

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power) DOCKET NO. 960001-EI
Cost Recovery Clause and) ORDER NO. PSC-96-1498-CFO-EI
Generating Performance Incentive) ISSUED: December 10, 1996
Factor.)
_____)

ORDER GRANTING TAMPA ELECTRIC COMPANY'S
REQUEST FOR CONFIDENTIAL TREATMENT OF CERTAIN AUDIT WORKPAPERS

Pursuant to Rule 25-22.006(4), Florida Administrative Code, Tampa Electric Company (TECO) has requested specified confidential treatment of portions of the Commission Staff's Audit Work Papers pertaining to the Commission Staff's routine fuel expense audit for the period ending March 31, 1996 (Document Nos. 06799-96 and 06862-96).

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Section 366.093(3)(b), Florida Statutes, specifies that information found in internal auditing controls and in reports of internal auditors may be given confidential treatment. In addition, the Florida Legislature has determined that "[i]nformation 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" is proprietary confidential business information. Section 366.093(3)(d), Florida Statutes.

In addition, to establish that material is proprietary confidential business information under Section 366.093(3)(d), Florida Statutes, a utility must demonstrate (1) that the information is contractual data, and (2) that the disclosure of the data would impair the efforts of the utility to contract for goods or services on favorable terms. The Commission has previously recognized that this latter requirement does not necessitate the showing of actual impairment, or the more demanding standard of actual adverse results; instead, it must simply be shown that

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disclosure is "reasonably likely" to impair the company's contracting for goods or services on favorable terms.

TECO seeks confidential classification of audit workpapers which contain notes taken by the Staff auditors after reviewing documents prepared by TECO's external auditors. These notes contain information pertaining to the Company's internal auditing controls and procedures. Pursuant to Section 366.093(3)(b), Florida Statutes, these workpapers should be granted confidential status.

TECO seeks confidential status of workpapers which contain TECO's fuel costs and prices; and rates and amounts for rail transportation, transloading and ocean barging. Other workpapers contain data which, when used in conjunction with published data would allow a person to compute TECO's segmented river transportation costs.

TECO argues that disclosure of fuel prices and transportation rates would adversely affect TECO's and its affiliates' ability to negotiate fuel and transportation contracts by informing potential bidders of the current prices paid. Further, disclosure of fuel prices would indirectly affect bidding suppliers since they would be reluctant to provide price concessions if prices were disclosed since other purchasers would seek similar concessions.

In addition, TECO argues that many of the workpapers contain information which it has previously submitted to the Commission as part of its fuel expense monthly schedules. These pages have previously been granted confidentiality and justified on a line-by-line basis.

TECO also requests confidential treatment of workpapers which contain information pertaining to energy usage for specified customers. As stated in Commission Order 22851, dated April 23, 1990, the Commission has consistently found that customer-specific electric demand and energy data is confidential business information. Disclosure of this information places the customer at a competitive disadvantage by revealing one of its primary operating costs to its competitors.

TECO argues that the information for which it seeks confidential treatment is treated by TECO as confidential and has not been publicly disclosed.

Upon consideration, I find that TECO's request for confidential treatment of Document Nos. 06799-96 and 06862-96 is reasonable and is, therefore, approved.

The specific audit workpaper numbers and lines relating to the documents that petitioner has requested granted confidential treatment, along with my findings, are listed in the table which follows:

Staff Working Paper	Line	Column	Finding	Reason
Documents 06799-96 and 06862-96				
9 (pgs 1-8)	All	All	Grant	Internal audit work papers
10-5/1	1-20, 22-53	e	Grant	Transportation Cost Totals
10-5/2	1-5, 7-17, 23-26, 28, 30, 34-50, 51	e	Grant	Transportation Cost Totals
10-5/2	6, 19, 21, 32	f	Grant	Transportation Cost Totals
10-5/2	32	e	Grant	Rail Transportation Costs
10-5/3	1, 3, 5-8, 10, 12-14, 16, 18, 20	e	Grant	Transportation Cost Totals
10-5/3	22, 24, 48	f	Grant	Transportation Cost Totals
10-6/3	6	a, b	Grant	Transloading and Ocean Barging costs
10-6/3	1-4, 7, 10	b, c	Grant	Fuel Costs and Prices
10-6/3	1-4, 7, 10	d	Grant	Rail Transportation Costs

Staff Working Paper	Line	Column	Finding	Reason
10-6/3	1-3, 6, 10	e	Grant	Transportation Cost Totals
10-6/3	7	a	Grant	Transloading and Ocean Barging Costs
10-6/4	7, 8	c, f, i, l	Grant	Transloading and Ocean Barging Costs
10-6/4	8	d, j	Grant	Transloading and Ocean Barging Costs
10-6/4	9	i, l	Grant	Fuel Costs and Prices
10-6/4	10	i, l	Grant	Rail Transportation Costs
10-6/4	29-32	c, e, g, m, o, q	Grant	Fuel Costs and Prices
10-6/4	29	i	Grant	Fuel Costs and Prices
10-6/4	29,30,32	k	Grant	Fuel Costs and Prices
10-6/4	49-52	f	Grant	Fuel Costs and Prices
10-6/4	50-52	h	Grant	Fuel Costs and Prices
10-6/4	36	e, g, m, o, q	Grant	River Transportation Costs
10-6/4	54	f	Grant	River Transportation Costs

Staff Working Paper	Line	Column	Finding	Reason
10-6/4	37-44	c, e, g, i, k, m, o, q	Grant	Transloading and Ocean Barging Costs
10-6/4	55-61	f, h	Grant	Transloading and Ocean Barging Costs
10-6/4	49-60	c	Grant	Fuel Costs and Prices
10-6/4	54	n	Grant	Water Barge Transportation Costs
10-6/4	55	n	Grant	Rail Transportation Costs
10-6/6	1	g	grant	Rail Transportation Costs
10-6/6	1	h	Grant	Fuel Costs and Prices
10-6/6	2	b, c, d, e, j, m	Grant	Transloading and Ocean Barging Costs
10-6/6	3	g	Grant	Rail Transportation Costs
10-6/6	3	h	Grant	Fuel Costs and Prices
10-6/6	4	g, h	Grant	Rail Transportation Costs
10-6/6	5	b, c, d, e, j, l	Grant	Transloading and Ocean Barging Costs
10-6/6	5	m	Grant	Transportation Cost Totals

Staff Working Paper	Line	Column	Finding	Reason
10-6/6	6	d, e, j, m	Grant	Rail Transportation Costs
10-6/6	7	g	Grant	Rail Transportation Costs
10-6/6	7	h	Grant	Fuel Costs and Prices
10-6/6	8	d, e, j, l, m	Grant	Rail Transportation Costs
10-6/6	8, 14, 15	m	Grant	Transportation Cost Totals
10-6/6	13	g, i, j, m	Grant	River Transportation Costs
10-6/6	14, 15, 18, 19, 20	g	Grant	Rail Transportation Costs
10-6/6	14, 15, 18, 19, 20	h	Grant	Fuel Costs and Prices
10-6/6	14, 15, 20	i, j, l, m	Grant	Transportation Cost Totals
10-6/6	14, 15	l	Grant	Water Barge Transportation Costs
10-10/4	8-17, 21-39	d, h, i, l, o, p, q	Grant	Fuel Cost and Prices
10-10/4	8-17, 21-36	j	Grant	Fuel Cost and Prices
10-10/4	33, 34	m	Grant	Fuel Cost and Prices

Staff Working Paper	Line	Column	Finding	Reason
41-3A	1-10	A, B	Grant	Customer Energy Usage
48B	1, 4	f	Grant	Fuel Costs and Prices
48B	1, 4	h	Grant	Rail Transportation Costs
48B	1, 4	j	Grant	River Transportation Costs
48B-1B (2 of 2)	1-8, 10-12, 13-18, 19-21	b	Grant	Fuel Costs and Prices
48B-1B (2 of 2)	1-8, 10-11, 13-17, 19-20	d, e	Grant	Fuel Costs and Prices
48B-1B (2 of 2)	22-27	c	Grant	Fuel Costs and Prices
48-1B/1 (1 of 3)	1-20	e	Grant	River Transportation Costs
48-1B/1 (1 of 3)	22-53	e	Grant	Rail Transportation Costs
48-1B/1 (2 of 3)	1-5, 7-17, 23-26, 28, 30, 34-50, 51	e	Grant	River Transportation Costs
48-1B/1 (2 of 3)	6, 19, 21, 32	f	Grant	River Transportation Costs

Staff Working Paper	Line	Column	Finding	Reason
48-1B/1 (2 of 3)	32	e	Grant	Rail Transportation Costs
48-1B/1 (3 of 3)	1, 3, 5-8, 10, 12-14, 16, 18, 20	e	Grant	River Transportation Costs
48-1B/1 (3 of 3)	22, 24	f	Grant	River Transportation Costs
48-1B/2	13, 14, 17, 21	b, c	Grant	Rail Transportation Costs
48-1B/2	33	c	Grant	Rail Transportation Costs
48-1B/2	35-39	a	Grant	Rail Transportation Costs
48-2B (1 of 2)	1, 4	a, b	Grant	Transloading and Ocean Barging Costs
48-2B (1 of 2)	5, 6	a, b	Grant	Rail Transportation Costs
48-2B (1 of 2)	10	a, b	Grant	River Transportation Costs
48-2B/1	6	a, b .	Grant	Transloading and Ocean Barging Costs
48-2B/1	1-4, 6, 7, 11	b	Grant	Fuel Costs and Prices
48-2B/1	1-4, 6, 8, 11	c	Grant	Fuel Costs and Prices

Staff Working Paper	Line	Column	Finding	Reason
48-2B/1	1-4, 6, 8, 11	d	Grant	Rail Transportation Costs
48-2B/1	1-3, 6, 7, 11	e	Grant	River Transportation Costs
48-2B/1	8	a	Grant	Transloading and Ocean Barging Costs
48-2B/3	1, 3, 4	g	Grant	Rail Transportation Costs
48-2B/3	1, 3, 4	h	Grant	Fuel Costs and Prices
48-2B/3	2	b, c, d, e, j, m	Grant	Transloading and Ocean Barging costs
48-2B/3	5	b, c, d, e, j, l	Grant	Transloading and Ocean Barging Costs
48-2B/3	5	m	Grant	Transportation Cost Totals
48-2B/3	6	d, e, j, m	Grant	Fuel Costs and Prices
48-2B/3	7	g, h	Grant	Fuel Costs and Prices
48-2B/3	8	d, e, j, l, m	Grant	Rail Transportation Costs
48-2B/3	8	m	Grant	Transportation Cost Totals
48-2B/3	13	g, i, j, m	Grant	River Transportation Costs

Staff Working Paper	Line	Column	Finding	Reason
48-2B/3	14, 15, 18, 19, 20	g	Grant	Rail Transportation Costs
48-2B/3	14, 15, 18, 19, 20	h	Grant	Fuel Costs and Prices
48-2B/3	14, 15, 20	i, j, l, m	Grant	River Transportation Costs
48-2B/3	14, 15	l	Grant	Water Barge Costs
48-2B/3	14, 15	m	Grant	Transportation Cost Totals
48-2B/4	7, 8	c, f, i, l	Grant	Transloading and Ocean Barging Costs
48-2B/4	8	d, j	Grant	Transloading and Ocean Barging Costs
48-2B/4	9, 10	i, l	Grant	Fuel Costs and Prices
48-2B/4	29-32	c, e, g, m, o, q	Grant	Fuel Costs and Prices
48-2B/4	29	i	Grant	Fuel Costs and Prices
48-2B/4	29, 30, 32	k	Grant	Fuel Costs and Prices
48-2B/4	49-52	f	Grant	Fuel Costs and Prices
48-2B/4	50-52	h	Grant	Fuel Costs and Prices
48-2B/4	36	e, g, m, o, q	Grant	River Transportation Costs

Staff Working Paper	Line	Column	Finding	Reason
48-2B/4	54	f	Grant	River Transportation Costs
48-2B/4	37-44	c, e, g, i, k, m, o, q	Grant	Transportation and Ocean Barging Costs
48-2B/4	55-61	f, h	Grant	Fuel Costs and Prices
48-2B/4	49-60	c	Grant	Water Barge Costs
48-2B/4	54	n	Grant	Rail Transportation Costs
48-2B/4	55	n	Grant	Fuel Costs and Prices
52-1B/1-1	8-17, 21-39	d, g, h, k, n, o, p	Grant	Fuel Costs and Prices
52-1B/1-1	8-17, 21-36	i	Grant	Fuel Costs and Prices
52-1B/1-2	1, 3, 8	b, c, d, e	Grant	Fuel Costs and Prices
52-1B/1-2	4, 5, 7, 11, 13, 14	b, c, d, e	Grant	Fuel Costs and Prices
52-1B/1-2	9	b, c, e	Grant	Fuel Costs and Prices
52-1B/1-3 (1 of 2)	32-35	d, e	Grant	Fuel Costs and Prices
52-1B/1-3 (2 of 2)	1, 2	b, c	Grant	Fuel Costs and Prices
52-1B/1-3 (2 of 2)	5	a, b	Grant	Fuel Costs and Prices

Staff Working Paper	Line	Column	Finding	Reason
56-1A	2, 3, 13, 14	b, c, d, e	Grant	Transloading and Ocean Barging Costs
56-1A	3, 14	l	Grant	Rail Transportation Costs
56-1A	3, 8, 14, 21, 25	m	Grant	Transportation Cost Totals
56-1A	1-4, 8, 10-15, 21, 24, 25	g	Grant	Rail Transportation Costs
56-1A	1-4, 10-15, 21, 24, 25	h	Grant	Rail Transportation Costs
56-1A	4, 15	d, e	Grant	Fuel Costs and Prices
56-1A	5, 16	d, e, j, l, m	Grant	Rail Transportation
56-1A	7, 18	g, i, j, m	Grant	River Transportation Costs
56-1A	8, 11, 21, 25	i, j, l	Grant	Rail Transportation Costs
56-1A	14	i, j	Grant	Rail Transportation Costs
58-1B	2, 3, 13, 14	b, c, d, e	Grant	Transloading and Ocean Barging costs
58-1B	3, 14	l	Grant	Fuel Costs and Prices
58-1B	3, 8, 14, 21, 25	m	Grant	Transportation Cost Totals

Staff Working Paper	Line	Column	Finding	Reason
58-1B	1-4, 8, 10-15, 21, 24, 25	g	Grant	Rail Transportation Costs
58-1B	1-4, 10-15	h	Grant	Fuel Costs and Prices
58-1B	21, 24, 25	h	Grant	Fuel Costs and Prices
58-1B	4, 15	d, e	Grant	Fuel Costs and Prices
58-1B	5, 16	d, e, j, l, m	Grant	Rail Transportation Costs
58-1B	7, 18	g, i, j, m	Grant	River Transportation Costs
58-1B	8, 11, 21, 25	i, j, l	Grant	Rail Transportation Costs
58-1B	14	i, j	Grant	Fuel Costs and Prices

TECO has requested that the confidential data contained in Documents Nos. 06799-96 and 06862-96 be protected from disclosure for a period of two years. 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 the protection from disclosure shall be for a specified longer period.

As to the fuel oil contract data, TECO explains that its interests would be best protected by classifying the material until at least six months after the contracts expire, because future contract negotiations would be impaired if such material, which contains pricing information, were disclosed prior to the negotiation of a new contract. TECO states negotiations are

normally completed within six months. TECO further indicates that a two year classification period generally will account for this six month negotiation period.

As to the coal and coal transportation information, TECO explains that the disclosure of that information before the passage of two years could affect the viability of its affiliates which provide those services to TECO and to outside non-regulated customers, which in turn could affect the price TECO ultimately pays for those services.

Upon consideration, I find that TECO has shown good cause for an extended period of classification. The material in Document Nos. 06799-96 and 06862-96 as discussed above, will remain classified until two years from the date of this Order.

Based on the foregoing, it is therefore

ORDERED that Tampa Electric Company's Request for Confidential Treatment of Certain Audit Workpapers, Document Nos. 06799-96 and 06862-96 is hereby granted as discussed in the body of this Order. It is further

ORDERED that documents that are granted confidential treatment herein, shall not be declassified for a period of twenty-four (24) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality. 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 J. Terry Deason, as Prehearing Officer, this 10th day of December, 1996.


ASSY TO
J. TERRY DEASON, 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.