

## BEFORE THE PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power)  
 Cost Recovery Clause and )  
 Generating Performance Incentive)  
 Factor. )

DOCKET NO. 900001-EI  
 ORDER NO. 23466  
 ISSUED: 9-11-90

ORDER ON TAMPA ELECTRIC COMPANY'S REQUEST  
 FOR CONFIDENTIAL TREATMENT OF PORTIONS OF  
 ITS DECEMBER 1989 AND JANUARY, FEBRUARY,  
 MARCH, APRIL, MAY AND JUNE 1990 FORMS 423

Tampa Electric Company (TECO) has requested specified confidential treatment of its FPSC forms 423-1(a), 423-2, 423-2(a), and 423-2(b) for the following months of December 1989 and January, February, March, April, May and June 1990.

<u>DATE</u>	<u>FORM</u>	<u>DOCUMENT NO.</u>
December 1989	423-1(a), 423-2, 423-2(a), 423-2(b), 423-2(c)	1604-90
January 1990	423-1(a), 423-1(b), 423-2, 423-2(a), 423-2(b)	2526-90
February 1990	423-1(a), 423-2, 423-2(a), 423-2(b)	3430-90
March 1990	423-1(a), 423-1(b), 423-2, 423-2(a), 423-2(b)	4364-90
April 1990	423-1(a), 423-2, 423-2(a), 423-2(b), 423-2(c)	5466-90
May 1990	423-1(a), 423-2, 423-2(a), 423-2(b)	6496-90
June 1990	423-1(a), 423-2, 423-2(a), 423-2(b), 423-2(c)	7639-90

TECO argues, pursuant to Section 366.093(3)(d), Florida Statutes, that lines 1-2 of column H, Invoice Price, on Form

DOCUMENT NUMBER-DATE

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423-1(a) contain contractual information which, if made public, would impair the efforts of TECO to contract for goods or services on favorable terms. The information indicates the price which TECO has paid for No. 2 fuel oil per barrel for specific shipments from specific suppliers. If disclosed, this information would allow suppliers to compare an individual supplier's price with the market for that date of delivery and thereby determine the contract pricing formula between TECO and that supplier. Disclosure of the Invoice Price would allow suppliers to determine the contract price formula of their competitors. Knowledge of each other's prices would give suppliers information with which to actually control the pricing in No. 2 oil by either all quoting a particular price or adhering to a price offered by a major supplier. This could reduce or eliminate any opportunity for a major buyer, like TECO, to use its market presence to gain price concessions from any individual supplier. The result of such disclosure, TECO argues, is reasonably likely to be increased No. 2 fuel oil prices and increased electric rates.

TECO argues that lines 1-2 of columns I, Invoice Amount; J, Discount; K, Net Amount; L, Net Price; M, Quality Adjustment; N, Effective Purchase Price; and O, Transport to Terminal, on Form 423-1(a) are entitled to confidential treatment because the contract information therein are algebraic functions of column H, Invoice Price. The publication of these columns together or independently, therefore, TECO argues, could allow a supplier to derive the Invoice Price of No. 2 oil paid by TECO. As to lines 1-2 of column M, TECO further argues that for fuel that does not meet contract requirements, TECO may reject the shipment, or accept the shipment and apply a quality adjustment. This, TECO argues, is a pricing term as important as the price itself rendering the rationale to classify relating to price concessions applicable. As to lines 1-2 of column N, TECO further argues that the information in this column is as entitled to confidential treatment as the invoice price due to the relatively few times quality or discount adjustments are applied. In other words, column N, Effective Purchase Price, will typically equal column H, Invoice Price. We find that lines 1-2 of columns H-O of Form 423-1(a) should not be classified because the Invoice Price and Invoice Amount in columns H through O can be determined by applying the portions found in columns G, Volume, and column R, Delivered Price, for which confidentiality was not sought.

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TECO has requested confidential treatment of lines 1-9 of column G, Effective Purchase Price, on Form 423-2 relating to Big Bend Station (1), arguing disclosure would impair TECO's efforts to contract for goods or services on favorable terms. Additionally, one could ascertain the Total Transportation Charges by subtracting a disclosed Effective Purchase Price, column I, from the Delivered price at the Transfer Facility. A competitor with knowledge of the Total Transportation Charges could use that information in conjunction with the published Delivered Price at the Electro-Coal Transfer facility to determine the segmented transportation costs, i.e., the breakdown of transportation charges for river barge transport and for deep water transportation across the Gulf of Mexico from the transfer facility to Tampa. TECO argues it is this segmented transportation cost data which is entitled to confidential treatment in that disclosure would adversely affect TECO's future fuel and transportation contracts by informing potential bidders of current prices paid for services provided. Disclosure of fuel oil prices would indirectly effect bidding suppliers. Suppliers would be reluctant to provide significant price concessions to an individual utility if prices were disclosed because other purchasers would seek similar concessions.

TECO further argues the information would inform other potential suppliers as to the price TECO is willing to pay for coal. This would provide present and potential coal suppliers information which could adversely affect TECO's ability to negotiate coal supply agreements.

TECO requests confidential treatment of lines 1-9 of column H, Total Transport Charges, arguing that their disclosure would also impair its efforts to contract for goods or services on favorable terms because, as discussed above, both columns G and H, if disclosed, will enable competitors to determine segmented transportation charges. We find that columns G and H of Form 423-2 which reflect the F.O.B. Mine Prices resulting from negotiations with unaffiliated third-parties are entitled to confidential treatment.

TECO requests confidential treatment of lines 1-9 of column H, Original Invoice Price, on Form 423-2(a) relating to Big Bend Station (1), because disclosure would enable one to subtract that price from the publicly disclosed Delivered Price at the Electro-Coal Transfer Facility and thereby determine the segmented river transportation cost. Such disclosure, TECO argues, would

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impair its efforts to contract for goods or services on favorable terms due to rationale similar to that offered for confidential treatment of column A, Effective Purchase Price, of Form 423-2.

TECO similarly requests confidential treatment of lines 1-9 of column J, Base Price, on Form 423-2(a) in that disclosure would enable a competitor to "back-into" the segmented transportation cost using the publicly disclosed Delivered Price at the transfer facility; one could subtract column J, Base Price Per Ton, from the Delivered Price at the transfer facility, to obtain the River Barge Rate.

TECO also contends that lines 1-9 of column L, Effective Purchase Price, of Form 423-2(a) are entitled to confidentiality since, if disclosed, they would enable a competitor to back into the segmented waterborne transportation costs using the already disclosed Delivered Price of coal at the transfer facility. Such disclosure, TECO argues, would impair its efforts to contract for goods or services on favorable forms for the reasons discussed in relation to column G, Form 423-2. We agree that the numbers in lines 1-9 of columns H, J, and L, reflect actual costs negotiated and obtained in arms-length transactions with unaffiliated third parties which, if disclosed, could cause harm to TECO's customers.

TECO requests confidential treatment of lines 1-9 of columns G, Effective Purchase Price; I, Rail Rate; K, River Barge Rate; L, Transloading Rate; M, Ocean Barge Rate; N, Other Water Charges; O, Other Related Charges; and P, Total Transportation Charges of Form 423-2(b) relating to Big Bend Station (1). TECO argues that disclosure of the Effective Purchase Price per ton would impair its ability to contract for goods or services on favorable terms by enabling a competitor to back into the segmented transportation costs by using the publicly disclosed Delivered Price for coal at the transfer facility; one could obtain the River Barge Rate by subtracting the Effective Purchase Price per ton from the price per ton delivered at Electro-Coal. We find that the waterborne costs contained in columns G, I, K, L, M, N, O, and P involve transfer pricing arrangements between TECO and its unregulated waterborne affiliates, Mid-South Towing, Electro-Coal Transfer, and Gulf Coast Transit, and, as such, are not inherently entitled to confidentiality. See discussion below relating to Commission Order No. 20298. Because their disclosure, however, would enable an interested party to obtain the Effective Purchase Price by subtracting them from column Q, Delivered Price, for which

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confidentiality was not requested, we find that the waterborne costs should be confidential.

TECO requests confidential treatment of lines 1-3 of columns G, Effective Purchase Price; and H, Total Transportation Charges, on Form 423-2 relating to Gannon Station (1). TECO argues that both columns require confidential treatment to prevent a competition from backing into the segmented transportation charges for reasons identical to those offered in relation to Form 423-2 relating to the Big Bend Station. TECO specifically argues that disclosure would impair its efforts to contract for goods or services on favorable terms.

TECO similarly requests confidential treatment of lines 1-3 of columns H, Original Invoice Price; J, Base Price, and L, Effective Purchase Price, on Form 423-2(a) relating to Gannon Station (1), and lines 1-3 of columns G, Effective Purchase Price; I, Rail Rate; K, River Barge Rate; L, Transloading Rate; M, Ocean Barge Rate; N, Other Water Charges; O, Other Related Charges; and P, Total Transportation Charges, on Form 423-2(b) relating to the Gannon Station (1). TECO offers rationale identical to that offered in relation to those columns on Forms 423-2(a) and (b) relating to the Big Bend Station transfer facility.

We find that the referenced information in Forms 423-2, 2(a), and 2(b) relating to Gannon Station (1) is entitled to confidential treatment for the same reasons provided for Big Bend Station.

TECO requests confidential treatment of line 1 of columns G, Effective purchase Price; and H, Total Transportation Charges on Form 423-2 relating to the Big Bend Station transfer facility and lines 1-2 of the same columns on the same form relating to the Gannon Station transfer facility. TECO contends that disclosure of the Effective Purchase Price in both cases would impair its efforts to contract for goods and services on favorable terms because, if one subtracts the information in this column from that in column I, F.O.B. Plant Price, one can obtain the segmented transportation cost, including transloading and ocean barging. TECO also argues that disclosure of the Total Transport Charges would similarly impair its contracting ability by enabling a competitor to determine segmented transportation charges.

TECO similarly argues that line 1 of columns H, Original Invoice Price; J, Base Price; and L, Effective Purchase price of

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Forms 423-2(a) relating to the Big Bend Station and lines 1-2 of the same columns of the same form relating to Gannon Station are entitled to confidential treatment in that disclosure would allow a competitor to deduce the segmented terminating and ocean barge transportation cost and terminating and ocean barge rate on rail rate, respectively.

TECO similarly requests confidential treatment of line 1 of columns G, Effective Purchase Price; I, Rail Rate; K, River Barge Rate; L, Transloading Rate; M, Ocean Barge Rate; N, Other Water Charges; O, Other Related Charges; and P, Total Transportation Charges, of Form 423-2(b), relating to Big Bend Station, and lines 1-2 of the same columns for the same form relating to Gannon Station. TECO argues that disclosure of either Effective Purchase Price per ton would enable a competitor to back into the segmented transportation cost of termination and Ocean Barge Rates by subtracting that price per ton from the F.O.B. Plant Price per ton. We find shipments from the respective plants are combined together into one lot at the transfer facility whereby the original products lose their identity rendering the original costs associated with the diverse products untraceable. We find, therefore, that the information contained in these columns on Forms 423-2, 2(a), and 2(b), relating to both Big Bend and Gannon Stations, are not entitled to confidential treatment. Further, line 2 of these same columns on these same forms relating to Gannon Station involve, in our opinion, a transfer pricing arrangement between TECO and a controlled affiliate, Gatliff Coal, and not an arms-length, transaction negotiated with an independent third party supplier, as discussed above. We find, therefore, disclosure of line 1 of columns G and H of Form 423-2 relating to Big Bend Station, and lines 1-2 of the same columns of the same form relating to Gannon Station; line 1 of columns H, J, and L of Form 423-2(a) relating to Big Bend Station and lines 1-2 of the same columns of the same form relating to Gannon Station; and line 1 of columns G, I, K, L, M, N, O, and P of Form 423-2(b) relating to Big Bend Station and lines 1-2 of the same columns of the same form relating to Gannon Station, would not impair TECO's ability to contract for similar goods or services on favorable terms and the information is not entitled to confidential treatment.

TECO further argues that disclosure of its Rail Rate per ton in column I of all its Forms 423-2(b) would impair the ability of TECO and its affiliate to negotiate favorable rail rates with the various railroads serving areas in the vicinity of TECO's coal

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suppliers. Gatliff has other coal buying customers with other railway options: disclosure of CXS's railrates, therefore, would impair the contracting ability of a TECO affiliate and could ultimately adversely affect TECO's ratepayers.

DECLASSIFICATION

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that records contain proprietary confidential business information is effective for a period set by the Commission not to exceed 18 months, unless the Commission finds, for good cause, that protection from disclosure shall be made for a specified longer period. However, in TECO's requests for confidential classification relating to December 1989; January 1990; February 1990; March 1990; April, 1990; May 1990; and June 1990, it failed to request an extension of the statutory period. Thus, the above-mentioned confidential information will remain confidential for a period not to exceed 18 months from the date of each request.

In consideration of the foregoing, it is

ORDERED that Tampa Electric Company's request for confidential treatment on Form 423-1(a) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-9 of columns G and H on Form 423-2 relating to Big Bend Station (1) is granted. It is further

ORDERED that Tampa Electric Company's requests for confidential treatment of lines 1-9 of columns H, J, and L on Form 423-2(a) relating to Big Bend Station (1) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-9 of columns G, I, K, L, M, N, O, and P on Form 423-2(b) relating to Big Bend Station (1) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-3 of columns G and H on Form 423-2 relating to Gannon Station (1) is granted. It is further

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ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-3 of columns H, J, and L on Form 423-2(a) relating to Gannon Station (1) is granted. It is further

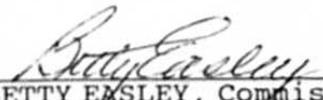
ORDERED that Tampa Electric Company's request for confidential treatment of lines 1-3 of columns G, I, K, L, M, N, O, and P on Form 423-2(b) relating to Gannon Station (1) is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of line 1 of columns G and H on Forms 423-2 relating to Big Bend Station and lines 1-2 of the same columns on the same forms relating to Gannon Station is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of line 1 of columns H, J, and L on Form 423-2(a) relating to Big Bend Station and lines 1-2 of the same columns on the same form relating to Gannon Station is granted. It is further

ORDERED that Tampa Electric Company's request for confidential treatment of line 1 of columns G, I, K, L, M, N, O, and P of Forms 423-2(b) relating to Big Bend Station and lines 1-2 of the same columns on the same form relating to Gannon Station is granted.

By ORDER of Commission Betty Easley, as Prehearing Officer, this 11th day of SEPTEMBER, 1990.

  
BETTY EASLEY, 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

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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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.