

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-00-2517-CFO-EI  
ISSUED: December 28, 2000

ORDER GRANTING CONFIDENTIAL CLASSIFICATION FOR SPECIFIED  
PORTIONS OF EXHIBIT MJH-1 TO THE DIRECT TESTIMONY OF TAMPA  
ELECTRIC COMPANY WITNESS MARK J. HORNICK  
(DOCUMENT NO. 11923-99)

On October 1, 1999, Tampa Electric Company ("TECO") prefiled the direct testimony of Mr. Mark J. Hornick, including exhibits, in Docket No. 990001-EI. On the same date, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, TECO filed a request for confidential classification of specified portions of Exhibit MJH-1 to Mr. Hornick's direct testimony. The information for which TECO seeks confidential classification was filed with the Commission as Document No. 11923-99.

Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information controlled by a person or company that is intended to be and is treated by that person or company as private in that disclosure of the information would cause harm to the ratepayers or the person's or company's business operations and has not been disclosed. Sections 366.093(3)(d) and (e), Florida Statutes, provide that proprietary confidential business information includes, among other things:

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

Specifically, TECO requests that confidential classification be provided for the following information:

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

1. The information in lines 1, 3, 5, 7, 8, and 9, page 2 of 2, Document No. 1 of Exhibit MJH-1.
2. The information in lines 1, 3, 5, and 7, page 2 of 2, Document No. 2 of Exhibit MJH-1.

TECO states that the information in line 1, page 2 of 2, Document 1 of Exhibit MJH-1 includes the total price and the weighted average per ton water transportation price from all TECO coal sources. TECO states that the prices shown on line 1 can be used with other publicly available data to determine the segmented transportation prices for river barge transportation services as well as ocean barge transportation services. TECO asserts that this information is entitled to confidential classification under Section 366.093(3)(d) and (e), Florida Statutes, because disclosure of this information would impair the efforts of TECO to contract for goods and services on favorable terms and harm the competitive interests of TECO's transportation affiliates, thereby ultimately harming TECO and its customers. TECO states that there is vigorous competition among suppliers of these transportation services and any public disclosure of prices charged by TECO's affiliates would eliminate any negotiating leverage which the affiliates have in marketing their services to others.

In addition, TECO states that the information shown in lines 3, 5, 7, 8, and 9, page 2 of 2, Document 1 of Exhibit MJH-1 could be used in conjunction with other information in the document to calculate the confidential amounts in line 1. Thus, TECO asserts that the information in lines 3, 5, 7, 8, and 9 is entitled to confidential classification for the same reasons as the amounts shown in line 1.

TECO states that the information in line 1, page 2 of 2, Document 2 of Exhibit MJH-1 includes the weighted average per ton price of coal purchased. TECO states that this information is contractual data the disclosure of which would adversely affect the ability of TECO and Gatliff Coal Company ("Gatliff") to contract for the purchase and sale, respectively, of coal on favorable terms. TECO asserts that if the contractual price charged by Gatliff to TECO for coal supplied under the parties' current contract is made public, it will adversely affect Gatliff's ability to negotiate higher prices with other purchasers. Accordingly, TECO asserts that this information is entitled to confidential classification under Section 366.093(3)(d) and (e), Florida Statutes.

In addition, TECO states that the information shown in lines 3, 5, and 7, page 2 of 2, Document 2 of Exhibit MJH-1 could be used in conjunction with other information in the document to calculate the confidential amounts in line 1. Thus, TECO asserts that the information in lines 3, 5, and 7 is entitled to confidential classification for the same reasons as the amounts shown in line 1.

TECO states that all of the material for which it seeks confidential classification is intended to be and is treated by TECO and its affiliates as confidential private information and has not been disclosed.

Upon review, I find that the information for which TECO seeks confidential classification is proprietary confidential business information as defined in Section 366.093(3), Florida Statutes. The disclosure of this information would impair the efforts of TECO to contract for goods and services on favorable terms. The disclosure of this information would also harm the competitive interests of TECO's affiliates, which may ultimately harm TECO and its customers. Accordingly, this information is granted confidential classification.

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, unless the Commission finds good cause to specify a longer period. In its request, TECO seeks confidential classification for a period of two years from the date of its filing.

TECO asserts that any outside customer of Gatliff or TECO Transport and Trade can determine that until November 1, 1988, TECO paid cost for coal from Gatliff and for coal transportation from TECO Transport and Trade and that the contracts revised at that time include escalation clauses. TECO states that as long as an outside customer does not know how the escalation clauses affect the price, the cost cannot be calculated. TECO further states that a perceptive vendor can accurately measure the escalation with two full, consecutive years of data, but that data over two years old is not valuable to such a vendor. Accordingly, TECO seeks confidential classification for the information discussed above for a two year period.

Upon review, I find that TECO has shown good cause for extending the period of confidential classification of this information to two years from the date of its filing. I note that

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this rationale was previously approved by the Commission by Order No. PSC-96-0995-CFO-EI, issued August 5, 1996. Accordingly, TECO's request for a two year period for protection from disclosures is granted. The information discussed above shall be provided confidential classification until October 1, 2001, two years from the date of TECO's filing.

Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification is granted as set forth in the body of this Order. It is further

ORDERED that the information described within the body of this Order and contained in Document No. 11923-99 is granted confidential classification for a period of two years from the date of Tampa Electric Company's Request for Confidential Classification, October 1, 2001. It is further

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

By ORDER of Commissioner Lila A. Jaber as Prehearing Officer, this 28th Day of December, 2000.

  
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LILA A. JABER  
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.

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, 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.