

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to
approve first solar base rate adjustment
(SoBRA), effective September 1, 2018, Tampa
Electric Company.

DOCKET NO. 20170260-EI

ORDER NO. PSC-2018-0226-CFO-EI
ISSUED: May 4, 2018

ORDER GRANTING TAMPA ELECTRIC COMPANY'S
MOTION FOR TEMPORARY PROTECTIVE ORDER

On February 2, 2018, pursuant to Section 366.093(3), Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Tampa Electric Company (TECO) filed a Request for Confidential Classification and Motion for Temporary Protective Order (Document No. 00929-2018) for portions of its response to Staff's First Data Request No. 10 (Document No. 00931-2018). TECO's responses to this data request contain proprietary business information that includes fuel price forecasts which the Company obtained from a third-party provider. TECO seeks protection of the confidential information submitted to the Office of Public Counsel (OPC) in response to discovery requests on the basis that this information is contract and bid information protected by Sections 366.093(d) and (e), Florida Statutes (F.S.).

Motions for Temporary Protective Orders

TECO states that the information provided in the responses outlined above is confidential and seeks protection of these documents as provided in Section 366.093(3), F.S., and Rule 25-22.006(6)(c), F.A.C., while the material is in the possession of OPC. TECO also requests that the protection extend not only to OPC, but also to any consultants or advisors with whom OPC has contracted for purposes of this proceeding.

Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from the public records law, Section 119.07(1), F.S. Rule 25-22.006(6), F.A.C., codifies the Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that "utility may request a temporary protective order exempting the information from Section 119.07(1), F.S."

Upon consideration, TECO's assertions of the confidential nature of the information contained in portions of its response to Staff's First Data Request No. 10 (Document No. 00931-2018) are sufficient to grant its Motion for Protective Order for that information. As a result, all of this information shall be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that Tampa Electric Company's Motion for Temporary Protective Order (Document No. 0929-2018) regarding its responses to portions of response to Staff's Second Data Request No. 1 (Document No. 0931-2018), is granted. It is further,

ORDERED that this Temporary Protective Order shall extend not only to the Office of Public Counsel, but also to any consultants or advisors with whom the Office of Public Counsel has contracted for purposes of this proceeding.

By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 4th day of May, 2018.


DONALD J. POLMANN, Ph.D., P.E.

Commissioner and Prehearing Officer

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

WLT

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 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.