

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 050001-EI  
ORDER NO. PSC-05-1047-CFO-EI  
ISSUED: October 26, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 08603-05)

On September 9, 2005, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Tampa Electric Company (TECO) filed a request for confidential classification of portions of Exhibit JTW-2 to the prepared direct testimony of TECO witness Joann T. Wehle, filed on September 9, 2005 (Document No. 08603-05).

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, "[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).

TECO contends that portions of Exhibit JTW-2 to the prepared direct testimony of Ms. Wehle fall within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. TECO states that this information is intended to be and is treated by TECO as private and has not been publicly disclosed.

TECO states that the information in Document No. 1, Page 1 of 1, of Exhibit JTW-2 contains the weighted average per ton price for waterborne transportation from all TECO's coal sources, the total transportation cost, the per-ton benchmark amount, the total cost over/under benchmark, the prior years' cumulative benefit, and the net benefit for 1988-2003. TECO contends that disclosure of the information would impair the efforts of TECO to contract for goods and services on favorable terms. TECO asserts that disclosure of the information would also harm its transportation affiliates' competitive interests and thereby ultimately harm TECO and its customers. TECO asserts that there is vigorous competition among suppliers of these waterborne transportation services and public disclosure of prices charged by its affiliates would

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eliminate any negotiating leverage which the affiliates have in marketing their services to others. TECO contends that the total transportation cost, the per-ton benchmark amount, and the total cost over/under benchmark require confidential protection because they are arithmetic functions of the weighted average per-ton price and publicly available information. According to TECO, disclosing these amounts, in conjunction with the public information on tons transported or the transportation benchmark, would enable competitors to determine the weighted average price for waterborne transportation charged by TECO's transportation affiliates. TECO contends that the prior years' cumulative benefit is an arithmetic function of the prior years' weighted average price for transportation services and its disclosure would enable a competitor to determine that weighted average price from the total tons transported. TECO asserts that the net benefit for 1988-2003 is an arithmetic function of the total cost over/under benchmark and the prior years' cumulative benefit, the disclosure of which would allow a competitor to calculate those amounts.

Upon review, it appears that the above-referenced information contained in Document No. 1, Page 1 of 1, of Exhibit JTW-2 to Ms. Wehle's prepared direct testimony satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. The information constitutes "[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" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, this information is granted confidential classification.

TECO asks that this information be treated as confidential for a minimum of two years. TECO asserts that the time period requested is necessary to allow its affiliated transportation companies to negotiate future contracts without their competitors having access to information which would adversely affect the ability of these affiliates to negotiate future contracts. TECO further asserts that the time period requested will avoid compromising TECO's ability to contract for goods and services on favorable terms. According to TECO, the requested time period will ultimately protect the company and its customers.

Upon consideration, I find that Tampa Electric has provided sufficient information concerning the harm which could arise from not protecting this information for a minimum of two years. Accordingly, good cause having been shown, the information granted confidential classification herein shall be held as confidential for two years from the date of the issuance of this Order.

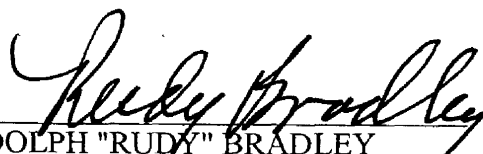
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document No. 08603-05 is granted. It is further

ORDERED that the information in Document No. 08603-05 for which confidential classification has been granted shall remain protected from disclosure for a period of two years 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 Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 26th day of October, 2005.

  
RUDOLPH "RUDY" BRADLEY  
Commissioner 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.