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November 16, 2009

HAND DELIVERED

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COMMISSION
CLERK

Ms. Ann Cole, Director
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Fuel and Purchased Power Cost Recovery Clause
and Generating Performance Incentive Factor
FPSC Docket No. 090001-EI

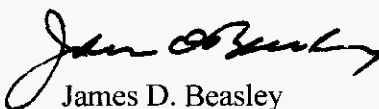
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and ten (10) copies of Tampa Electric Company's Request for Specified Confidential Treatment and Motion for Temporary Protective Order relating to portions of Forms 423-1(a), 423-2, 423-2(a) and 423-2(b) for the month of September 2009.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,


James D. Beasley

COM _____

APA _____

ECR _____

JDB/pp
Enclosures

GCL _____

RAD _____

cc: All Parties of Record (w/enc.)

SSC _____

ADM _____

OPC _____

CLK _____

DOCUMENT NUMBER-DATE

11335 NOV 16 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 090001-EI
FILED: November 16, 2009

**TAMPA ELECTRIC COMPANY'S
REQUEST FOR SPECIFIED CONFIDENTIAL TREATMENT
AND MOTION FOR TEMPORARY PROTECTIVE ORDER**

Pursuant to §366.093, Fla. Stat., Tampa Electric Company ("Tampa Electric" or "the company") submits the following Request for Specified Confidential Treatment and Motion for Temporary Protective Order relating to the company's Forms 423-1(a), 423-2, 423-2(a) and 423-2(b) for the month of September 2009:

1. Attached hereto as Exhibit "A" is a detailed justification for the requested confidential treatment of the highlighted portions of Tampa Electric's 423 Forms for the month of September 2009.

2. Tampa Electric requests that the information for which Tampa Electric seeks confidential classification not be declassified until the dates specified in Exhibit "B" to this request. The time periods requested are necessary to allow Tampa Electric's affiliated companies to negotiate future contracts without their competitors (and other Customers) having access to information which would adversely affect the ability of these affiliates to negotiate future contracts. The period of time requested will ultimately protect Tampa Electric and its Customers.

3. The material for which classification is sought is intended to be and is treated by Tampa Electric and its affiliates as private and has not been disclosed.

WHEREFORE, Tampa Electric submits the foregoing as its request for confidential treatment and motion for temporary protective order relating to the information identified as Exhibit "A".

DOCUMENT NUMBER-DATE

11335 NOV 16 8

FPSC-COMMISSION OFFICE

DATED this 16th day of November 2009.

Respectfully submitted,



LEE L. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, Florida 32302
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Request for Specified Confidential Treatment and Motion for Temporary Protective Order, filed on behalf of Tampa Electric Company, has been furnished by hand delivery(*) or U. S. Mail on this 16th day of November 2009 to the following individuals:

Ms. Lisa Bennett*
Senior Attorney
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mr. John T. Burnett
Associate General Counsel
Progress Energy Service Co., LLC
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Mr. Norman Horton
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Mr. John W. McWhirter
McWhirter Reeves & Davidson, P.A.
Post Office Box 3350
Tampa, FL 33601-3350

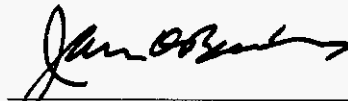
Ms. Susan Ritenour
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ATTORNEY

September 2009
Docket No. 090001-EI

Request for Specified Confidential Treatment

FORM 423-1(a)

<u>Line(s)</u>	<u>Column</u>	<u>Justification</u>
Tampa Electric Company: 1-15	H	<p>(1) This information is contractual information which, if made public, "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. The information shows the price which Tampa Electric has paid for No. 2 fuel oil per barrel for specific shipments from specific suppliers. 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 Tampa Electric and that supplier.</p> <p>Disclosure of the invoice price would allow suppliers to determine the contract price formula of their competitors. The 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</p>

FORM 423-1(a) (continued)

Plant Name:

<u>Line(s)</u>	<u>Column</u>	<u>Justification</u>
		eliminate any opportunity for a major buyer, like Tampa Electric, to use its market presence to gain price concessions from any individual supplier. The end result is reasonably likely to be increased No. 2 fuel oil prices and, therefore, increased electric rates.
Tampa Electric Company: 1-15	I	(2) The contract data found in Columns I through O are algebraic functions of Column H. Thus, the publication of these columns together, or independently, could allow a supplier to derive the invoice price of No. 2 oil paid by Tampa Electric.
Tampa Electric Company: 1-15	J	(3) See item (2) above.
Tampa Electric Company: 1-15	K	(4) See item (2) above.
Tampa Electric Company: 1-15	L	(5) See item (2) above.
Tampa Electric Company: 1-15	M	(6) See item (2) above. In addition, for the fuel that does not meet contract requirements, Tampa Electric may reject

FORM 423-1(a) (continued)

Plant Name:

Line(s) Column Justification

the shipment, or accept the shipment and apply a quality adjustment. This is, in effect, a pricing term which is as important as the price itself and is therefore confidential for the reasons stated in paragraph (1) relative to price concessions.

Tampa Electric
Company:
1-15

N

(7) See item (2) above. In addition, this column is as important as H from a confidentiality standpoint because of the relatively few times that there are quality or discount adjustments. That is, Column N will equal Column H most of the time. Consequently, it needs to be protected for the same reason as set forth in paragraph (1).

Tampa Electric
Company:
1-15

O

(8) See item (2) above.

FORM 423-2

Plant Name:

Line(s)

Column

Justification

TECO United
Maritime Group
Big Bend Station (1)
1-8

G

(9) Disclosure of the effective purchase price "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla Stat. Additionally, prohibiting the purchase price would enable one to ascertain the total transportation charges by subtracting the effective price from the delivered price at the transfer facility, shown in Column I. Any competitor with knowledge of the total transportation charges would be able to 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 separate breakdown of transportation charges for river barge transport and for deep water transportation across the Gulf of Mexico from the transfer facility to Tampa. It is this segmented transportation cost data which is proprietary and confidential. The disclosure of the segmented transportation costs would have a direct impact on Tampa Electric's future fuel and transportation contracts by informing potential bidders of current prices paid for services provided. That harm, which would flow to Tampa Electric and its Customers from such

United Maritime
Group Transfer
Facility
Polk Station
1

Big Bend Station
1-2

Polk Station
1

FORM 423-2 (continued)

Plant Name:

Line(s)

Column

Justification

disclosure, was the subject of Prepared Direct Testimony of Mr. John R. Rowe, Jr. on behalf of Tampa Electric in Docket No. 860001-EI-D. A copy of Mr. Rowe's Direct Testimony from the September 29, 1986 hearing in that docket is attached hereto as Exhibit "A" and by reference made a part hereof.

In the Commission's Order No. 12645 issued in Docket No. 830001-EU on November 3, 1983 (In re: Investigation of Fuel Adjustment Clauses of Electric Utilities), the Commission prescribed the current 423 Form filings. In so doing, the Commission observed:

Next, we must determine whether any portion of the monthly reports should be accorded confidential treatment. We agree that certain portions of the confidential information. However, many portions of the monthly reports will not. The proprietary information for all types of fuel is transportation. Any breakout of transportation costs must be treated confidentially. In addition, F.O.B. mine prices for coal is proprietary in nature as is the price of fuel oil. Disclosure of separate transportation or F.O.B. mine prices would have a direct impact on a utility's future fuel and transportation contracts by informing potential bidders of current prices paid for services. Disclosure of fuel oil prices would have an indirect effect upon bidding suppliers. Suppliers would be reluctant to provide

FORM 423-2 (continued)

Plant Name:

Line(s)

Column

Justification

significant price concessions to an individual utility if prices were disclosed because other purchasers would seek similar concessions.

The vigorous competition discussed in Mr. Rowe's earlier testimony, as recognized by the Commission, justifies proprietary confidential treatment of the information in Column G.

Disclosure of this information "would impair the efforts of Tampa Electric to contract for goods and services on favorable terms." Section 366.093(3)(d), Fla. Stat. This information would inform other potential suppliers as to the price Tampa Electric is willing to pay for coal. This would give present and potential coal suppliers information which could be harmful to Tampa Electric's interests in negotiating coal supply agreements. This is much the same as paragraph (1) under Form 423-1(a) regarding No. 2 oil suppliers.

TECO United
Maritime Group
Big Bend Station
1-8

H

(10) The disclosure of this information "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. As was stated in (1), Columns G and H both need confidential protection because disclosure of either column will enable competitors to determine the segmented transportation charges.

United Maritime
Group Transfer
Facility
Polk Station
1

FORM 423-2 (continued)

Plant Name:

Line(s)

Column

Justification

Big Bend Station
1-2

Accordingly, the same reasons discussed in (1) likewise apply
with regard to Column H.

Polk Station
1

FORM 423-2(a)

Plant Name:

<u>Line(s)</u>	<u>Column</u>	<u>Justification</u>
TECO United Maritime Group Big Bend Station 1-8	H	(11) If the original invoice price is made public, one can subtract the original invoice price from the publicly disclosed delivered price at the Electro-Coal Transfer Facility and thereby determine the segmented river transportation cost. Disclosure of the river transportation cost "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. Additional justification appears in Exhibit "A" and in paragraph (1) of the rationale for confidentiality of Column G of Form 423-2 (Electro-Coal Transfer Facility - Big Bend Station).
United Maritime Group Transfer Facility Polk Station 1		
Big Bend Station 1-2		
Polk Station 1		
TECO United Maritime Group Big Bend Station 1-8	J	(12) This information, like that contained in Column H, would enable a competitor to "back into" the segmented transportation cost using the publicly disclosed delivered price at the Electro-Coal Transfer Facility. This would be done by subtracting the base price per ton from the delivered price at Electro-Coal, thereby revealing the river barge rate. Such disclosure "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. Additional justification appears in
United Maritime Group Transfer Facility Polk Station 1		
Big Bend Station 1-2		
Polk Station 1		

FORM 423-2(a) (continued)

Plant Name:

<u>Line(s)</u>	<u>Column</u>	<u>Justification</u>
		Exhibit "A" and in paragraph (1) of the rationale for confidentiality of Column G of Form 423-2 (Electro-Coal Transfer Facility - Big Bend Station).
TECO United Maritime Group Big Bend Station 1-8	L	(13) This information, if publicly disclosed, would enable a competitor to back into the segmented waterborne transportation costs using the already publicly disclosed delivered price of coal at the Electro-Coal Transfer Facility.
United Maritime Group Transfer Facility Polk Station 1		Such disclosure "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. Additional justification appears in
Big Bend Station 1-2		Exhibit "A" and in paragraph (1) of the rationale for confidentiality of Column G of Form 423-2 (Electro-Coal Transfer Facility - Big Bend Station).
Polk Station 1		

FORM 423-2(b)

Plant Name:

<u>Line(s)</u>	<u>Column</u>	<u>Justification</u>
TECO United Maritime Group Big Bend Station 1-8	G	(14) Disclosure of the effective purchase price in Column G "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. Such disclosure would enable a competitor to "back into" the segmented transportation cost using the publicly disclosed delivered price for coal at the Electro-Coal Transfer Facility. This would be done by subtracting the effective purchase price per ton from the price per ton delivered at Electro-Coal, thereby revealing the river barge rate. Additional justification appears in Exhibit "A" and in paragraph (1) of the rationale for confidentiality of Column G of Form 423-2 (Electro-Coal Transfer Facility - Big Bend Station). Such disclosure would also adversely affect Tampa Electric's ability to negotiate future coal supply contracts.
United Maritime Group Transfer Facility Polk Station 1		
Big Bend Station 1-2		
Polk Station 1		
TECO United Maritime Group Big Bend Station 1-8	I	(15) Disclosure of the rail rate per ton would adversely affect the ability of Tampa Electric affiliate, Gatliff Coal, to negotiate favorable rail rates. Disclosure of the rail rates paid would effectively eliminate any negotiating leverage and could lead to higher rail rates. This would work to the
United Maritime Group Transfer Facility Polk Station 1		

FORM 423-2(b) (continued)

Plant Name:

<u>Line(s)</u>	<u>Column</u>	<u>Justification</u>
Big Bend Station 1-2		ultimate detriment of Tampa Electric and its customers.
Polk Station 1		Accordingly, disclosure of this information "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat.
TECO United Maritime Group Big Bend Station 1-8	K	(16) These columns contained information the disclosure of which "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. Each of these columns provides specific information on segmented transportation costs which are the primary objects of this request. Additional justification appears in Exhibit "A" and in paragraph (1) of the rationale for confidentiality for Column G on 423-2 (Electro-
United Maritime Group Transfer Facility Polk Station 1		
Big Bend Station 1-2		
Polk Station 1		Coal Transfer Facility - Big Bend Station).
TECO United Maritime Goup Big Bend Station 1-8	L	(17) See item (16) above.
United Maritime Group Transfer Facility Polk Station 1		

FORM 423-2(b) (continued)

Plant Name:

<u>Line(s)</u>	<u>Column</u>	<u>Justification</u>
----------------	---------------	----------------------

Big Bend Station
1-2

Polk Station
1

TECO United
Maritime Group
Big Bend Station
1-8

M (18) See item (16) above.

United Maritime
Group Transfer
Facility
Polk Station
1

Big Bend Station
1-2

Polk Station
1

TECO United
Maritime Group
Big Bend Station
1-8

N (19) See item (16) above.

United Maritime
Group Transfer
Facility
Polk Station
1

Big Bend Station
1-2

Polk Station
1

FORM 423-2(b) (continued)

Plant Name:

Line(s) Column Justification

TECO United
Maritime Group
Big Bend Station
1-8

O

(20) See item (16) above.

United Maritime
Group Transfer
Facility
Polk Station
1

Big Bend Station
1-2

Polk Station
1

TECO United
Maritime Group
Big Bend Station
1-8

P

(21) See item (16) above.

United Maritime
Group Transfer
Facility
Polk Station
1

Big Bend Station
1-2

Polk Station
1

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of
Confidentiality of Fuel Cost
Recovery Data.

DOCKET NO. B60001-EI-D

AFTERNOON SESSION
VOLUME II
Pages 113 through 278

RECIEVED
DIVISION OF RECORDS & REPORTING
OCT 8 1985

FPSC Hearing Room
Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32301

Florida Public Service Commission

Monday, September 29, 1985

Met pursuant to adjournment at 1:00

BEFORE: CHAIRMAN JOHN R. MARKS, III, Chairman
COMMISSIONER GERALD L. GUNTER
COMMISSIONER RATTIE NICHOLS
COMMISSIONER MICHAEL MCK. WILSON
COMMISSIONER JOHN T. HERNDON

APPEARANCES:

(As heretofore noted.)

REPORTED BY:

CAROL C. CAUSSEAU, CSR, RPR
JANE FAUROT
JOY KELLY, CSR, RPR
OFFICIAL COMMISSION REPORTERS

DOCUMENT NO.
10020-86
10-5-86

Exhibit "A"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

PREPARED TESTIMONY

OF

JOHN R. ROWE, JR.

1
2
3
4
5 Q. Will you please state your name, address and occupation.

6
7 A. My name is John R. Rowe, Jr. My business address is 702
8 North Franklin Street, Tampa, Florida 33602. I am
9 Assistant Vice President of Tampa Electric Company.

10
11 Q. Please describe your educational background and business
12 experience.

13
14 A. I was educated in the public schools of Birmingham,
15 Alabama; Evansville, Indiana; and Mt. Lebanon,
16 Pennsylvania. I was graduated in June, 1962 from the
17 Georgia Institute of Technology with a Bachelor of Science
18 degree in Industrial Management, and from the University
19 of South Florida in March, 1971 with a Master of Business
20 Administration degree. I am a Certified Public Accountant
21 licensed to practice in Florida and a member of the
22 American Institute of CPAs, the Florida Institute of CPAs,
23 and the National Association of Accountants. I joined
24 Tampa Electric Company in July, 1962 and I have served in
25 various capacities in the Personnel, Customer Accounting,

1 Credit, General Accounting and Budget Departments over the
2 past 23 years. I became Assistant Controller in 1974,
3 Controller in 1981, and I was elected to my present
4 position as Assistant Vice President in April, 1984. My
5 present responsibilities include coordination of
6 accounting and regulatory matters before this Commission
7 (FPSC) and the Federal Energy Regulatory Commission
8 (FERC). I have presented testimony before this Commission
9 in other proceedings.

10

11 Q. What is the purpose of your testimony?

12

13 A. The purpose of my testimony is to respond to various areas
14 of Commission and company concern regarding the
15 confidentiality of certain fuel cost information supplied
16 to the Commission. I intend to demonstrate why some of
17 the data which is supplied in regular monthly reports on
18 fuel costs to this Commission should be excluded from
19 public disclosure as being "proprietary confidential
20 business information" as defined by Section 366.093,
21 Florida Statutes.

22

23 Q. Does Tampa Electric object to providing the Commission
24 with a report detailing all purchases of fuel,
25 transportation and fuel handling services?

1 A. No. Tampa Electric does not object to continuing to
2 furnish to the Commission the information it needs to
3 review company expenditures for fuel, transportation and
4 fuel handling services. However, as I will describe
5 later, it is clearly in the best interests of the
6 ratepayers and the company for this Commission to continue
7 to treat certain of this information submitted as
8 "Specified Confidential."

9
10 Q. What portion of the report should be confidential?

11
12 A. The cost of water transportation of coal which is billed
13 to the regulated company by an affiliated company should
14 be treated as confidential. Tampa Electric formed a water
15 transportation system for the transport of coal in the
16 1950's which not only provides the necessary services for
17 Tampa Electric but also enjoys additional economies as it
18 provides competitive services to outside customers. This
19 system has saved our electric customers many millions of
20 dollars in transportation costs over the years and these
21 savings are likely to continue in the future so long as
22 the affiliated companies are able to maintain their
23 competitive edge. Through this transportation system Tampa
24 Electric's affiliated companies are able to move coal by
25 river barges from sources in Kentucky, Oklahoma and

1 Illinois to a terminal on the east bank of the Mississippi
 2 River south of New Orleans for the purpose of off-loading,
 3 storing and transferring coal to ocean-going barges for
 4 transport to Tampa. These services are performed by TECO
 5 Transport and Trade companies: Mid-South Towing Company,
 6 which handles the coal by river barge; Electro Coal
 7 Transfer Corporation, which operates the storage and
 8 transfer facility and Gulf Coast Transit Company which
 9 provides ocean-going tugs and barges to move coal across
 10 the Gulf of Mexico.

11

12 Q. Are Tampa Electric affiliates faced with competition?

13

14 A. Yes, the market for bulk commodity transportation is very
 15 competitive. Aside from the coal transportation services
 16 performed for Tampa Electric, the TECO Transport and Trade
 17 affiliates currently transport coal and other bulk
 18 commodities for other customers as well. The affiliates
 19 anticipate that additional markets for coal will soon
 20 develop in Florida for both industrial and electric power
 21 generation purposes, and hope to capture a portion of the
 22 transportation demand created by those markets. This
 23 market is very competitive.

24

25 Tampa Electric's transportation affiliates are not engaged
 solely in the one-way transportation of coal, however.

1 Mid-South Towing Company has provided, and continues to
2 provide, both upstream and downstream transportation
3 services for other bulk commodities, including grain and
4 phosphate products. Electro-Coal Transfer Corporation is
5 involved in the direct vessel-to-vessel transfer of grain
6 and other bulk commodities in addition to the transfer of
7 coal and coke on diverse routes, including phosphates from
8 Florida to New Orleans, and grain from New Orleans to
9 international markets.

10
11 As commercial enterprises, the affiliates face significant
12 competition for each of the other transportation, transfer
13 and storage services that they perform. Operators on the
14 inland waterways include approximately 2,000 individual
15 carriers. In size these carriers range from operators of
16 single towboats to those operating large fleets of vessels
17 and barges. Only a very small percentage of inland
18 waterway traffic is subject to regulation. Exempt
19 carriers are not required to publish revenues, operating
20 data rates or financial information.

21
22 With reference to the river transportation of coal and
23 other bulk commodities, Mid-South Towing Company's
24 principal competitors include, among others: the Ohio
25 River Company; American Commercial Barge Line Company;

1 Dravo Mechling Corporation; and The Valley Line Company.
2 Mid-South Towing also faces intermodal competition from
3 the railroads.

4
5 Electro-Coal Transfer Corporation competes with others for
6 the performance of transfer and storage services.
7 Electro-Coal's principal competitors with both shoreside
8 transfer and ground storage capabilities are:
9 International Marine Terminal; Burnside Terminals, Inc.;
10 and New Orleans Bulk Terminal. A portion of the transfer
11 market is also served by companies whose operations are
12 mid-stream in the Mississippi River. Principal among
13 these is Cooper-Smith Company.

14
15 Finally, Gulfcoast Transit Company competes with many
16 other companies to provide ocean-going tug and barge
17 transportation service. Principal among those competitors
18 are: Dixie Carriers, Inc.; St. Phillips Towing Company;
19 Sheridan Towing Company; Red Circle Transport Company; and
20 Baker Industries, Inc.

21
22 Q. Would the disclosure of cost information expose the
23 affiliates to substantial competitive harm?

24
25 A. Yes. The cost of rendering bulk commodity transportation

1 service over a given distance varies little from one
2 commodity to another. On a per-ton unit basis, it costs a
3 barge company the same amount to transport a ton of grain,
4 for example, as to transport a ton of coal. Rates for
5 bulk commodity transportation service also tend to show
6 little variation from one commodity to the next.

7
8 In such a highly competitive environment, a given
9 company's market share is constantly at risk and must be
10 carefully safeguarded. Competitors who are able to
11 discern, either directly or indirectly, a given company's
12 costs or profit margin are in a position to capture a
13 portion of that company's market share by anticipating its
14 future bids and selectively undercutting its prices.
15 Similarly, such knowledge permits the company's customers,
16 who may be paying different prices for similar services,
17 to bargain for more favorable terms from the company and
18 among its competitors.

19
20 The primary determinants of a company's profit margin, of
21 course, are its costs and prices. Not surprisingly, given
22 the relative ease with which both costs and prices may be
23 translated from one type of bulk commodity shipment to
24 another, competitors take great pains to conceal their
25 costs and prices from each other. This fact accounts for

1 the scarcity of published information concerning the
2 financial workings of the unregulated segment of the
3 industry.

4
5 Tampa Electric's competitors and customers are aware that
6 Tampa Electric's water transportation expense represents
7 the affiliates' costs including a return on equity. A
8 company's cost represents the limit of its vulnerability
9 in the sense that it cannot long survive in circumstances
10 where costs exceed revenues. Sustained "underpricing"
11 below that perceived margin would have a devastating
12 effect upon the affiliates' business, and would make
13 retention of market shares impossible. Competitors would
14 be given access to very valuable information which will
15 enable those firms to price their service to their
16 advantage.

17
18 Q. How does the operation of the competitive business affect
19 the cost of Tampa Electric's affiliated company
20 transportation expense?

21
22 A. The increased volumes allow for economies of scale that
23 cannot be realized if Tampa Electric were the only
24 customer of the affiliate. Moreover, since fixed costs
25 are allocated between services provided to Tampa Electric

1 and others on a per ton basis, the backhaul and transfer
2 of grain and other bulk commodities reduces the amount of
3 fixed costs allocated to Tampa Electric. If the
4 affiliates' backhaul and other outside customer activity
5 is lost or diminished, or if transfer activity is lost due
6 to the disclosure of its competitive position, the cost of
7 coal transportation to Tampa Electric would increase
8 proportionately. Actions which hurt the affiliates'
9 competitive position will, therefore, increase the cost of
10 electricity supplied to Tampa Electric's customers. This
11 Commission therefore should carefully avoid the disclosure
12 of the affiliates' costs and prices.

13
14 Q. Is Tampa Electric satisfied with the Commission's current
15 reporting requirements?

16
17 A. No. The company believes that the Commission's current
18 requirements for public disclosure run an unnecessary risk
19 of placing Tampa Electric at a disadvantage in its ability
20 to contract for fuel transportation services on the most
21 favorable terms. This disclosure can also affect prices
22 paid by Tampa Electric under existing contracts which
23 depend on or could benefit further from outside business
24 to reduce costs to Tampa Electric. Further, I believe
25 that public disclosure of coal prices paid (without

1 transportation costs) does not increase competition among
2 suppliers of coal but rather it serves to decrease the
3 advantage of the purchaser in negotiating lower prices.
4 If potential vendors of coal knew from public disclosure
5 the prices being paid or paid in the past, I believe their
6 tendency in bidding or reporting coal prices tend to
7 center around known prices. In this way, the vendors know
8 they can offer a price lower than the price that has been
9 paid and exactly how much lower their price will be. If
10 the present and past prices paid were not publicly
11 available, the vendors would have to bid as low as they
12 could in hopes that they would bid the best price to win
13 the contract since they have no published guide to tell
14 them how low to quote.

15
16 During all of this discussion you should keep in mind that
17 Tampa Electric has no objection to continuing its full
18 disclosure of fuel transportation cost information to the
19 Commission on a specified confidential basis. The company
20 is proud of its innovative transportation system and
21 desires to continue to share all relevant transportation
22 cost information with the Commission on a confidential
23 basis.

24
25 Q. How does this Commission's fuel cost reporting

1 requirements affect the confidentiality of the proprietary
2 transportation cost information?

3
4 A. The Commission must be very careful in its requirements
5 for public disclosure of various segments of fuel cost
6 information in order to protect the proprietary
7 transportation cost information. A requirement to
8 publicly report any one segment of costs could enable
9 competitors and transportation customers to calculate the
10 information sought to be protected.

11
12 Q. Please illustrate how confidential information could be
13 derived if the Commission's reporting requirements are
14 changed?

15
16 A. This was fully discussed in Docket No. 830001-PU. On
17 April 24, 1984, the Commission considered Tampa Electric's
18 request for reconsideration of Order No. 12645, entered in
19 the same docket (Generic Fuels Issues). Tampa Electric
20 sought reconsideration of that portion of Order No. 12645
21 pertaining to which cost information should be considered
22 confidential. Tampa Electric's specific concern was that
23 disclosure of F.O.B. mine mouth and F.O.B. plant price for
24 coal, in conjunction with available delivered prices at
25 terminal facilities, would result in the disclosure of

1 proprietary confidential business information. The
2 Commission agreed and determined that the F.O.B. mine
3 mouth and plant prices should be reported on a "specified
4 confidential" basis. The same circumstances exist today
5 and the need for confidential treatment is just as
6 critical now as it was in 1983.
7

8 Q. How would you recommend the Commission approach its duty
9 of implementing Section 366.093, Florida Statutes?
10

11 A. In the case of Tampa Electric's transportation affiliates,
12 the test should be: is there a reasonable probability
13 that disclosure of the information in question will
14 adversely affect the affiliated company and, ultimately,
15 Tampa Electric and its Customers? If so, then the
16 information should be treated as specified confidential
17 information which is exempt from public disclosure.
18 Section 366.093, Florida Statutes, does not appear to
19 require a 100% probability of harm. In the case of bids
20 or other contractual data, the test is only whether it
21 would "impair" the efforts of the public utility to
22 contract for services on favorable terms. If certain
23 information is disclosed and the disclosure only aids but
24 does not guarantee a competitor's ability to compete with
25 Tampa Electric's transportation affiliates, then this

1 information ought to be protected, even though its
2 disclosure would not guarantee that the competitor will
3 take business away from the Tampa Electric affiliate. Any
4 more stringent or absolute a standard for confidentiality
5 would demand more than is required under the statute.
6 Stated differently, if the statute is administered in such
7 a way as to prohibit only the disclosure of a specific
8 cost, but not a myriad of related information bits or
9 "hints" which enable a resourceful competitor to pinpoint
10 or come very close to the specific cost, then the
11 protection afforded by the statute will indeed be hollow.
12 In short, we advocate fully disclosing to the Commission
13 the information it needs to perform its utility oversight
14 function but because of the extreme sensitivity of the
15 information, we advocate disclosing as little as possible
16 to publicly accessible sources. Utility customers are the
17 ultimate beneficiaries of this protection, and we hope the
18 Commission will continue to administer the statute in a
19 manner which maximizes such protection.

20
21 Q. Does this conclude your testimony?

22
23 A. Yes, it does.

24
25 (End of Prefiled Direct Testimony)

1 F L O R I D A)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTERS

3 WE, CAROL C. CAUSSEAU, CSR, RPR, JANE FAUROT and JOY
4 KELLY, CSR, RPR, Official Commission Reporters,

5 DO HEREBY CERTIFY that the hearing in the matter of
6 the Confidentiality of Fuel Cost Recovery Data, Docket No.
7 860001-EI-D, was heard by the Florida Public Service Commission
8 commencing at 9:35 a.m., Monday, September 29, 1986, in
9 Tallahassee, Florida.

10 WE FURTHER CERTIFY that we were authorized to and did
11 report in shorthand and by stenotype the proceedings held at
12 such time and place; that the same has been reduced to type-
13 writing under our direct supervision, and that the foregoing
14 pages numbered 1 through 277, Volumes I and II, inclusive,
15 constitute a true and accurate transcription of our shorthand
16 and stenotype notes of said proceedings.

17 IN WITNESS WHEREOF, we have hereunto set our hands at
18 Tallahassee, Leon County, Florida, this 8th day of October,
19 1986.

20 Carol C. Causseau Jane Faurot
21 CAROL C. CAUSSEAU, CSR, RPR JANE FAUROT

22 Joy Kelly
23 JOY KELLY, CSR, RPR

24 OFFICIAL COMMISSION REPORTERS
25 Bureau of Reporting
26 101 East Gaines Street
Tallahassee, Florida 32301
Telephone (904) 488-5980

Date of Declassification:

<u>FORM</u>	<u>LINE(S)</u>	<u>COLUMN</u>	<u>DATE</u>
423-1(a)	1 - 15	H - O	11/16/2011
423-2	1 - 8	G - H	11/16/2011
423-2(a)	1 - 8	H,J,L	11/16/2011
423-2(b)	1 - 8	G,I,K,L, M,N,O,P	11/16/2011

Rationale:

Fuel Oil Contract Data:

1. Tampa Electric requests that the confidential information relating to fuel oil contract data not be declassified until at least two years after it is classified confidential. Ideally, Tampa Electric's interests would be best protected by adopting a declassification date which is at least 6 months beyond the last day of the contract period under which the goods identified on Form 423-1(a) were purchased.

2. Tampa Electric's ability to negotiate future contracts for No. 2 and No. 6 oil would reasonably likely be impaired if pricing information as described above were disclosed during the contract period or prior to the negotiation of a new contract.

3. Tampa Electric typically renegotiates its No. 2 and No. 6 fuel oil contracts and fuel related services contracts prior to the end of such contracts. On occasion some contracts are renegotiated after the end of the current contract period. In this situation, renegotiations are normally completed within six months. Therefore, it is necessary to maintain the confidentiality of the information identified as confidential on Form 423-1(a) for six months after the end of the individual contract period the information relates to.

4. Tampa Electric's No. 2 contract was renegotiated effective October 1, 1990 and its No. 6 contract was renegotiated effective September 1, 1990.

5. In many instances the declassification date proposed above would be beyond two years from the date the information is classified. Therefore, and in order to simplify the determination of a date of declassification date, Tampa Electric is willing to settle for a declassification date which is two years from the date the material in question is initially classified. This will avoid having to refer to contract expiration dates which vary from contract to contract. At the same time, it will afford Tampa Electric some minimum period of protection from having this sensitive information disclosed publicly.

Coal and Coal Transportation Data

6. Tampa Electric also seeks protection of the coal and coal transportation contract information specified as confidential for a minimum period of two years.

7. The need for two or more years of confidentiality is vital not only to Tampa Electric and its ratepayers, but to the vendors of coal and coal transportation services as well.

8. Bidders for the sale of coal will always seek to optimize their profit margin. Full knowledge of the prices paid by the utility for coal enables the bidder to increase the price bid and thereby optimize the bid from the viewpoint of the seller and to the detriment of the ratepayer. Tampa Electric firmly believes that the disclosure of information on prices paid within the last two years will increase the price Tampa Electric will be required to pay for coal and will be detrimental to ratepayers.

9. Recent bids received by Tampa Electric contained a \$4.17 per ton spread between the bids. The low bid undoubtedly would have been higher with full knowledge of prices paid by Tampa Electric. Bidders will always seek to optimize their profits by submitting bids that are as high as the market will bear. If market data is disclosed which discourages suppliers from bidding competitively, they will increase their bids to the level of past payments to other suppliers by the buyer.

10. The disclosure of rail transportation rates will result in demands by other shippers to lower any rates which are above the disclosed rates. The effect of disclosure will be to increase the lower rate as the transportation provided will seek to protect the rates charged on other routes. The delay of this disclosure for two years will be of direct benefit to ratepayers by delaying any increases that might occur as a result of such disclosure.

11. Gatliff Coal and TECO Transport & Trade sell coal and bulk commodity transportation services in the open non-regulated marketplace. The prices at which their goods and services are sold are not publicly disclosed anywhere by publication or voluntary dissemination because it would materially lessen their competitive posture with customers other than Tampa Electric. Outside customers who negotiate for coal or coal transportation services are placed at a competitive advantage for these goods or services if they know the cost of the goods or services.

12. An analyst for an outside customer of Gatliff or TECO Transport who reads the written transcripts of public fuel hearings or reads the written orders of the FPSC can easily discover that until November 1, 1988, Tampa Electric paid cost for coal from Gatliff and for coal transportation from TECO Transport. Further, the publication of the stipulation agreement between the parties in 1988 indicated that the initial benchmark price was close to cost and subsequent testimony indicates the revised contract escalates from cost.

13. As long as an outside customer does not know how such an escalation clause changes price, the cost cannot be calculated. However, publicizing the price of coal or coal transportation services will tell an outside customer how much the escalation has been and make it easy for him to calculate cost. Because of seasonality of costs in both businesses, a full year's cost data is necessary for an accurate cost measurement.

14. A second year must pass before one full year can be compared with a second year to measure the escalation accurately. So a perceptive vendor seeks two years of data to make his cost estimates. The competitive industries recognize that data beyond two years is not helpful to them, as enough factors may change in that time frame for costs to be much different from what was incurred. Any date less than two full years old is extremely valuable to outside customers in contracting for services with Gatliff or TECO Transport. The difference of small amounts per ton can mean millions of dollars' difference in cost.

15. A loss of outside business by Gatliff or TECO Transport will affect not only Gatliff or TECO Transport, but if large enough it could affect the credibility of the companies. The prices negotiated with Tampa Electric by these vendors took into consideration their costs and revenues at the time of negotiation, including the revenues from outside customers. A significant loss of outside business could cause Gatliff or TECO Transport to fail, since under market pricing regulation Tampa Electric will not make up the difference to them in cost. In turn, a failure of these vendors would leave Tampa Electric and its customers with only higher cost alternatives for Blue Gem coal and for coal transportation to Tampa, a higher cost that would be paid by Tampa Electric's ratepayers. So the continued credibility of Gatliff and TECO Transport is important to protect Tampa Electric's ratepayers from higher cost alternatives.

STATE OF FLORIDA

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Public Service Commission

ACKNOWLEDGEMENT

DATE: November 16, 2009

TO: James Beasley, Ausley Law Firm

FROM: Ruth Nettles, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 090001 or, if filed in an undocketed matter, concerning 423 Forms for 9/09, and filed on behalf of Tampa Electric Company. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Kim Peña, Records Management Assistant, at (850) 413-6393.

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