

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for) DOCKET NO. 931050-EI
Confidentiality of Portion of) ORDER NO. PSC-93-1708-CFO-EI
Response to Staff Data Request) ISSUED: November 29, 1993
Regarding Proposed 69 KV Gapway)
Transmission Line Project by)
Tampa Electric Company.)
_____)

ORDER GRANTING IN PART AND DENYING IN PART
REQUEST FOR CONFIDENTIAL CLASSIFICATION

By request filed October 26, 1993, Tampa Electric Company (TECO) seeks confidential classification for information included in its response to staff concerning the proposed 69 KV distribution line system in northwestern Polk County. Staff requested the information to address an informal complaint made by J. David Connor on behalf of the residents of Gapway Grove, who have contested the need for a 1.5 mile section of 69 KV line in the region. TECO has requested confidentiality of a part of its response, particularly the current and projected load (megawatts) and number of customers served by each of the 23 substations in this region. Additionally, TECO has asked to withhold the identity of two of the 23 substations because they serve individual industrial customers. TECO argues that the competitive interests of these two customers could be compromised if their megawatt loads were revealed.

Florida law provides, in Section 119.07, Florida Statutes, the process by which records kept by government agencies are made public. Paragraph 119.07(3)(a) provides exceptions for public records which are presently provided by law to be confidential. In the instant matter the relevant exceptions are provided in Section 366.093, Florida Statutes.

Subsection 366.093(1), Florida Statutes, provides that "proprietary confidential business information" shall be kept confidential and shall be exempt from s. 119.07(1). Subsection 366.093(3) provides a definition which reads:

The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is

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intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

The megawatt load at each of the two substations serving individual industrial customers should be granted confidential treatment, to protect the competitive business interests of these customers. This is in accord with §366.093(1) and (3), supra.

With the above exceptions, the data requested of TECO is not entitled to confidential treatment. TECO states that releasing such information could enable a "potential saboteur" to sabotage or damage those TECO facilities which accommodate the largest load and number of customers. It is not clear how the disclosure of this data would make any difference to someone who wishes to harm any of TECO's facilities, as TECO has not requested that their location also be kept confidential. Furthermore, if a person wished to damage TECO's or any other electric utility's facilities, that person would have little trouble locating large transmission facilities to sabotage.

There have been numerous instances in the past where staff has requested, and received, information on the megawatt load and number of customers served by individual substations. Such information is regularly obtained without incident in cases involving territorial matters between electric utilities, as was done in recent cases involving Jacksonville Electric Authority (JEA) and Okefenokee Electric Cooperative (Docket No. 911141-EU) and JEA and Clay Electric Cooperative (Docket No. 920202-EU).

Accordingly, though §§366.093(3)(c) lists "security measures, systems or procedures" as proprietary, confidential business information, TECO has not demonstrated that the information at issue is in fact covered by that statutory provision.

In view of the above, it is

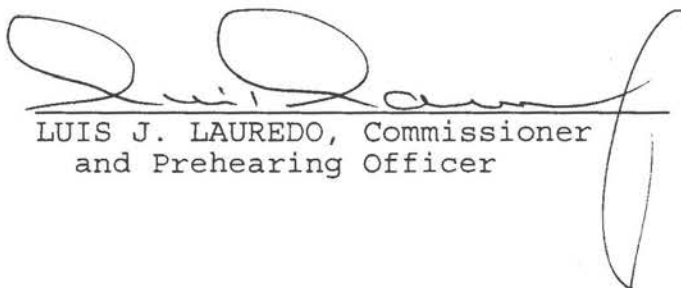
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ORDERED that information on lines 6 and 7 in each column of the submitted materials which relates to the load characteristics of individual customers be treated as confidential. It is further

ORDERED that confidential treatment of the remaining material submitted be denied. It is further

ORDERED that the proprietary business information shall be afforded confidential treatment until May 31, 1995.

By Order of Luis J. Lauredo as Prehearing Officer, this 29th day of November, 1993.



LUIS J. LAUREDO, Commissioner
and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), 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.