

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause and generating performance incentive factor.

DOCKET NO. 000001-EI
ORDER NO. PSC-00-0488-CFO-EI
ISSUED: March 7, 2000

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO
TAMPA ELECTRIC COMPANY'S 423 FORMS FOR SEPTEMBER, 1999
(DOCUMENT NO. 13794-99)

Pursuant to Rule 25-22.006, Florida Administrative Code, and Section 366.093, Florida Statutes, Tampa Electric Company (TECO) filed a request for confidential classification of portions of its 423 Forms for September, 1999. In accordance with Section 366.093(3), Florida Statutes, TECO asserts that 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."

TECO requests that the information for which confidential classification is sought not be declassified until the dates specified herein. TECO contends that this time period is necessary to allow TECO's "affiliated companies to negotiate future contracts without their competitors (and other Customers) having access to information which would adversely affect the ability of these affiliates to negotiate future contracts." TECO claims that the period of time requested will ultimately protect TECO and its ratepayers.

DISCUSSION OF CONFIDENTIAL MATERIAL

TECO requests confidential classification of the information contained in its Form 423-1(a) for September, 1999, as illustrated in the following table. This information relates to the price TECO paid for No. 2 fuel oil.

TABLE 1: NO. 2 FUEL OIL DATA

FORM	LINES	COLUMNS
423-1(a) page 1/3	1-17	H-O

TECO asserts that the information contained in Column H is contractual information which, if made public, "would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d),

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Florida Statutes. This information shows the price which TECO has paid for No. 2 fuel oil per barrel from specific suppliers. If disclosed, TECO asserts that this information would allow suppliers to compare an individual supplier's price with the market price "for that date of delivery." TECO asserts that such a comparison could reveal the contract pricing formula between TECO and that supplier.

Disclosure of the invoice price, according to TECO, would allow suppliers to determine the contract price formula of their competitors. TECO asserts that this knowledge would give suppliers information with which to actually control the pricing of No. 2 oil by either all quoting a particular price or adhering to a price set by a major supplier. TECO maintains that this could reduce or eliminate any opportunity for a major buyer, like TECO to use its market presence to gain price concessions. The end result, according to TECO, is reasonably likely to be increased No. 2 fuel oil prices and, therefore, increased electric rates for TECO's customers.

TECO asserts that the contract data in Columns I through O are algebraic functions of Column H. TECO maintains that the publication of these columns, together or independently, could allow a supplier to derive the invoice price of No. 2 oil paid by TECO.

According to TECO, Columns M and N are pricing terms which are as important as the price itself. TECO asserts that these columns show the price adjustments or discount adjustments applied by TECO to shipments of fuel which do not meet TECO's contract requirements. Because of the relatively few times that there are quality or discount adjustments, TECO contends that columns M and N will equal Column H most of the time, and are, therefore, entitled to confidential classification.

TECO requests confidential classification of the following information for each of its electro-coal transfer facilities:

TABLE 2: EFFECTIVE PURCHASE PRICE/SEGMENTED TRANSPORTATION COST

STATION	FORM	LINES	COLUMNS
BIG BEND	423-2	1-4	G, H
GANNON	423-2	1-6	G, H
POLK	423-2	1	G, H

TECO asserts that disclosure of the effective purchase price illustrated in these forms, lines and columns would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. TECO maintains that publishing the purchase price would enable an interested party to ascertain the total transportation charges by subtracting the effective purchase price from the delivered price at the transfer facility, shown in Column I. According to TECO, any competitor with knowledge of the total transportation charges would be able to use that information in conjunction with the published delivered price at the Electro-Coal transfer facility to determine the segmented transportation costs. According to TECO, it is this segmented transportation cost data which is proprietary and confidential. TECO maintains that the disclosure of the segmented transportation cost would have a direct impact on TECO's future fuel and transportation contracts by informing potential bidders of current prices paid for these services provided. TECO asserts that this type of information was granted confidential classification by the Commission in Order No. 12645 issued in Docket No. 830001-EU on November 3, 1983.

TECO also asserts that disclosure of this information would inform other potential suppliers as to the price TECO is willing to pay for coal. This, according to TECO, would give present and potential coal suppliers information which could be harmful to TECO's interests in negotiating coal supply agreements.

TECO also requests confidential classification for the following information:

TABLE 3: INVOICE PRICE/SEGMENTED WATERBORNE TRANSPORTATION COST

STATION	FORM	LINES	COLUMNS
BIG BEND	423-2(a)	1-4	H, J, L
GANNON	423-2(a)	1-6	H, J, L
POLK	423-2(a)	1	H, J, L

TECO contends that these original invoice prices are entitled to confidential classification because "if the original invoice price is made public, one can subtract the original invoice price from the publicly disclosed delivered price at the Electro-Coal Transfer Facility and thereby determine the segmented river transportation cost." TECO maintains that disclosure of this information would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

Disclosure of the information contained in column H of these forms would, according to TECO, enable a competitor to back into the segmented transportation cost using the publicly disclosed delivered price at the Electro-Coal Transfer Facility. TECO illustrates how this could be done by subtracting the base price per ton from the delivered price at the Electro-Coal facility, thereby revealing the river barge rate. Such disclosure would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

TECO asserts that the information contained in column L of this form, if disclosed, would enable a competitor to back into the segmented waterborne transportation costs using the already publicly disclosed delivered price of coal at the Electro-Coal Transfer Facilities. TECO contends that such disclosure would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

TECO requests confidential classification for the following form for its Electro-Coal Transfer Facilities:

TABLE 4: EFFECTIVE PURCHASE PRICE/DELIVERED PRICE PER TON/SEGMENTED RIVER BARGE AND RAIL RATE

STATION	FORM	LINES	COLUMNS
BIG BEND	423-2(b)	1-4	G, I, K-P
GANNON	423-2(b)	1-6	G, I, K-P
POLK	423-2(b)	1	G, I, K-P

Disclosure of the effective purchase price in Column G would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. TECO asserts that such disclosure would enable a competitor to back into the segmented transportation cost by using the publicly disclosed delivered price at the Electro-Coal Transfer Facilities. TECO asserts that this could be done by subtracting the base price per ton from the delivered price at Electro-Coal, thereby revealing the river barge rate. Such disclosure would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

TECO asserts that the disclosure of the rail rate per ton in Column I would adversely affect the ability of TECO affiliate Gatliff Coal, to negotiate favorable rail rates. TECO maintains that disclosure of the rail rates paid would effectively eliminate any negotiating leverage and could lead to higher rail rates. According to TECO, this would work to the ultimate detriment of TECO and its customers. TECO maintains that disclosure of this information would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

TECO also contends that Columns K, L, M, N, O and P contain information the disclosure of which would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. TECO asserts each column provides specific information on segmented transportation costs.

TECO requests confidential classification for the following information related to its stations:

TABLE 5: EFFECTIVE PURCHASE PRICE/SEGMENTED TRANSPORTATION/OCEAN BARGING AND TRANSLOADING

STATION	FORM	LINES	COLUMNS
BIG BEND	423-2	1	G, H
GANNON	423-2	1-3	G, H
POLK	423-2	1	G, H

TECO asserts that these lines and columns of Form 423-2 are entitled to confidential classification because disclosure of the effective purchase price in Column G would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. TECO maintains that an interested party could subtract the information in this column from the figure in Column I to obtain the segmented transportation cost including transloading and ocean barging.

TECO contends that the information contained in Column H would, if disclosed, allow competitors to back into the segmented transportation costs. Competitors could do this, according to TECO, by subtracting this information from the figure in Column I to obtain segmented transportation cost including transloading and ocean barging. TECO asserts that both Columns G and H are entitled to confidential classification in order to prevent competitors from determining the segmented transportation charges.

TECO requests confidential classification for the following information for each of its stations:

TABLE 6: ORIGINAL INVOICE PRICE/SEGMENTED TERMINALING AND OCEAN BARGE TRANSPORTATION RATE

STATION	FORM	LINES	COLUMNS
BIG BEND	423-2(a)	1	H, J, L
GANNON	423-2(a)	1-3	H, J, L
POLK	423-2(a)	1	H, J, L

TECO asserts that this information contains the original invoice price. If this price is made public, according to TECO, an interested party could subtract the original invoice price from the publicly disclosed F.O.B. plant price at the Electro-Coal Transfer Facility and thereby determine the segmented terminaling and ocean barge transportation cost. TECO contends that disclosure of the

terminaling and ocean barge transportation costs would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

TECO asserts that the information contained in Column J, like that contained in Column H, would enable an interested party to back into the segmented transportation cost using the publicly disclosed F.O.B. plant price. According to TECO, this could be done by subtracting the base price per ton from the F.O.B. plant price at the stations. According to TECO, this would reveal the terminaling and ocean barge rate. TECO maintains that such disclosure would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

TECO maintains that the information contained in column L, if publicly disclosed, would enable a competitor to back into the segmented terminaling and ocean barge transportation costs using the already publicly disclosed F.O.B. plant price at the various stations. TECO asserts that such disclosure would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

TECO also requests that the following information be granted confidential classification:

TABLE 7: EFFECTIVE PURCHASE PRICE PER TON/SEGMENTED TRANSPORTATION COST/TERMINALING/OCEAN BARGING RATE

STATION	FORM	LINES	COLUMNS
BIG BEND	423-2(b)	1	G, I, K-P
GANNON	423-2(b)	1-3	G, I, K-P
POLK	423-2(b)	1	G, I, K-P

TECO asserts that the disclosure of the effective purchase price in Column G would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. TECO maintains that disclosure of the effective purchase price per ton would enable a competitor to back into the segmented transportation cost using the publicly disclosed F.O.B. plant price for coal. This would be done by subtracting the effective purchase price per ton from the F.O.B.

plant price per ton at the various stations. This, according to TECO, would reveal the terminaling and ocean barge rate.

TECO maintains that disclosure of the information in Column I, rail rate per ton, would adversely affect the ability of TECO and its affiliates to negotiate favorable rail rates with the various railroads serving areas in the vicinity of TECO's coal suppliers. TECO claims that disclosure of the rail rates paid would effectively eliminate any leverage and lead to higher rail rates. According to TECO, this would work to the ultimate detriment of TECO and its customers. Accordingly, TECO maintains that disclosure of this information would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

TECO asserts that Columns K, L, M, N, O and P contain information the disclosure of which would "impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. TECO maintains that each of these columns provides specific information on segmented transportation costs.

REQUESTED DATE(S) OF DECLASSIFICATION

TECO seeks protection from disclosure of the confidential information identified in the following table.

FORM	LINES	COLUMN	DATE
423-1(a) Page 1/1	1-17	H-O	11/09/2001
423-2	1-6	G-H	11/09/2001
423-2(a)	1-6	H, J, L	11/09/2001
423-2(b)	1-6	G, I, K-P	11/09/2001

TECO requests that the information identified above relating to fuel oil contract data not be declassified until at least two years after it is classified as confidential. Ideally, TECO asserts that its interests would be best protected by adopting a declassification date which is at least six months beyond the last day of the contract period under which the goods identified on Form 423-1(a) were purchased. TECO claims that its ability to negotiate future contracts for No. 2 and No. 6 oil would reasonable likely be impaired if pricing information as described above were disclosed

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during the contract period or prior to the negotiation of a new contract.

TECO asserts that it typically renegotiates its No. 2 and No. 6 fuel oil contracts and fuel related services contracts prior to the end of such contracts. According to TECO, on occasion, some contracts are renegotiated after the end of the current contract period. In this situation, TECO maintains that renegotiations are normally completed within six months. Therefore, TECO asserts that it is necessary to maintain the confidentiality of the information identified as confidential on Form 423-1(a) for six months after the end of the individual contract period the information relates to.

TECO's No. 2 contract was renegotiated effective October 1, 1990, and its No. 6 contract was renegotiated effective September 1, 1990. TECO also contends that, in many instances, the declassification date proposed above would be beyond two years from the date the information is classified. Therefore, in order to simplify the determination of a date of declassification date, TECO claims that it is willing to settle for a declassification date which is two years from the date the material in question is initially classified. TECO believes that this will negate the need to refer to contract expiration dates, which vary from contract to contract. At the same time, TECO maintains it will be afforded some minimum period of protection from having this sensitive information disclosed publicly.

TECO also seeks protection of the coal and coal transportation contract information specified as confidential for a minimum period of two years. TECO asserts that the need for two or more years of confidentiality is vital not only to TECO and its ratepayers, but to the vendors of coal and coal transportation services as well. TECO claims that bidders for the sale of coal will always seek to optimize their profit margin, and full knowledge of the prices paid by the utility for coal enables the bidder to increase the price bid and thereby optimize the bid from the viewpoint of the seller and to the detriment of the ratepayer. TECO firmly believes that the disclosure of information on prices paid within the last two years will increase the price TECO will be required to pay for coal and will be detrimental to ratepayers.

Additionally, TECO contends that the disclosure of rail transportation rates will result in demands by other shippers to lower any rates that are above the disclosed rates. According to TECO, the effect of disclosure will be to increase the lower rate

as the transportation provided will seek to protect the rates charged on other routes. TECO believes that 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.

Gatliff Coal and TECO Transport & Trade sell coal and bulk commodity transportation services in the open non-regulated marketplace. TECO states that the prices at which these goods and services are sold are not publicly disclosed because it would materially lessen their competitive posture with customers other than TECO. According to TECO, outside customers who negotiate for coal or coal transportation services are placed at a competitive advantage for these goods or services if they know the cost of the goods or services. TECO also asserts that as long as an outside customer does not know how an escalation clause changes price, the cost cannot be calculated. However, TECO claims that publicizing the price of coal or coal transportation services will tell an outside customer how much the escalation has been and make it easy for him to calculate cost. TECO asserts that due to the seasonality of costs in both businesses, a full year's cost data is necessary for an accurate cost measurement.

TECO contends that a second year must pass before one full year can be compared with a second year to measure the escalation accurately; thus, a perceptive vendor seeks two years of data to make his cost estimates. TECO maintains that 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. TECO asserts that any data less than two full years is extremely valuable to outside customers in contracting for services of the type listed above, and the difference of small amounts per ton can mean millions of dollars' difference in cost.

TECO also maintains that a loss of outside business will affect not only affect TECO Transport, but if large enough, it could affect the credibility of the company itself. According to TECO, the prices negotiated with TECO by these vendors took into consideration their costs and revenues at the time of negotiation, including the revenues from outside customers. TECO maintains that a significant loss of outside business could cause TECO Transport to fail, since under market pricing regulation TECO will not make up the difference in cost to them. In turn, TECO asserts that a failure of these vendors would leave TECO and its customers with only higher cost alternatives for Blue Gem coal and for coal

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transportation to Tampa, a higher cost that would be paid by TECO's ratepayers. In sum, TECO maintains that the continued credibility of TECO Transport is important to protect TECO's ratepayers from higher cost alternatives.

CONCLUSION

Upon review, it appears that TECO is entitled to confidential classification of the information contained in Document No. 13794-99 for the periods described under the section entitled Declassification above. TECO has requested confidential classification for fuel oil contract data as well as coal and coal transportation data. This appears to be contractual and bid information, the public disclosure of which "would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. This information also appears to be "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e), Florida Statutes. Disclosure of this information could also lead to higher prices and, as a result, higher rates. Accordingly, it is granted confidential classification.

Therefore, TECO's request for confidential classification of information contained in its September, 1999, Form 423, Document No. 13794-99, is granted. Good cause having been shown, the information for which confidential classification has been granted shall not be declassified until the dates requested by TECO and discussed within the body of this Order.

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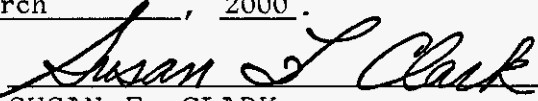
It is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Tampa Electric Company's request for confidential classification for portions of Document No. 13794-99 is granted as set forth in the body of this Order. It is further

ORDERED that the confidential information identified in Tampa Electric Company's Form 423 for September, 1999, shall be granted confidential classification until the declassification dates discussed within the body of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the declassification date of this material.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 7th Day of March, 2000.



SUSAN F. CLARK
Commissioner and Prehearing Officer

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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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1)

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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.