

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Review of Tampa Electric Company's
2004-2008 waterborne transportation contract
with TECO Transport and associated
benchmark.⁶

DOCKET NO. 031033-EI
ORDER NO. PSC-04-0631-CFO-EI
ISSUED: June 28, 2004

ORDER GRANTING IN PART AND DENYING IN PART
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 02875-04)

On March 18, 2004, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Tampa Electric Company (Tampa Electric) filed a request for confidential classification of Tampa Electric Company Transportation Storage and Transfer Agreements between Tampa Electric and TECO Transport dated June 30, 1998, and October 6, 2003 ("the Contracts") (Document No. 02875-04).

Section 366.093(1), Florida Statutes, provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[t]rade secrets" (subsection a), "[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" (subsection d) and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" (subsection e).

Tampa Electric contends that the Contracts fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Tampa Electric states that this information is intended to be and is treated by Tampa Electric as private and has not been publicly disclosed.

Tampa Electric requests confidential classification for the specific data listed in Attachment A to this order, which is incorporated herein by reference, and includes information about the contract terms and rates that were paid for transportation services under Tampa Electric's contracts with TECO Transport during the period 1998 through 2003, the contract terms and rates that will be paid under the contract that took effect January 1, 2004, and

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information included in bidders' proposals. The justification for Tampa Electric's request for confidential classification of this specific data is also set forth in Attachment A. Upon review, I find that the information in Tampa Electric's request is confidential for the reasons identified by the company under Section 366.093(3)(d) and Section 366.093(3)(e), Florida Statutes, with the exception of the last sentence of Section 2.2, Page 4, of the June 30, 1998, Contract. That sentence contains information about TECO Transport's right of first refusal, which is discussed in detail in the redacted version of Joann T. Wehle's prefiled testimony and exhibit. Tampa Electric did not seek confidential treatment of that information in Ms. Wehle's prefiled testimony and exhibit. Therefore, confidential classification is denied for the above mentioned portion of Tampa Electric's June 30, 1998 Contract with TECO Transport.

Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), Florida Statutes, unless Tampa Electric or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

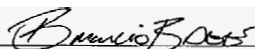
Based on the foregoing, it is

ORDERED by Chairman Braulio L. Baez, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document No. 02875-04 is granted in part and denied in part, as set forth in the body of this order. It is further

ORDERED that the information in Document No. 02875-04 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. It is further

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

By ORDER of Chairman Braulio L. Baez, as Prehearing Officer, this 28 day of JUNE, 2007.


BRAULIO L. BAEZ
Chairman and Prehearing Officer

(SEAL)
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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; or (2) 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 the Commission Clerk and Administrative Services, 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.

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF
TAMPA ELECTRIC'S WATERBORNE COAL
TRANSPORTATION CONTRACTS (FILED FEBRUARY 26, 2004)**

<u>Page No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
	Transportation Storage and Transfer Agreement Between Tampa Electric Company and TECO Transport Corporation Dated as of October 6, 2003	
1-42	All of the Information on the Listed Pages	(1), (2)
	Transportation Storage and Transfer Agreement Between Tampa Electric Company and TECO Transport Corporation Dated as of June 30, 1998	
	Cover, Table of Contents and Pages 1-38	
	All of the Information on the Listed Pages	(1)

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- (1) The information contained on the listed pages contains information about the contract terms and rates that were paid for transportation services under Tampa Electric's contracts with TECO Transport during the period 1998 through 2003 or that will be paid for transportation services under Tampa Electric's contract with TECO Transport that took effect January 1, 2004. This information is competitive contractual information, the disclosure of which would be harmful to the position of TECO Transport in negotiating future contracts with other clients. Information about previous contract rates, in conjunction with publicly disclosed information, would also allow a competitor to back into the contract rates established for Tampa Electric's contract with TECO Transport. In addition, disclosing this information would harm Tampa Electric's position in determining rates for future transportation contracts since the providers' bid responses might be influenced if they had knowledge of current or recent contract rates. In addition to the sensitivity of rate information, disclosure of the other terms and conditions of the contract would disadvantage Tampa Electric in future contract negotiations by providing potential transportation suppliers with a "floor" on the terms and conditions they could expect to demand of Tampa Electric. Disclosure of the terms and conditions of this Agreement would also have a chilling effect on the willingness of transportation providers to bid on future work for Tampa Electric. Knowing that a contract they might enter into with Tampa Electric would likely become a public document would discourage them from wanting to be a party to an agreement to provide transportation services to Tampa Electric.

The disclosure of this information would therefore be harmful to TECO Transport's competitive interests and to the ability of Tampa Electric to contract for goods and services on

favorable terms, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.

- (2) The information contained on the listed pages, in conjunction with public information, would allow a competitor to back into the rates proposed by bidders in response to Tampa Electric's RFP. Disclosing the information included in bidders' confidential proposals would discourage those bidders from participation in future RFPs as they do not desire for their competitors to have access to the terms and conditions under which they will bid on transportation services. As such public disclosure of the information contained on these pages would adversely affect the competitive interests of TECO Transport and the bidders and the ability of Tampa Electric to contract for goods and services on favorable terms. The disclosure of this information would therefore be harmful to competitive interests, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.