

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 160001-EI
ORDER NO. PSC-16-0542-CFO-EI
ISSUED: November 28, 2016

ORDER GRANTING TAMPA ELECTRIC COMPANY'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION (DOCUMENT NO. 01830-16)

On April 6, 2016, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Tampa Electric Company (TECO) filed a request for Confidential Classification (Request) of certain highlighted information contained on pages 11, 12 and 13 of its 2015 Hedging Activity True-Up Report (the Report) (Document No. 01830-16). This Request was filed in Docket No. 160001-EI.

Request for Confidential Classification

TECO contends that the information contained in the Report constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. TECO asserts that this information is intended to be and is treated by TECO as private and has not been publicly disclosed.

TECO contends that the highlighted information on pages 11, 12 and 13 of the Report would disclose its current purchasing strategy, both with respect to fuel and purchased power, and risk exposure. TECO asserts that those who have an interest in supplying TECO's fuel and purchased power needs could use this information to the detriment of TECO and its ratepayers in negotiating future terms. TECO also asserts that disclosing its risk exposure levels on a monthly basis would provide an indicator of vulnerability to market price, and suppliers of fuel and purchased power could simply withhold supply and price their fuel and purchase power offerings at a higher level than they would otherwise.

TECO further asserts that disclosure of the highlighted information in the Report would also provide highly sensitive information to recipients regarding the manner and timing of TECO's entry into the fuel and purchased power markets. TECO asserts that market manipulations based on knowledge of the highlighted information would increase the price of fuel and purchased power paid by TECO's customers as well as the price paid by the company to hedge the customers' price of fuel and purchased power. TECO contends that disclosure of this information could impair its efforts to contract goods and services on favorable terms for the benefit of its customers.

Finally, TECO asserts that the highlighted contractual fuel price information shown in the Report represents contract prices that are less than two years old, within the period of time that contract prices are typically protected to preserve its competitive position in negotiating fuel supply contracts. TECO contends that any contract price shown in the Report without

highlighting represents an older, and therefore no longer competitively sensitive, price. TECO further contends that disclosing its highlighted actual contractual fuel prices and the market indexes upon which fuel contract prices are based would impair TECO's future efforts to contract for goods and services on favorable terms. TECO argues that the information could be used by suppliers to affect the price of fuel that TECO will need to purchase in the future since the provider's bids might be influenced if they had knowledge of existing contract rates and knowledge of this information would allow fuel suppliers to use this information to help them negotiate more favorable terms, to the detriment of TECO and its ratepayers.

TECO requests that the Report be treated by the Florida Public Service Commission (Commission) as confidential proprietary business information for a period of three years. In support of its Request, TECO asserts that the Report provides detailed strategies, many of which are of a continuing nature, and could be in place beyond the standard eighteen-month period that confidential information is treated by the Commission as such. TECO contends that the various risk management strategy components build upon each other and disclosing the company's basic plan sooner than three years after it is submitted would arm would-be suppliers of goods and services, as well as TECO's competitors, with the bulk of the plan's components. TECO asserts that a minimum of three years is essential to prevent those entities in the fuel and purchased power markets from having access to information they could use to TECO's competitive disadvantage, which would increase the fuel and purchased power costs borne by its customers.

Ruling

Section 366.093(1), F.S., provides that the records the Commission has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) 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 that the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above appears to be 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 No. 01830-16 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., confidential classification may only extend for up to 18 months from the issuance of an Order granting confidential classification unless "the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period." TECO appears to have provided sufficient information concerning the harm which could arise from not protecting this information for a minimum of three years. Accordingly, the information identified in Document No. 01830-16, shall be granted confidential classification for a period of three years from the issuance of this Order.

Based on the foregoing, it is hereby

ORDERED by Commissioner Art Graham, as Prehearing Officer, that Tampa Electric Company's Request for Confidential Classification of Document No. 01830-16 is granted, as set forth herein. It is further

ORDERED that the information in Document No. 01830-16, for which confidential classification is granted, shall remain protected from disclosure for a period of up to three years from the date of issuance of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 28th day of November, 2016.


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.

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.