of transporting coal to include; (1) price of river barging transportation, (2) price of ocean barging transportation, and (3) price of rail transportation.

c) Information which would allow interested parties to calculate price paid for coal, river barging transportation, ocean barging transportation, or rail transportation such as; weighted average price, total price reported in association with tonnage, rates per ton; amounts which would allow calculation of segmented transportation costs in association with reported tonnages, and benchmark variances.

Regarding river and ocean barging transportation, the utility states: "... the prices shown are the actual segmented transportation prices for river and ocean barging transportation services. There exists vigorous competition among suppliers of these transportation services and any public disclosure of prices charged by Tampa Electric's affiliates would eliminate any negotiating leverage which the affiliates have in marketing their services to others. Disclosing the amounts charged by these affiliates to Tampa Electric would permit the affiliates other customers, who may be paying higher charges for similar services, to bargain for more favorable terms from the affiliates...." Regarding rail transportation price, within the utility-cited order 98-1312, dated October 9, 1998, at page 8, the Commission found that "disclosure of ...rail rate per ton... would adversely affect the ability of [Tampa Electric] and its affiliates to negotiate favorable rail rates with the various suppliers serving areas in the vicinity of [Tampa Electric's] coal suppliers." The utility's argument that disclosure of rail rates paid would effectively eliminate any leverage on these coal suppliers was found to be convincing.

To support its request for confidential classification for coal price and coal transportation price, Tampa Electric has also furnished a partial listing of Florida Public Service Commission Orders where confidential classification was granted to similar material; that is,

Commission Order 23942, Dated December 12, 1990 (September 1990 Forms 423);
Commission Order 24294, Dated March 27, 1991 (November 1990 Forms 423);
Commission Order 24615, Dated June 5, 1991 (March 1991 Forms 423);
Commission Order 95-0733, Dated June 27, 1995 (April 1995 forms 423);
Commission Order 98-1312, Dated October 9, 1998 (May 1998 Forms 423); and
Commission Order 98-1351, Dated October 12, 1998 (Exhibits of Mr. Ron Burkhardt)

Analysis of Tampa Electric's Request (Continued)

Confidential Information Covered (Continued)

- d) Information regarding revenues, operating income, operating results, taxable income, tax computations or profitability of non regulated subsidiary companies.

Regarding the confidentiality of the financial records of unregulated affiliated subsidiary companies, the utility reports: "Disclosure of these operating results for our non-regulated companies will put them at a competitive disadvantage since their non-regulated competitors are not required to publish the type of operating financial information contained in these schedules...."

Confidential Period

The utility has requested a 24-month confidential period to allow for the utility or affiliates to negotiate or renegotiate contracts for coal, coal transportation or other unregulated goods and services thereby avoiding adverse effects upon these companies, and potentially avoiding adverse effects to the ratepayer when regulated fuel supplies are involved. The utility reports a two year protection period has been allowed by the Commission on a great number of occasions. Among the orders cited by the utility were:

Commission Order 24043, Dated January 29, 1991 (Grant of a 24-month Classification period for August 1990 Forms 423)
Commission Order 24294, Dated March 27, 1991 (November 1990 Forms 423);
Commission Order 24615, Dated June 5, 1991 (March 1991 Forms 423);
Commission Order 95-0733, Dated June 27, 1995 (April 1995 forms 423);
Commission Order 98-1312, Dated October 9, 1998 (May 1998 Forms 423); and
Commission Order 98-1351, Dated October 12, 1998 (Exhibits of Mr. Ron Burkhardt)

The utility states in its request; "The material for which classification is sought is intended to be and is treated by Tampa Electric and its affiliates as private and has not been publicly disclosed."

Technical Staff Recommendation

We recommend the utility's request for confidential classification be approved because portions of staff's audit report and working papers contain information which could impair the competitive ability of Tampa Electric or its affiliates to negotiate for future coal and coal transportation services and sales. We further recommend information from the unregulated affiliates of Tampa Electric concerning reported revenues, operating income, tax computations and operating results be granted confidential protection because disclosure of this competitive information could impair the business operations of these unregulated companies.

Lastly, we recommend confidential protection be allowed for 24 months, because the companies have requested information not be disclosed when competitively negotiating or renegotiating contacts for coal, coal transportation, and unregulated goods and service for the next 24 months. This policy is consistent with the provisions of Section 366.093(4), Florida Statutes which require a company to demonstrate good cause when confidential protection is granted for a period longer than 18 months.

Close Docket

Language should be included in the Prehearing Officer's Order to close this docket once the period for appeal has run and this matter becomes final.

A detailed recommendation is presented below. This listing also provides the reason a confidential classification was recommended for each document.

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12845-98					
Audit Report	6	3		Grant	Reports protected contractual price information
Audit Report	15	1,2		Grant	Reports competitive information of an unregulated affiliate
Audit Report	16	1		Grant	Reports competitive information of an unregulated affiliate

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
1	2 of 3	25,26		Grant	Reports competitive information of an unregulated affiliate
1	3 of 3	5		Grant	Reports competitive information of an unregulated affiliate
10-4/1	1	1,3,5,7,8,9		Grant	Reports protected contractual price information
10-4/2	1	1,3,5,7		Grant	Reports protected contractual price information
10-8/2	1 of 2	1 All	e a,b,c,f,g, h,i,j,k,l, m,n,o	Grant	Reports competitive information of an unregulated affiliate
10-8/2	2 of 2	1 All	b,m a,c,d,e,f,g, h,i,j,k,l,n, o,p,q,r	Grant	Reports competitive information of an unregulated affiliate
10-8/3	1 of 3	1 All	e,q a,b,c,f,g,h, i,j,k,l,m,o, p	Grant	Reports competitive information of an unregulated affiliate
10-8/3	2 of 3	1 All	k.l a,b,c,d,e, f,g,h,i,j,m, o,p,q,r,s	Grant	Reports competitive information of an unregulated affiliate

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
10-8/3	3 of 3	All	a,b,c,d,e,f	Grant	Reports competitive information of an unregulated affiliate
10-8/4	1 of 2	1 All	h a,c,d,e,f,g, i,j,k,l,m	Grant	Reports competitive information of an unregulated affiliate
10-8/4	2 of 2	1 2,3,4,5 All Other Lines	a,b,c,d,e,f, g,h,i,j,k,l, m,n,o,p,q,r All a,b,d,e,f,g, h,i,j,k,l,m, n,o,p,q,r	Grant	Reports competitive information of an unregulated affiliate
10-8/5	1 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	2 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	3 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	4 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	5 of 10	All		Grant	Reports competitive information of an unregulated affiliate
10-8/5	6 of 10	All		Grant	Reports competitive information of an unregulated affiliate

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
10-13/1	1	1-31 32-34 35-38	b,c a b	Grant	Reports protected contractual price information
10-13/1-1	1 of 6	3,4,5,12,13,15 3,4,5,7,8,10,12,13,15 17,18,20 23,25	e,g a,b,c,d,f,h,i,j,k,l,m d,e,m a,b,c,e,g,i,j,k,l,m	Grant	Reports protected contractual price information
10-13/1-1	2 of 6	2,3,4,5,12,13,15 7,8,10 17,18,20 22,23,25	a,b,c,d,e,f,g,h,i,j,k,l,m g,h,i,j,m a,b,m h,m	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
10-13/1-1	3 of 6	3,5 7,8,9,10 13,15 17,18,20 22,23,25	e,m c,m j,m b,c,d,e,f,g, h,i,j,k,l,m a,b,c,d,m	Grant	Reports protected contractual price information
10-13/1-1	4 of 6	3,4,5 7,8,9,10 13,15 18,20 22,23,25	a,b,c,d,e,f, m c,d,e,f,g,h, i,j,k,l,m c,d,e,f,m k,m a,m	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
10-13/1-1	5 of 6	2,3,5,7,8, 10,12,13, 15,22,23, 25 2,3,5 7,8,10,22, 23,25 12,13,15, 17,18,20, 28,30	a,b,d,e,f,g, h,i,j,k,m l c,l c c,m	Grant	Reports protected contractual price information
10-13/1-1	6 of 6	2,3,5 7,8,10 12,13,15 18,20 22,23,25 27,28,30	f,k,m c,m g,h,i,j,k,l, m a,f,m d,m g,i,j,k,l,m	Grant	Reports protected contractual price information
10-13/1-2	1	1-5 1-7	b c	Grant	Reports protected contractual price information
10-28/2	1	1,4,9,12-15 10	c b	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
10-28/2-1	1	1-31 32-34 35-38	b,c a c	Grant	Reports protected contractual price information
10-29/1	1 of 2	13,14,17		Grant	Reports competitive information of an unregulated affiliate
10-29/3	10-29/3	All	a,b,c	Grant	Reports competitive information of an unregulated affiliate
10-29/5	10-29/5	All	b,c,d,e	Grant	Reports competitive information of an unregulated affiliate
43-5 Summary	1	1,2		Grant	Reports competitive information of an unregulated affiliate
43-5 summary	2	1		Grant	Reports competitive information of an unregulated affiliate
43-5	1	2-15 12-15	g,h,i,j,l o	Grant	Reports competitive information of an unregulated affiliate
45-1	1	1,3,5,7,8,9		Grant	Reports protected contractual price information
45-2	1	1-31 32-34 35-38	b,c a b	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
45-2/1	1 of 6	3,4,5,12,13,15 3,4,5,7,8,10,12,13,15 17,18,20 23,25	e,g a,b,c,d,f,h,i,j,k,l,m d,e,m a,b,c,e,g,i,j,k,l,m	Grant	Reports protected contractual price information
45-2/1	2 of 6	2,3,4,5,12,13,15 7,8,10 17,18,20 22,23,25	a,b,c,d,e,f,g,h,i,j,k,l,m g,h,i,j,m a,b,m h,m	Grant	Reports protected contractual price information
45-2/1	3 of 6	3,5 7,8,9,10 13,15 17,18,20 22,23,25	e,m c,m j,m b,c,d,e,f,g,h,i,j,k,l,m a,b,c,d,m	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
45-2/1	4 of 6	3,4,5 7,8,9,10 13,15 18,20 22,23,25	a,b,c,d,e,f,m c,d,e,f,g,h,i,j,k,l,m c,d,e,f,m k,m a,m	Grant	Reports protected contractual price information
45-2/1	5 of 6	2,3,5,7,8,10,12,13,15,22,23,25 2,3,5 7,8,10,22,23,25 12,13,15 17,18,20 28,30	a,b,d,e,f,g,h,i,j,k,m l c,l c c,m c,m	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
45-2/1	6 of 6	2,3,5 7,8,10 12,13,15 18,20 22,23,25 27,28,30	f,k,m c,m g,h,i,j,k,l,m a,f,m d,m g,i,j,k,l,m	Grant	Reports protected contractual price information
45-2/2	1	1-22 3-5,7,9,10, 12,15,19, 20,24 28-33,35 39 44 43-44 48 47-52	d i,j,k l i d i d,h i	Grant	Reports protected contractual price information

Staff Work Paper Number	Page(s)	Line(s)	Column(s)	Recommend	Type of Confidential Information
Documents 11433-98 and 12109-98					
45-2/2-1	1	1,23-25, 28-30	c	Grant	Reports protected contractual price information
		2-4,6,9, 12-15,18, 19,21,22	b		
		5,7,8,10, 11,16,17, 20,26,27	b,c		
45-3	1	1,3,5,7		Grant	Reports protected contractual price information
45-3/2	1	1-5	b	Grant	Reports protected contractual price information
		1-7	c		
45-4	1	1,3,5		Grant	Reports protected contractual price information

For a limited time, a copy of this recommendation is presented at I:12845-98.RAF

cc: Division of Financial Analysis (Slemkewicz, McPherson, Wilson, Pelt)
 Division of Records and Reporting (M. Sanders)