

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 990001-EI  
ORDER NO. PSC-99-0859-CFO-EI  
ISSUED: April 29, 1999

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO PORTIONS OF TAMPA  
ELECTRIC COMPANY'S FUEL AUDIT WORKPAPERS FOR THE PERIOD ENDING  
MARCH 31, 1997 (DOCUMENT NO. 06780-97)

In connection with a routine Florida Public Service Commission (FPSC) fuel audit for the 12-month period ended March 31, 1997, Tampa Electric Company (TECO) provided FPSC staff access to company books and records including information pertaining to TECO's affiliated companies. TECO asserts that some of these documents are intended to be and are treated as private and have not been disclosed elsewhere. The information for which TECO seeks confidential treatment is contained in Document No. 06780-97. TECO maintains that the information in the portions of these documents for which confidential treatment is sought is confidential proprietary business information and is entitled to confidential classification pursuant to Section 366.093(1) and (3)(d), Florida Statutes.

TECO affirms that the information for which it seeks confidential classification has been recognized on numerous recent occasions by the FPSC as proprietary business information which is entitled to protection under Section 366.093, Florida Statutes. TECO draws attention to Order No. 24043 issued in Docket No. 910001 on January 29, 1991; Order No. 24294 issued March 27, 1991 in Docket No. 910001-EI; Order No. 24615 issued in Docket No. 910001-EI on June 5, 1991; Order No. PSC-95-0773-CFO-EI issued June 27, 1995 in Docket No. 950001-EI and Order No. 96-1498-CFO-EI issued December 10, 1996.

TECO requests that the following information taken from Workpaper page 48-1A (page 1 of 2) lines 23-30, 38, 39, 41 of column (c), as well as lines 10 and 12 of column (f) of the same page be granted confidential classification because the subject information represents the actual dollars paid to the fuel supplier indicated by the vendor number in column (b) and when divided by

DOCUMENT NUMBER-DATE

05441 APR 29 99

FPSC-REGDROS/REPORTING

ORDER NO. PSC-99-0859-CFO-EI  
DOCKET NO. 990001-EI  
PAGE 2

the units in the Commission Forms 423 would disclose the rate per ton. Disclosure would adversely affect TECO's ability to contract for goods or services on favorable terms. When used in conjunction with the Commission Forms 423, a competitor would be able to determine the segmented river transportation rate per ton and segmented transloading and ocean barging transportation rate per ton paid to TECO's affiliates, Mid-South Towing, Electro-Coal Transfer and Gulf Coast Transit. TECO also requests confidential classification for the information contained in lines 47-51 and 59, 60, and 62 of column (c). The subject information represents the actual dollars paid to the fuel oil supplier indicated by the vendor number in column (b). When divided by the units in the Commission Form 423, this information would disclose the rate per barrel.

TECO requests confidential classification for the information contained in Workpaper page 58-1A lines 1 and 30 columns (c), (d), (e), (f) and (h) because the dollar amounts shown in these lines and columns, when used in conjunction with the FPSC Form 423-2, would enable a competitor to determine the segmented transportation costs, including transloading and ocean barging. TECO asserts that confidential classification of this information will prevent competitors of TECO's affiliates in the barge transportation and transloading business from obtaining an unfair advantage over these affiliates and thereby driving up the cost of coal transportation to TECO.

TECO also seeks confidential classification of the information contained in Workpaper page 58-1A lines 8 and 31 columns (c), (d), (e), (f) and (h) because the subject information represents the actual amounts for transloading and ocean barging. When used in conjunction with Commission Form 423, this information would disclose the transloading and ocean barging rate.

TECO requests confidential classification for the information contained in Workpaper page 58-1A lines 9 and 31 columns (e) and (h) because this data represents rail coal costs. When used in conjunction with Commission Forms 423, this information would provide details of Gatliff's costs per ton for coal. In addition, disclosure of the rail rate per ton would ultimately disclose the transportation rail rate per ton paid to CSX as shown on Commission Forms 423. TECO contends that this would impair TECO's ability to contract for transportation services on favorable terms. In addition, TECO claims such disclosure would be contrary to the requirements of the Staggers Rail Act.

TECO also seeks confidential classification of the information contained in Workpaper page 58-1A lines 10 and 33 columns (e), (h), (n), (p) and (q) because these amounts represent the rail coal transportation costs. When used in conjunction with the Commission Forms 423, a competitor could derive the rail transportation rate per ton. This would impair the ability of TECO and its affiliates to negotiate favorable rail rates with the various railroads serving areas in the vicinity of TECO's coal suppliers.

TECO asserts that the information contained in Workpaper page 58-1A lines 13 and 36 columns (k), (m), (n) and (q) contain the segmented river transportation charges. Disclosure of this information would adversely affect the ability of TECO and its transportation affiliate, Mid-South Towing, to contract for transportation services on favorable terms. TECO claims that higher transportation rates could result in an increase in electric rates.

TECO maintains that the information contained in Workpaper page 58-1A lines 6, 7, 8, 9, 15, 20, 22, 29, 30, 31, 32, 40, 47 column (l) should be granted confidential classification because it reflects the cost of rail coal, which involves permissible cost allocation between TECO and an affiliate, Gatliff Coal Company. This would provide details of Gatliff's costs per ton of coal from information contained on Commission Forms 423. TECO asserts that disclosure of the rail rate per ton would ultimately disclose the rail freight rate per ton paid to CSX as shown on Commission Forms 423 and would impair TECO's ability to contract for transportation services on favorable terms. In addition, TECO argues that such disclosure would be contrary to the requirements of the Staggers Rail Act.

TECO asserts that the information contained in Workpaper page 58-1A lines 6, 7, 8, 9, 15, 20, 22, 29, 30, 31, 32, 40, 45 and 47 column (k) and line 45 column (l) is entitled to confidential treatment because it can be used in conjunction with column (m) to compute the rail material amounts in column (l) for which confidential treatment has been requested in the above paragraph.

TECO maintains that confidential treatment should be given to the information contained in Workpaper page 58-1A line 15 columns (m), (n), (p) and (q), line 19 columns (p) and (q), 22 line columns (m), (n), (p) and (q), line 29 columns (m), (n), (p) and (q), line 44 columns (p) and (q), and line 47 columns (m), (n), (p) and (q). TECO argues that this data can be used to back into the amount in

ORDER NO. PSC-99-0859-CFO-EI  
DOCKET NO. 990001-EI  
PAGE 4

column (m), line 13 which confidential treatment has been requested above.

TECO contends that confidential classification should also be given to the information contained in Workpaper page 58-1A lines 7-9 columns (n) and (q), lines 30-32 columns (n) and (q), line 40 column (m), (n), (p) and (q). TECO claims that this data can be used to back into the amount in column (h), lines 9 and 32 for which confidential treatment has been requested above. The disclosure of this information would adversely affect TECO's ability to contract for services on favorable terms.

TECO asserts that the information contained in Workpaper page 58-2A lines 11 column (d), 29 column (c), 33 column (d) is entitled to confidential treatment because the dollar amounts shown in these lines and columns would enable a competitor to determine the No. 6 fuel oil costs per barrel when used in conjunction with the Commission Forms 423. This is contractual information the public disclosure of which would impair the efforts of TECO to contract for goods or services on favorable terms. As such, this information is entitled to confidential protection. Additionally, TECO seeks confidential classification for the information contained in Workpaper page 58-2A lines 12 column (d), 37 and 39 columns © and (d), and 11, 14, 16, 29, 33, 37 and 39 column (f). TECO argues that the information contained in these lines and columns show dollar amounts which can be used to back into the amounts in columns © and (d) for which confidential treatment has been requested above.

TECO maintains that the information contained in Workpaper 58-3A lines 11 and 33 columns (c), (d), (e), (f) and (g) should be granted confidential classification because the dollar amounts shown in these lines and columns represent the fuel oil purchases. When this information is used in conjunction with Commission Form 423-2, it could enable a competitor to determine the rate per barrel that has previously been granted confidential treatment. TECO also requests confidential classification for the information contained in Workpaper page 58-3A lines 12-34 columns (c), (d), (e), (f) and (g) because the disclosure of the dollar amounts shown in these lines and columns would enable competitors to back into the contractual amounts for which confidential treatment was requested above.

TECO argues that the information contained in Workpaper page 58-1B lines 1 and 30 columns (c), (d), (e), (f) and (h) should be granted confidential treatment because the dollar amounts shown in

these lines and columns when used in conjunction with Commission Form 423-2 would enable a competitor to determine the segmented transportation costs, including transloading and ocean barging.

TECO contends that the information contained in Workpaper page 58-1B lines 8 and 31 columns (c), (d), (e), (f) and (h) is entitled to confidential classification because the subject information represents the actual amounts for transloading and ocean barging. When used in conjunction with Commission Forms 423, this information would disclose the transloading and ocean barging rate. Disclosure of the total transportation charges would impair the efforts of TECO to contract for goods and services on favorable terms.

TECO requests confidential treatment for the information contained in Workpaper page 58-1B lines 9 and 32 columns (e) and (h) because this data represents rail costs. When used in conjunction with Commission Forms 423, this information would provide details of Gatliff's costs per ton of coal. Additionally, TECO maintains that disclosure of the rail rate per ton would ultimately disclose the transportation rail rate per ton paid to CSX as shown on Commission Forms 423. TECO argues that disclosure would also impair TECO's ability to contract for transportation services on favorable terms. TECO also contends that disclosure would also be contrary to the Staggers Rail Act.

TECO asserts that the information contained in Workpaper page 58-1B lines 10 and 33 columns (e), (h), (n) and (q) and column (p) of page 33 is entitled to confidential classification because these amounts represent the rail coal transportation costs. When used in conjunction with the Commission Forms 423, a competitor could derive the rail transportation rate per ton.

TECO argues that the information contained in Workpaper page 58-1B lines 13 and 36 columns (k), (m), (n) and (q) is entitled to confidential classification because these amounts are the segmented river transportation charges. TECO argues that disclosure would adversely affect the ability of TECO and its transportation affiliate, Mid-South Towing, to contract for transportation services on favorable terms. TECO claims that higher transportation rates could result in an increase in electric rates.

TECO requests confidential classification for the information contained in Workpaper page 58-1B lines 6, 7, 8, 9, 15, 20 and 22 column (l) and for line 47 columns (m), (n), (p) and (q) because this data reflects the cost of rail coal, which involves

permissible cost allocation between TECO and an affiliate, Gatliff Coal Company. Disclosure would provide details of Gatliff's costs per ton of coal from information contained on Commission Forms 423. In addition, disclosure of the rail rate per ton would ultimately disclose the rail freight rate per ton paid to CSX as shown on Commission Forms 423 and would impair TECO's ability to contract for goods or services on favorable terms. TECO argues that in addition to these reasons, disclosure of this information would be contrary to the requirements of the Staggers Rail Act.

TECO contends that the information contained in Workpaper page 58-1B lines 6, 7, 8, 9, 15, 20, 22, 29, 30, 40, 45 and 47 column (k) is entitled to confidential classification because this data can be used in conjunction with column (m) to compute the rail material amounts in column (l) for which confidential treatment has been requested above.

TECO requests confidential classification of the information in Workpaper page 58-1B lines 15, 22, 29 and 40 columns (m), (n), (p) and (q), line 30 column (m), line 44 column (p) and (q) because this data can be used to back into the amount in column (m), line 13 for which confidential classification has been requested above.

TECO contends that the information contained in Workpaper page 58-1B lines 7-9 and 30-32 columns (n) and (q), line 36 columns (d) and (h) and line 37 column (d), (h), (n) and (q) are entitled to confidential treatment because they contain information which would allow a competitor to back into information in column (d) line 7 for which confidential classification has been requested above.

TECO requests confidential treatment of the information contained in Workpaper page 58-2B line 11 column (d) because the dollar amounts shown in these lines and columns when used in conjunction with the FPSC Form 423-2, would enable one to determine the No. 6 fuel oil costs per barrel. Additionally, TECO requests that the information contained in Workpaper page 58-2B line 11 column (f) and line 12 columns (d) and (f) is entitled to confidential treatment because these dollar amounts can be used to back into the information for which confidential classification was requested for column (d) of line 11.

TECO asserts that the information contained in Workpaper page 58-3B lines 11 columns (c), (d), (e), (f) and (g) and 33 columns (d) and (g) is entitled to confidential treatment because the dollar amounts shown in these lines and columns represent No. 2 fuel oil purchases, and when used in conjunction with the FPSC Form

ORDER NO. PSC-99-0859-CFO-EI  
DOCKET NO. 990001-EI  
PAGE 7

423-2, would allow competitors to determine the rate per barrel that has previously been granted confidential treatment. TECO also maintains that the information contained in Workpaper page 58-3B lines 12 columns (c), (d), (e), (f) and (g) and 34 columns (d) and (g) is entitled to confidential treatment because the disclosure of the dollar amounts shown in these lines and columns would enable competitors to back into the contractual information amounts for which confidential treatment was requested above at lines 11 columns (c), (d), (e), (f) and (g) and 33 columns (d) and (g).

The above described information appears to be proprietary confidential business information the disclosure of which would impair TECO's ability to contract for goods and services on favorable terms. This information should be granted confidential classification to avoid potential harm to TECO, its affiliates and ratepayers.

#### DECLASSIFICATION

##### Coal and Coal Transportation Data

TECO seeks protection for the coal and coal transportation contract information specified as confidential for a minimum period of two years. The need for two or more years of confidentiality is vital not only to TECO and its ratepayers, but to the vendors of coal and coal transportation services as well.

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 which will ultimately work to the detriment of the ratepayer. TECO firmly believes that the disclosure of information on prices paid within the last two years will increase the price TECO will be required to pay for coal and will be detrimental to ratepayers.

Recent bids received by TECO contained a \$4.17 per ton spread between the bids. TECO contends that the low bid undoubtedly would have been higher with full knowledge of prices paid by TECO. 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.

Gatliff Coal and TECO Transport and Trade sell coal and bulk commodity transportation services in the open non-regulated

ORDER NO. PSC-99-0859-CFO-EI  
DOCKET NO. 990001-EI  
PAGE 8

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 TECO. 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.

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, TECO 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.

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 of coal transportation service will tell an outside customer how much the escalation has been and make it easy to calculate cost.

Because of seasonality of costs in both businesses, a full year's cost data is necessary for an accurate cost measurement. A second year must pass before one full year can be compared with a second year to measure the escalation accurately. Therefore, a perceptive vendor seeks two years of data to make his cost estimates. Competitive industries recognize that data beyond two years is not helpful to them because enough factors may change in that time frame for costs to be much different from what was incurred. Any data 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.

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 by adversely affecting their market share and financial situation. The prices negotiated with TECO 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, because under market pricing regulation TECO will not make up the



difference to them in cost. In turn, a failure of these vendors would leave TECO 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 TECO's ratepayers. Therefore, the continued credibility of Gatliff and TECO Transport is important to protect TECO's ratepayers from higher cost alternatives.

#### Fuel Oil Contract Data

TECO requests that the confidential information relating to fuel oil contract data also not be declassified until at least two years after it is classified confidential. Ideally, TECO's interests would be best protected by adopting a declassification date which is at least six months beyond the expiration of the contract pursuant to which the prices in question were determined.

TECO'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.

TECO typically renegotiates its No. 2 and No. 6 fuel oil contracts and fuel related services contracts prior to the end of such contracts. Occasionally 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 to which the information relates.

TECO's No. 2 contract was renegotiated effective October 1, 1990. Its No. 6 contract was renegotiated effective September 1, 1990.

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, TECO 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 TECO some minimum period of protection from having this sensitive information disclosed publicly.

ORDER NO. PSC-99-0859-CFO-EI  
DOCKET NO. 990001-EI  
PAGE 10

Based on the discussion herein, TECO's request for confidential treatment of portions of its Audit Workpapers for the 12 months ending March 31, 1997, for 24 months, is granted.


In consideration of the foregoing, good cause having been shown, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that TECO's request for confidential classification for portions of document number 06780-97 is granted as set forth in the body of this Order. It is further

ORDERED that TECO's request for an extension of the declassification date is granted as set forth in the body 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 Susan F. Clark, as Prehearing Officer, this 29th Day of April, 1999.

  
\_\_\_\_\_  
SUSAN F. CLARK  
Commissioner and Prehearing Officer

( S E A L )

GAJ

ORDER NO. PSC-99-0859-CFO-EI  
DOCKET NO. 990001-EI  
PAGE 11

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, 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.

RECEIVED-TPSC

M E M O R A N D U M

99 APR 29 PM 1:55

APRIL 29, 1999

RECORDS AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING  
FROM: DIVISION OF LEGAL SERVICES (JAYE) *RVE*  
RE: DOCKET NO. 990001-EI - FUEL AND PURCHASED POWER COST  
RECOVERY CLAUSE AND GENERATING PERFORMANCE INCENTIVE  
FACTOR

(DOCUMENT NO. 06780-97)

*99-0859-CFO*

---

Attached is an Order GRANTING CONFIDENTIAL CLASSIFICATION TO PORTIONS OF TAMPA ELECTRIC COMPANY'S FUEL AUDIT WORKPAPERS FOR THE PERIOD ENDING MARCH 31, 1997 (DOCUMENT NO. 06780-97), with attachments, to be issued in the above referenced docket. (Number of pages in order - 13)

GAJ/js  
Attachment  
cc: Division of Electric and Gas  
I:\0678097.gaj

*see 1*

**MUST GO TODAY**

*m 2 / f 11*