

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Polk 2-5
combined cycle conversion, by Tampa Electric
Company.

DOCKET NO. 120234-EI
ORDER NO. PSC-12-0544-CFO-EI
ISSUED: October 15, 2012

ORDER GRANTING TAMPA ELECTRIC COMPANY'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION AND MOTIONS FOR TEMPORARY PROTECTIVE ORDERS
(DOCUMENT NOS. 06139-12 & 06141-12)

On September 12, 2012, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Tampa Electric Company (TECO or Company) filed two Requests for Confidential Classification and Motions for Temporary Protective Orders regarding portions of its witnesses' R. James Rocha's Exhibit (RJR-1) and Alan S. Taylor's Exhibit (AST-1) (Document No. 06139-12) and portions of its Need Determination and witness S. Beth Young's Testimony and Exhibit (SBY-1) (Document No. 06141-12).

TECO asserted that the confidential information contained in Document Nos. 06139-12 and 06141-12 meets the statutory definition of and constitutes proprietary confidential business information entitled to protection as outlined in Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. TECO stated that (1) the information pertains to bids, contractual data, security measures, systems, or procedures, the disclosure of which would impair TECO's efforts to contract favorably; and (2) the information has been treated by TECO as private and has not been publicly disclosed. TECO requested confidential classification for the information for a period of at least 18 months. The justification for the confidential classification and temporary protective orders is attached hereto and incorporated herein as Attachment A.

Pursuant to Section 366.093(1), F.S., information that this Commission finds to be proprietary confidential business information must be kept confidential and exempt from Section 119.07(1), Florida Statutes, [the Public Records Act]. Proprietary confidential business information is defined as information that: (1) 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 (2) has not been voluntarily disclosed to the public. Pursuant to Section 366.093 F.S., proprietary confidential business information includes, but is not limited to, information relating to bids, other contractual data, or competitive interests, the disclosure of which will prove detrimental to the utility's business operations or ratepayers.

I find that the information contained in Document Nos. 06139-12 and 06141-12 satisfies the criteria set forth in Section 366.093, F.S., for classification as proprietary confidential business information. The information relates to bids, contractual data, security measures,

DOCUMENT NUMBER-DATE

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systems, or procedures, and public disclosure of this information will be detrimental to TECO, its affiliates' business operations and ratepayers. Therefore, I find it appropriate to grant TECO's request for confidential classification and motions for temporary protective orders of the information as justified in Attachment A, which is attached hereto and incorporated herein.

Based on the foregoing, it is

ORDERED by Commissioner Art Graham, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of information contained in Document Nos. 06139-12 and 06141-12, is granted. It is further

ORDERED that Tampa Electric Company's Motions for a Temporary Protective Orders for the information contained in Document Nos. 06139-12 and 06141-12, are granted. It is further

ORDERED that the information contained in Document Nos. 06139-12 and 06141-12 for which confidential classification and temporary protective orders have been granted shall, subject to the requirements of Rule 25-22.006(6)(c), Florida Administrative Code, shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that 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 Company or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further

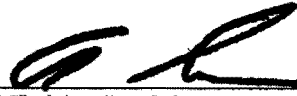
ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

ORDER NO. PSC-12-0544-CF0-EI

DOCKET NO. 120234-EI

PAGE 3

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 15th day of October, 2012.



ART GRAHAM

Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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 DOCUMENT NO. 06139-12

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF
HIGHLIGHTED PORTIONS OF WITNESS R. JAMES ROCHA'S EXHIBIT (RJR-1)
AND WITNESS ALAN S. TAYLOR'S EXHIBIT (AST-1)**

| <u>Page</u> | <u>Description</u> | <u>Rationale</u> |
|--|-----------------------------|-------------------------|
| Exhibit No. (RJR-1) Document No. 10 (Bates stamp p. 59) | The highlighted information | (1) |
| Exhibit No. (AST-1) Document 2, pages 2 of 15, 3 of 15, 4 of 15, 5 of 15, 11 of 15 and 14 of 15 (Bates stamp pp. 33-36, 42 and 45) | The highlighted information | (1) |

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- (1) The highlighted information discloses the company name, plant name, capacity or heat rate and other confidential terms and conditions contained in proposals that were solicited and received by Tampa Electric under a commitment to maintain the confidentiality of the proposals' terms and conditions. Public disclosure of this information would discourage these entities from making future bids on Tampa Electric projects, for fear that their competitively bid information would be made public. This would reduce the number of bidders on Tampa Electric's future projects and lessen the robustness of competitive bids to be received on those future projects. Such public disclosure would also arm other competitive bidders on future Tampa Electric projects with information to help them fashion bids that are more to the bidders' advantage than might be the case if they did not have the information, which could work to disadvantage Tampa Electric and its customers in these future projects. Section 366.093(3)(d), Florida Statutes, states that confidential information entitled to protection from public disclosure includes:

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate to contract for goods or services on favorable terms.

The highlighted information in question directly relates to bids and proposed contractual data solicited and received by Tampa Electric and, thus, is entitled to confidential treatment.

JUSTIFICATION FOR DOCUMENT NO. 06141-12

JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED PORTIONS OF DETERMINATION OF NEED FOR ELECTRICAL POWER: POLK 2-5 COMBINED CYCLE CONVERSION AND PORTIONS OF WITNESS S. BETH YOUNG'S TESTIMONY AND EXHIBIT (SBY-1)

| <u>Pages</u> | <u>Description</u> | <u>Rationale</u> |
|--|-----------------------------|-------------------------|
| Determination for Need for Electrical Power: Polk 2-5 Combined Cycle Conversion, Pages 84 through 86 | The highlighted information | (1) |
| Witness S. Beth Young's Exhibit (SBY-1) Document No. 1 Bates stamp pages 21 and 22 | The highlighted information | (1) |
| Witness S. Beth Young's Exhibit No. (SBY-1) Document No. 2 Bate stamp page 25 | The highlighted information | (1) |
| S. Beth Young's testimony at page 8 | The highlighted information | (1) |

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- (1) The highlighted information on the pages in question constitutes Critical Energy Infrastructure Information or CEII, defined by the Federal Energy Regulatory Commission as "specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) relates details about the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act; and (4) does not simply give the general location of the critical infrastructure." CEII includes, among other things, connectivity or switching maps or diagrams, which is the type of information contained in the above-referenced pages. In addition, Section 366.093(3)(c), Florida Statutes, identifies security measures, systems or procedures as the type of information entitled to confidential protection. Public disclosure of the information in question could compromise the security interests of Tampa Electric and adversely affect the company and its customers. As such, the information is entitled to confidential protection and exemption from the Public Records Law pursuant to Section 366.093, Florida Statutes, and the referenced provisions of the FERC's CEII policy.