

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 120001-EI
ORDER NO. PSC-12-0276-CFO-EI
ISSUED: May 31, 2012

ORDER GRANTING TAMPA ELECTRIC COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION AND
MOTION FOR PROTECTIVE ORDER (DOCUMENT NOS. 01985-12 AND 01987-12)

On April 2, 2012, 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 two Requests for Confidential Classification and Motions for Protective Order (Requests) of certain highlighted information contained in its responses to Staff's First Request for Production of Documents, number 1, (Document No. 01985-12), and Staff's First Set of Interrogatories, number 1 and 4, (Document No. 01987-12). These Requests were filed in Docket No. 120001-EI.

Section 366.093(1), F.S., provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." 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 (3)(d) and (e) of Section 366.093 F.S., provides that proprietary confidential business information includes, but is not limited to "[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," and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

TECO contends that the information for which confidential classification is sought falls within the above statutory categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S. and Rule 25-22.006, F.A.C. The information for which confidential status is sought is contained in Bates Stamp pages 2 – 267 of Document No. 01985-12, and the highlighted portion of Bates Stamp pages 1-7, and 10-26 of Document No. 01987-12.

Specifically, TECO contends that Document Nos. 01985-12 and 01987-12 contain bid information provided in response to TECO's Request for Proposals as well as contract rates paid for coal. TECO contends that the disclosure of this information would be harmful to its competitive interests, and, thus, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), F.S., and Rule 25-22.006, F.A.C. Further, TECO contends that the

DOCUMENT NUMBER-DATE

03496 MAY 31 2012

FPSC-COMMISSION CLERK

highlighted information in Document 01985-12 reveals the contractual rates for transportation services. TECO asserts that disclosing this information would harm its position in determining rates for future transportation contracts since the providers' bid responses might be influenced if they had knowledge of previous or current contract rates, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), F.S. TECO asserts that it treats the information as confidential information and has not disclosed it publicly.

Time Period For Confidential Classification

TECO does not request confidential classification for this information for a period exceeding 18 months. According to Section 366.093(4), F.S., confidential classification may only extend for 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."

Ruling

Upon review, it appears that TECO is entitled to confidential classification of the information contained in Document Nos. 01985-12 and 01987-12. 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 "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Sections 366.093(3)(d) and (e), F.S. The public disclosure of any of this information could reduce TECO's competitiveness in the marketplace. Therefore, TECO's request for confidential classification of the information contained in its responses to Staff's First Set of Interrogatories and First Request for Production, as described above, is granted.

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 18 months from the date of issuance of this Order. Accordingly, the information identified in Document Nos. 01985-12 and 01987-12 shall be granted confidential classification for a period of 18 months from the 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.

Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Tampa Electric Company's requests for confidential treatment of portions of Document Nos. 01985-12 and 01987-12 are granted as set forth in the body of this Order. It is further

ORDERED that the information referenced in Document Nos. 01985-12 and 01987-12 shall be granted confidential classification for a period of eighteen months from the date of the 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 Eduardo E. Balbis, as Prehearing Officer, this 31st day of May, 2012.



EDUARDO E. BALBIS
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MFB

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

ORDER NO. PSC-12-0276-CFO-EI

DOCKET NO. 120001-EI

PAGE 4

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.