

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa Electric Company

DOCKET NO. 20210034-EI

In re: Petition for approval of 2020 depreciation and dismantlement study and capital recovery schedules, by Tampa Electric Company.

DOCKET NO. 20200264-EI
ORDER NO. PSC-2021-0390-CFO-EI
ISSUED: October 13, 2021

ORDER GRANTING TAMPA ELECTRIC COMPANY'S
REQUESTS FOR CONFIDENTIAL CLASSIFICATION

And

MOTIONS FOR PROTECTIVE ORDER

(DOCUMENT NOS. 03362-2021; 03536-2021; 03539-2021; 03626-2021; 07711-2021; 07859-2021; 07862-2021; 08205-2021; 10043-2021)

On April 9, 16, 21, July 12, 13, 21, and September 1, 2021, Tampa Electric Company (TECO or Company) filed Requests for Confidential Classification and Motions for Temporary Protective Order, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), pertaining to identified information in the following documents:

- MFR Schedule D-2; in Exhibit LLC-1, Document No. 3 to the direct testimony of Lorraine L. Cifuentes; and in the company's MFRs E Schedules, Volume II, Cost of Service Study, Documents Nos. 03362-2021;
- Bates numbered pages 181 and 184 of the company's Updated Cost of Service Workpapers and Supplemental Opt Out Study, Volume II of III, Documents Nos. 03536-2021;
- Exhibit KDM-1, Document Nos. 4 and 7, to the testimony of Tampa Electric witness Kenneth D. McOnie, Documents Nos. 03539-2021;
- Company's Excel Version of the Supplemental Opt Out Study, Documents Nos. 03626-2021;
- Company's Response to OPC's First Request for Production (Nos. 1-18), Document Nos. 07711-2021;
- Company's Response to Staff's Fourth Set of Interrogatories (Nos. 102-132), Document Nos. 07859-2021;

- Company's Response to Staff's Third Request for Production (Nos. 6-19), Document Nos. 07862-2021;
- Company's Response to Staff's Informal Request for Supplemental Discover, Document Nos. 08205-2021;
- Staff's Fourth Data Request (Nos. 1-12), Document Nos. 10043-2021;

Request for Confidential Classification

TECO contends that the information identified in Exhibit(s) A of the Requests, constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. TECO asserts that the information at issue relates to: (1) bids or other contractual data, the disclosure of which would impair the efforts of TECO to contract for goods and/or services on favorable terms; and (2) competitive interests, the disclosure of which would impair the competitive business of the provider of the information. For those reasons, TECO argues the information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), F.S.

Ruling

Section 366.093(1), F.S., requires that records the Commission has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S. provides in part that proprietary confidential business information is:

Information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes, but is not limited to:

* * *

(d) 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.

- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears that the identified information in Documents Nos. 03362-2021; 03536-2021; 03539-2021; 03626-2021; 07711-2021; 07859-2021; 07862-2021; 08205-2021; and 10043-2021, satisfies the criteria set forth in Section 366.093(3)(d), and (e), F.S., for classification as proprietary confidential business information. The information “concern[s] 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/or “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, the information identified in Documents Nos. 03362-2021; 03536-2021; 03539-2021; 03626-2021; 07711-2021; 07859-2021; 07862-2021; 08205-2021; and 10043-2021 shall be granted confidential classification.

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 up to 18 months from the date of 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.

Motion for Temporary Protective Order

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 Section 119.07(1), F.S., the public records law. 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.” The rule further requires the utility to file a specific request for a protective order under paragraph (a) of the rule if the information is to be used in the proceeding before the Commission.

TECO contends: that the highlighted information constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C.; that the information has not been disclosed publicly; and that disclosure of the information would adversely affect the economic interests of Tampa Electric and its customers. TECO argues the identified information variously is comprised of 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, or information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Thus, TECO argues the information is entitled to confidential classification pursuant to Section 366.093(3)(d) or (e), F.S.

Ruling

Upon consideration of TECO's assertions of the confidential nature of the information contained in identified portions of the discovery responses, TECO's Motions for Temporary Protective Orders as set forth in Documents Nos. 03362-2021; 03536-2021; 03539-2021; 03626-2021; 07711-2021; 07859-2021; 07862-2021; 08205-2021; and 10043-2021 are hereby granted. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is hereby

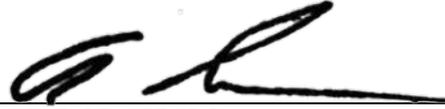
ORDERED by Commissioner Art Graham as Prehearing Officer, that TECOS's Requests for Confidential Classification and Motions for Protective Order for Documents Nos. 03362-2021; 03536-2021; 03539-2021; 03626-2021; 07711-2021; 07859-2021; 07862-2021; 08205-2021; and 10043-2021 are hereby granted. It is further

ORDERED that the identified information shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

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By ORDER of Commissioner Art Graham, as Prehearing Officer, this 13th day of October, 2021.



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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.

CWM/MJJ