

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company.

DOCKET NO. 20240026-EI

In re: Petition for approval of 2023 depreciation and dismantlement study, by Tampa Electric Company.

DOCKET NO. 20230139-EI

In re: Petition to implement 2024 generation base rate adjustment provisions in paragraph 4 of the 2021 stipulation and settlement agreement, by Tampa Electric Company.

DOCKET NO. 20230090-EI
ORDER NO. PSC-2024-0376-CFO-EI
ISSUED: August 26, 2024

ORDER GRANTING TAMPA ELECTRIC COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
and
REQUEST FOR PROTECTIVE ORDER
(DOCUMENT NOS. 02604-2024 AND 08326-2024)

On April 30, 2024, Tampa Electric Company (TECO) filed a Request for Confidential Classification and Request for Temporary Protective Order, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), pertaining to certain information contained in TECO's response to the Office of Public Counsel's (OPC) First Request for Production of Documents No. 1. The information can be described as labor rates, salary grades, and material costs associated with utility pole installation and metering services as well as some projected cost of capital for TECO's affiliates. (Document No. 02604-2024).

On August 8, 2024, TECO submitted an Amended Exhibit A to (i) provide an updated highlighted copy for Bates Page No. 207 to conform with the public version provided to the Florida Public Service Commission (Commission) on April 30, 2024, and (ii) revise the identification of confidential information for Bates Page No. 203 (Material_Labor_Adj) to conform to the appropriately designated highlighted copy. (Document No. 08326-2024).

Request for Confidential Classification

TECO contends that the information in Amended Exhibit A of the Request constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. TECO asserts that the information at issue relates to: (i) labor rates and calculations, the disclosure of which would impair the efforts of TECO to contract for goods and/or services on favorable terms; and (ii) competitive interests, which could be used by competitors to gain confidential internal information. For those reasons, TECO argues the information is entitled to confidential classification pursuant to Section 366.093(3)(d)-(e), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Commission has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S., 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), F.S., provides that proprietary confidential business information includes, but is not limited to:

(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.

Upon review, it appears the above-referenced information in Document Nos. 02604-2024 and 08326-2024, as specifically detailed in Amended Exhibit A, satisfies the criteria set forth in Section 366.093(3)(d) and (e), F.S., for classification as proprietary confidential business information. The information constitutes “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,” and “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, the information identified in Document Nos. 02604-2024 and 08326-2024 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of up to 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), F.S., unless TECO or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Request for Temporary Protective Order

TECO also seeks protection of the documents as provided in Section 366.093, F.S., and Rule 25-22.006, F.A.C. Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from Section 119.07(1), F.S., the public records law. Rule 25-22.006(6), F.A.C., codifies the Commission’s policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

Ruling

Upon consideration of TECO's assertions of the confidential nature of the information contained in portions of the discovery responses, Document Nos. 02604-2024 and 08326-2024, TECO's Request for Temporary Protective Order is hereby granted consistent with Amended Exhibit A and the rationale expressed herein. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document Nos. 02604-2024 and 08326-2024 is granted. It is further

ORDERED that Tampa Electric Company's Request for Temporary Protective Order of the information in Document Nos. 02604-2024 and 08326-2024 is granted. It is further

ORDERED that the information in Document No. 02604-2024 and 08326-2024, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 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.

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By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 26th day of August, 2024.



GARY F. CLARK
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.

CMM

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. 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.