

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 050001-EI
ORDER NO. PSC-05-1043-CFO-EI
ISSUED: October 26, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 08605-05)

On September 9, 2005, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Tampa Electric Company ("Tampa Electric") filed a request for confidential classification of specified information on pages 4, 8, and 9 of its Fuel Procurement and Wholesale Power Purchases Risk Management Plan for 2006 ("Plan") (Document No. 08605-05).

Section 366.093(1), Florida Statutes, 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 [the Public Records Act]." Section 366.093(3), Florida Statutes, 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), Florida Statutes, 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" (subsection d), and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" (subsection e).

Tampa Electric contends that the information on pages 4, 8, and 9 of the Plan for which it seeks confidential classification falls within one or more of these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. First, Tampa Electric states that disclosure of this information would reveal Tampa Electric's purchasing strategy for fuel and purchased power and the company's planned risk exposure. According to Tampa Electric, those who have an interest in supplying Tampa Electric's fuel and purchased power needs could use this information to help them force more favorable terms to the detriment of Tampa Electric and its ratepayers. Second, Tampa Electric contends that disclosing its risk exposure levels on a monthly basis would provide an indicator of vulnerability to market price. Tampa Electric states that potential suppliers of fuel and purchased power could simply withhold supply and price their fuel and purchased power offerings at a higher level than they would otherwise. Tampa Electric states that power suppliers could perform maintenance on their units during months when Tampa Electric's exposure is low so that they would have their power to sell at high prices during months that Tampa Electric's exposure is high. Third, Tampa Electric contends that disclosure

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of this information would provide highly sensitive information regarding the manner and timing of Tampa Electric's entry into the fuel and purchased power markets. According to Tampa Electric, knowledge of this information would allow the opportunity for market manipulation through transactions made in anticipation of the company's entry into the market. Tampa Electric contends that market manipulations based on knowledge of certain information in the Plan would increase the price of fuel and purchased power paid by Tampa Electric's customers as well as the price paid by the company to hedge the customers' price of fuel and purchased power. In sum, Tampa Electric asserts that the effects of disclosure would impair the efforts of Tampa Electric to contract for goods and services on favorable terms for the benefit of its customers. Tampa Electric states that this information is intended to be and is treated by Tampa Electric as private and has not been publicly disclosed.

Upon review, I find that the information on pages 4, 8, and 9 of the Plan for which Tampa Electric seeks confidential classification satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. In particular, the information constitutes "[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." Thus, this information is granted confidential classification.

Tampa Electric asks that this information be treated as confidential for a minimum of three years. Tampa Electric asserts that its Plan provides detailed strategies many of which are of a continuing nature and could easily be in place beyond the typical eighteen month period for confidential treatment. Tampa Electric states that the various risk management strategy components build upon each other, and disclosing the Plan sooner than three years after it is submitted would disclose the bulk of the Plan's components to potential suppliers of goods and services, as well as competitors of Tampa Electric. Tampa Electric asserts that a minimum of three years is essential to prevent those entities from having access to information they could use to the competitive disadvantage of Tampa Electric.

Upon consideration, I find that Tampa Electric has provided sufficient information concerning the harm which could arise from not protecting this information for a minimum of three years. Accordingly, good cause having been shown, the information granted confidential classification herein shall be held as confidential for three years from the date of the issuance of this Order.

Based on the foregoing, it is


ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Tampa Electric Company's request for confidential classification of specified portions of Document No. 08605-05 is granted. It is further

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ORDERED that the information in Document No. 08605-05 for which confidential classification has been granted shall remain protected from disclosure for a period of 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 Rudolph "Rudy" Bradley, as Prehearing Officer, this
26th day of October, 2005.


RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(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 Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or

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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.