

February 23, 1989

**TAMPA ELECTRIC COMPANY'S STATEMENT
OF JUSTIFICATION FOR CONFIDENTIAL TREATMENT**

Tampa Electric offers the following justification for confidential treatment of the documents transmitted herewith. The documents in question were among those provided to the Staff of the Florida Public Service Commission in connection with the Staff's audit of Tampa Electric's fuel expense for the six months ended September 30, 1988. In this statement the document numbers appear first (such as Document No. 9-1) with the pages referenced after the document number (e.g., page 1 of 11, 2 of 11, etc.).

- 9-1 (Pages 2 of 7 through 7 of 7). Section 366.093(3)(b) states that proprietary confidential business information includes internal auditing controls and reports of internal auditors. Workpaper 9-1 details the standardized audit program for fiscal inventory of coal on hand and related handling procedures and, therefore, should be protected from public disclosure.
- 9-3 (Pages 1 of 19 through 19 of 19). These are the Coopers and Lybrand audited financial statements for Gatliff Coal Company as of June 30, 1987. As the Commission has recognized many times before, public disclosure of this information would give a strategic advantage to suppliers who sell coal to Gatliff Coal Company and to other potential buyers of Gatliff produced coal. Tampa Electric requests that this entire document be designated specified confidential because all of the numbers on nearly every page are highly confidential. If Tampa Electric were to black out every number in this report, the remaining portions of the report would be rendered meaningless to anyone who looked at them. Consequently, Tampa Electric requests that the entire document be designated specified confidential.

For example, disclosure of sales and costs of sales related to outside parties would impair Gatliff's ability to negotiate outside business. This would be detrimental to Tampa Electric's Customers. In addition, the information contained in this report details total expenses and total tons of coal. This would enable potential competitors to derive a cost per ton of coal which is the type of information the Commission has recognized should be kept confidential.

Exhibit "C"

DOCUMENT NUMBER-DATE

02042 FEB 23 1989

FPSC-RECORDS/REPORTING

9-3/1 (Pages 1 of 3, 2 of 3 and 3 of 3). These three pages detail an analysis of the cost per ton of Gatliff coal. The figures on these pages break down Gatliff's cost per ton of coal. The information on these pages, when used in conjunction with the information set forth on the Commission's Form 423s regarding sulfur, BTUs, ash and moisture, would be very harmful to future negotiations on behalf of Gatliff coal.

Inasmuch as deletion of all of the numbers contained on these three pages would render the pages meaningless, Tampa Electric requests that each of the three pages be designated specified confidential in their entirety.

9-4 This document reflects cost information pertaining to barge coal. It can be used in conjunction with publicly filed information in order to determine the segmented cost of transfer, storage and other services provided by Tampa Electric's nonregulated affiliate. Public disclosure of such information would ultimately harm Tampa Electric, as the Commission has recognized on numerous occasions.

9-5 This document reflects cost information pertaining to Mid-South Towing Company. It can be used in conjunction with publicly filed information in order to determine the segmented cost of waterborne transportation services provided by Tampa Electric's nonregulated affiliate. Public disclosure of such information would ultimately harm Tampa Electric, as the Commission has recognized on numerous occasions.

9-6 This document reflects cost information pertaining to Gulfcoast Transit Company. It can be used in conjunction with publicly filed information in order to determine the segmented cost of waterborne transportation services provided by Tampa Electric's nonregulated affiliate. Public disclosure of such information would ultimately harm Tampa Electric, as the Commission has recognized on numerous occasions.

44 (Pages 1 of 16 - pages 1 and 3, 3 of 16, 6 of 16, 8 of 16, 10 of 16 and 15 of 16). On these pages Tampa Electric has highlighted a number of figures the disclosure of which would be harmful to Tampa Electric and its affiliated companies:

Barge \$ received - When used in conjunction with the FPSC Form 423-2, the segmented transportation cost of Electro-Coal Transfer and Gulfcoast Transit can be derived using this information.

Barge transportation \$ received - This is the cost for Electro-Coal Transfer and Gulfcoast Transit transportation costs. The figure out to the right of the "\$" column for transportation is a cost per ton figure for Electro-Coal Transfer and Gulfcoast Transit.

Rail \$ received - With this one can compute the cost per ton for rail coal. Gatliff coal is the only rail coal which is evident from an examination of FPSC Form 423.

Rail freight \$ received - This is the transportation cost to get rail coal to the station. This dollar amount can be subtracted from the delivered price of rail coal on FPSC Form 423 to derive the Gatliff price per ton of coal.

Lime \$ - Tampa Electric's ability to obtain lime for use in the power generation process can be adversely affected by disclosing the current price paid and thereby discouraging offers by the potential suppliers which might be significantly lower than the price currently paid by Tampa Electric.

On the bottom right hand corner of these pages the following items are confidential:

~~Barge Coal In Transit - tons and dollars - This information is requested to be kept confidential on workpaper 45.~~

~~Rail Coal In Transit - tons and dollars - As previously explained this information can be used to derive a price per ton paid for Gatliff coal.~~

~~Rail Freight Dollars - This relates to transportation costs to move rail coal which is all Gatliff coal. This amount can be backed out of the delivered price of coal to produce the FOB mine price of Gatliff coal which then can be used to derive the segmented transportation and transloading and storage costs associated with Gatliff coal.~~

44 (Pages 1 of 16, page 2). The price per ton for transporting coal from the transfer facility to the stations requires confidential treatment as previously discussed.

44 (Pages 2 of 16, 4 of 16, 7 of 16, 9 of 16, 14 of 16 and 16 of 16) - Coal Expense Summary - Dollars. The components of the total dollars need to be confidential. These numbers are pulled from the Coal Expense Summary total column which are specified confidential. If these numbers were not confidential, they would be used with workpapers 44 (1 of 16, 3 of 16, 7 of 16, 9 of 16, 11 of 16 and 15 of 16) along with the FPSC Form 423-2 to derive Electro-Coal Transfer and Gulfcoast Transit transportation cost per ton.

44-1 (Pages 1 of 6 through 6 of 6). The additions, accruals and reversal to coal inventory - Gatliff coal - can be used in connection with FPSC Form 423 to compute a price per ton paid to Gatliff for coal supplied to Tampa Electric. In addition, the rail freight figures can be used with the number of tons that appears on Coal Expense Summary to calculate the price per ton

paid for rail freight. The resulting figure can be subtracted out of the total delivered price per ton for rail freight reflected in FPSC Forms 423 to produce the price per ton paid for Gatliff coal. Finally, on these pages the barge freight item reflects the amount of dollars paid to Mid-South Towing Company which is highly sensitive information from a competitive standpoint. The disclosure of this could have a severe adverse effect on Mid-South Towing Company and ultimately Tampa Electric's Customers.

44-2

(Pages 1 of 6 through 6 of 6) - Barge Coal In Transit. The information on this page can be used with Forms 423 to enable a person to derive segmented Mid-South Towing costs for the transportation of coal to Tampa Electric. Consequently, Tampa Electric requests that the entire contents of this page be kept confidential.

The total available (tons and dollars) can be used to compute the charge out price for the pile. This charge out price, when used with FPSC Form 423, would allow one to derive the segmented Electro-Coal Transfer and Gulfcoast Transit charges per ton for deliveries to the station, which in turn would have an adverse impact on these companies' ability to negotiate favorable contracts for business with third parties.

The information supplied under the heading "Delivered to (various generating stations)", when used with FPSC Form 423, would disclose Gulfcoast Transit and Electro-Coal Transfer cost per ton. The dollar per ton under the dollar sign column, when used with Commission Form 423, would also provide Gulfcoast Transit and Electro-Coal Transfer costs per ton.

The "Ending Balance and Beginning Balance Tons and Dollars," when used with FPSC Form 423, would produce a dollar per ton figure for Electro-Coal and Gulfcoast Transit services.

44-3

(Pages 1 of 3 through 3 of 3). These pages require confidential treatment because they disclose rail coal in transit. This would provide details of Gatliff rail coal purchases with which one could calculate Gatliff's costs per ton of coal from information contained on publicly filed Forms 423. Since the only rail coal purchased by Tampa Electric comes from Gatliff, a competitor could back out the cost of Gatliff coal by subtracting the rail transportation cost from the delivered cost. This would be very harmful to Gatliff and ultimately Tampa Electric Company's Customers.

45

(Pages 1 of 6 through 6 of 6). The contents of this page reveal the rates charged by Mid-South Towing, Electro-Coal Transfer and Gulfcoast Transit. Tampa Electric has explained and detailed the need for confidential treatment of the rates charged by its transportation and transloading affiliates and

the Commission has recognized the justification for such confidential treatment on numerous occasions.

45-2 This workpaper gives the total transportation dollars paid each month to each transportation affiliate. When used with the FPSC Forms 423 or workpapers 44 (Coal Expense Summary), it is possible to determine a transportation price per ton of coal.

46 (Pages 1 of 6 through 6 of 6). The rail freight information set forth in this workpaper can be used in connection with information disclosed on FPSC Forms 423 to produce the cost per ton paid to Gatliff Coal Company for coal delivered to Tampa Electric. The sensitivity of this per ton price and the detrimental effect which public disclosure of such information could have on Tampa Electric's Customers is discussed earlier herein.

46/1 This document shows the price paid per ton and the total dollars paid where the tons are indicated. This information needs to be protected so that the price per ton for rail freight cannot be determined. If the price per ton for rail freight is disclosed, this information could be used with FPSC Form 423 to derive the price per ton paid to Gatliff coal, since Gatliff coal is the only coal shipped via direct rail.

46-1 (Pages 1 of 2 and 2 of 2). These pages show rail freight and rail coal paid - voucher number and dollar amounts. The Gatliff coal dollars divided by tons listed on the page produce a Gatliff cost per ton of coal. In addition, the rail freight dollars should be blacked out because one can utilize FPSC Form 423 to determine how much Tampa Electric is paying for Gatliff coal.

Tampa Electric considers the voucher numbers to be confidential because if the Staff maintains a list anywhere else of the vouchers which they pull in the Staff's nonconfidential files, along with the total dollar amounts by voucher number, one could get the dollar amount and insert them on 46-1.

47 (Pages 1 of 6 through 6 of 6). This workpaper reflects coal pile additions at Electro-Coal Transfer. The voucher numbers and dollar amounts contained on these documents need to be protected from public disclosure. The dollar amounts derived by tons listed on the same page arrive at a cost of ton per vendor. When using this cost per ton in conjunction with the cost per ton reported in the FPSC Form 423, the Mid-South Towing Company cost per ton can be derived.

The voucher number has been requested to be confidential in case the vouchers and related dollar amounts are listed somewhere else in the audit workpapers. For example, the auditors may

have a list of sample vouchers which they selected for examination that contain this information.

48 Related Coal Party Transactions. This workpaper discloses amounts paid to Tampa Electric's affiliates. When used in conjunction with the FPSC Forms 423, this information would enable one to obtain the cost per ton paid for goods and services purchased from the affiliates. Again, the sensitivity of these cost per ton amounts has been discussed earlier herein.

49 (Pages 1 of 6 through 6 of 6). This document reflects the price paid by Tampa Electric for No. 2 oil under contract from its current supplier. Public disclosure of this information would discourage other potential suppliers from bidding prices for No. 2 oil significantly below that currently paid by Tampa Electric to its No. 2 oil supplier. Nondisclosure of this information could encourage future supplier bids which are lower than would otherwise be the case.

50 Pyramid Coal Contract Summary. Tampa Electric only seeks to withhold from public disclosure the actual prices per ton paid under the coal supply contract in question. The Commission previously has recognized the sensitivity of prices paid for coal and the adverse impact which public disclosure of that information can have on a utility's ability to procure coal in the future on favorable terms.

52 Summary of Rail Coal Hopper Lease. Tampa Electric requests nondisclosure of the amounts highlighted in two places on this summary. The rail coal hopper lease contains a specific "confidential clause" in it. In order to abide by the terms of this lease, Tampa Electric needs to have the requested information protected from public disclosure.

57-2/1 and
57-5/1

These documents reflect fuel inventory adjustments. The barge \$ received information, when used in conjunction with Form 423-2, enables one to derive the segmented transportation cost of Electro-Coal Transfer and Gulfcoast Transit.

The barge transportation dollars received section shows the actual cost for Electro-Coal Transfer and Gulfcoast Transit transportation costs. The figure out to the right of the "\$" column for transportation is a cost per ton figure for Electro-Coal Transfer and Gulfcoast Transit.

Rail \$ received - one can compute the cost per ton for rail coal. Since Gatliff is the only rail coal, as evidence by Form 423, one can ultimately obtain the segmented transportation costs of Tampa Electric's affiliated companies, to the ultimate detriment of Tampa Electric's Customers.

Rail Freight \$ received - this is the transportation cost to get rail coal to the station. This dollar amount can be subtracted from the delivered price of rail coal reflected on FPSC Form 423. That would produce the Gatliff price per ton.

Lime \$ - this would enable one to determine the dollar price per ton paid for lime purchased by Tampa Electric. This would adversely affect Tampa Electric's ability in the future to obtain a lower price per ton than that presently paid.

58-18

This information pertains to the Pyramid Coal Contract Buy Out. Line 9 indicates the Electro-Coal Transfer transportation price. Public disclosure of this segmented transportation information would adversely affect Electro-Coal Transfer's ability to compete for third party services, to the ultimate detriment of Tampa Electric and its Customers.

Line 10 - Gulfcoast Transfer Transportation Prices. This is segmented information that could affect GCT's ability to conduct nonregulated company negotiations.

Line 11 - Electro-Coal Transfer and Gulfcoast Transit Cost. This is segmented information that could adversely affect the affiliated companies' ability to compete for third party business.

Line 12a - MST transportation costs for transporting coal on the Ohio and Green Rivers. This is segmented information the public disclosure of which would adversely affect Tampa Electric's ability to procure transportation services on the most favorable terms available.

Line 12b - MST transportation costs for transporting coal on the Oklahoma River. The same rationale supporting protection of Line 12a likewise applies to Line 12b.

Line 16 - Gatliff Supplemental Price and MST Cost. Here again we are dealing with segmented information the public disclosure of which could adversely affect Tampa Electric and its Customers.

58-19

(Pages 1 through 4). These workpapers detail the calculation of the Pyramid Coal Contract Buy Out. The information by coal supplier would enable one to utilize such information with FPSC Forms 423 to determine the prices paid per ton to the various suppliers of Tampa Electric. In addition, such person could determine delivered prices to the power plants which, in turn, would enable one to derive the segmented transportation prices.

On page 4 of workpaper 58-19, the segmented transportation costs for delivering coal to Tampa Electric's generating stations from the Electro-Coal transfer facility appears at lines 71, 74, 77, 80, 83 and 86. Disclosure of this information could be very

harmful to Electro-Coal Transfer in its negotiations for business with outside parties. That, in turn, could adversely affect Tampa Electric and its Customers. On lines 72, 75, 78, 81, 84 and 87 information appears which would enable one to derive the prices on lines 71, 74, 77, 80, 83 and 86 by subtracting total price less the price to the transfer facility. (For example, line 72 minus line 70 equals line 71.) Thus, these latter lines of information require protection in order to avoid a harmful effect on Tampa Electric's ability to procure coal and transportation services on favorable terms.

General Comments Supporting this Request

Tampa Electric has attempted to limit this request to the greatest extent possible. No attempt is being made to prevent the Commission from obtaining or reviewing the data it needs to fulfill its public responsibilities. The Company only seeks protection of information contained in the above-listed columns where disclosure of such information would be harmful to Tampa Electric's coal supply, transportation, transloading and storage affiliates to the ultimate detriment to its Customers.

Tampa Electric seeks confidential protection of the above-referenced information in accordance with the provisions of Section 366.093, Fla. Stat., and Fla. Admin. Code Rule 25-22.06. The information in question falls within the following statutory category of proprietary confidential business information:

Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility to contract for services on favorable terms. (Section 366.093(3)(D), Fla Stat.)

In its discussion in Order No. 12645, the Commission specifically found:

. . . 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. . . .

In its subsequent order (Order No. 13220 dated April 24, 1984), granting motions for reconsideration and clarification in part of Order No. 12645, the Commission agreed with Tampa Electric that disclosures which would enable competitors to "back into" segmented transportation costs by combining one or more sets of published figures must also be protected. In that order the Commission stated the following:

~~Tampa Electric Company sought reconsideration of our determination of the confidentiality of certain information to be provided in monthly reports. TECO was concerned that disclosure of F.O.B. plant prices for coal, in conjunction with available delivered prices at terminal facilities would cause disclosure of proprietary transportation information. We agree with TECO and conclude that TECO's F.O.B. plant prices should be reported in conjunction with its other confidential information.~~

The Commission subsequently recognized that its above-stated positions on confidentiality conflicted somewhat with an October 26, 1983 statement in support of a proposed rulemaking, wherein the Commission had supported certain revisions to the Federal Energy Regulatory Commission's Form 423. On December 23, 1983 the Commission sent the FERC an addendum to its earlier statement in support of the proposed rulemaking specifically observing:

. . . (W)e feel that it is the issue of the confidentiality of cost data on transportation route segments that presents the most serious concern regarding the FPSC's general support of FERC's proposed revisions to Form 423.

The Florida Commission went on to describe in detail the unique situation faced by Tampa Electric and Florida Power Corporation who have

affiliated transportation companies serving them and who also engage in competitive marketing of the same services to non-affiliated Customers. The Commission described in careful detail the harm which could befall Tampa Electric's affiliated transportation companies and, ultimately, Tampa Electric's Customers, if detailed cost information were made public.

On a number of subsequent occasions this Commission has recognized and held that disclosure of the type of information Tampa Electric herein seeks to protect would do harm to Tampa Electric's affiliated transportation companies, to the ultimate detriment of Tampa Electric's Customers.

During the course of a September 29, 1986 hearing in Docket No. 860001-EI-D (In re: **Confidentiality** of fuel cost recovery data), Mr. John R. Rowe, Jr., Assistant Vice President of Tampa Electric, submitted direct and rebuttal testimony in support of specified confidential treatment of the type of information set forth in the monthly report forms which are the subject of this request. Tampa Electric asserts that the observations made by Mr. Rowe during the September 29, 1986 hearing are just as applicable today as they were when Mr. Rowe testified. Accordingly, the company incorporates herein by reference Mr. Rowe's direct and rebuttal testimony in support of this request for specified confidential treatment. Simply put, disclosure of the information contained in Exhibit "A" could severely harm companies affiliated with Tampa Electric and ultimately result in higher cost electricity to Tampa Electric's Customers.

On October 21, 1987 Commissioner Gunter, as Prehearing Officer in Docket No. 870001-EI entered Order No. 18328 granting Tampa Electric's request for specified confidential treatment of the same type of information contained in Exhibit "A". Prehearing Officer Herndon made the

same ruling in Order No. 19307 issued May 9, 1988 and again in Order No. 20005 issued on September 25, 1988. The information contained in the documents which are the subject of this current request is just as sensitive as that contained in the forms which were the subject of these earlier rulings. Disclosure of the information contained in the current filing would have a detrimental effect on Tampa Electric and its Customers. Confidential treatment of such documents under Section 366.093, Fla. Stat., would be consistent with the Commission's prior rulings.