

# MACFARLANE AUSLEY FERGUSON & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(904) 224-9115 FAX (904) 222-7560

111 MADISON STREET, SUITE 2300  
P.O. BOX 1531 (ZIP 33601)  
TAMPA, FLORIDA 33602  
(813) 273-4200 FAX (813) 273-4396

April 17, 1996

HAND DELIVERED

ORIGINAL  
FILE COPY

400 CLEVELAND STREET  
P.O. BOX 1669 (ZIP 34617)  
CLEARWATER, FLORIDA 34615  
(813) 441-8966 FAX (813) 442-8470

IN REPLY REFER TO:

Tallahassee

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Investigation into Earnings for 1995  
and 1996 of Tampa Electric Company;  
FPSC Docket No. 950379-EI

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and ten (10) copies of Tampa Electric Company's Request for Specified Confidential Treatment of portions of the Sulfuric Acid Sale and Purchase Agreement between Tampa Electric Company and Sulfuric Acid Trading Company.

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

JDB/pp  
Enclosures

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

RECEIVED & FILED

  
BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

04393 APR 17 96

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into Earnings )  
for 1995 and 1996 of Tampa Electric )  
Company. )

DOCKET NO. 950379-EI  
FILED: April 17, 1996

**TAMPA ELECTRIC COMPANY'S REQUEST  
FOR SPECIFIED CONFIDENTIAL TREATMENT**

Pursuant to Section 366.093, Florida Statutes, Tampa Electric Company ("Tampa Electric" or "the company") submits the following Request for Specified Confidential Treatment of portions of the Sulfuric Acid Sale and Purchase Agreement ("the Agreement") entered into on January 7, 1994 by and between Tampa Electric Company and Sulfuric Acid Trading Company, and as grounds therefor, says:

1. After reviewing documents produced by Tampa Electric in response to Staff's First Request for Production of Documents in the above docket, Staff has requested that Tampa Electric supply a copy of the Agreement. Tampa Electric has determined that certain information contained in the Agreement constitutes proprietary confidential business information which is entitled to confidential treatment under Section 366.093, Florida Statutes. Tampa Electric this date is furnishing Staff with a copy of the Agreement with the very few confidential portions redacted. We are also advising Staff that we are this date filing this Request for Specified Confidential Treatment of the confidential portions of the Agreement.

2. Attached hereto as Exhibit "A" is a detailed justification for the requested confidential treatment of the highlighted portions of the Agreement.

DOCUMENT NUMBER-DATE  
04393 APR 17 96  
FPSC-RECORDS/REPORTING

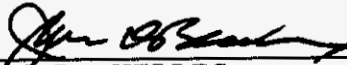
3. Tampa Electric requests that the information for which Tampa Electric seeks confidential classification not be declassified until such time as the Staff no longer requires possession of it and the information in question is returned to Tampa Electric. The company also requests that the Staff return the information in question to Tampa Electric at the earliest practical date. In the alternative, Tampa Electric requests that the information not be declassified until after the date identified in Exhibit "B" to this request. Given the nature of the information sought to be protected and the reasons why it needs protection, it is clear that this information cannot be protected for only 18 months and then released to the public. To do so would enable others to have this information to the detriment of Tampa Electric and its customers.

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

WHEREFORE, Tampa Electric Company submits the foregoing as its request for confidential treatment of the information identified in Exhibit "A".

DATED this 17<sup>th</sup> day of April, 1996.

Respectfully submitted,

  
\_\_\_\_\_  
LEE L. WILLIS  
JAMES D. BEASLEY  
Macfarlane Ausley Ferguson & McMullen  
Post Office Box 391  
Tallahassee, FL 32302  
(904) 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, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 17<sup>th</sup> day of April, 1996 to the following:

Mr. Robert V. Elias\*  
Staff Counsel  
Division of Legal Services  
Florida Public Service  
Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Ms. Vicki Gordon Kaufman  
McWhirter, Reeves, McGlothlin,  
Davidson, Rief & Bakas  
117 S. Gadsden Street  
Tallahassee, FL 32301

Mr. Jack Shreve  
Mr. John Roger Howe  
Deputy Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street - #812  
Tallahassee, FL 32399-1400

Mr. John W. McWhirter, Jr.  
McWhirter, Reeves, McGlothlin,  
Davidson, Rief & Bakas  
100 North Tampa Street  
Suite 2800  
Tampa, FL 33602

  
\_\_\_\_\_  
ATTORNEY

**Justification for Confidential Treatment  
of Portions of Sulfuric Acid Sale and Purchase  
Agreement dated January 7, 1994 between Tampa  
Electric Company and Sulfuric Acid Trading Company**

<u>PAGE</u>	<u>LINE</u>	<u>DESCRIPTION</u>	<u>RATIONALE</u>
8	4,6,9,11,13	The single highlighted number on each such line	(1)
Exhibit B	4,9,10,14, 15,16,17	The percentage values on said lines	(2)
Exhibit B	4,9,10,15,17	The dollar amounts highlighted on said lines	(3)

---

**Rationale for Confidentiality:**

- (1) Each of the numbers in question shows a pricing component of the overall price which the Sulfuric Acid Trading Company has agreed to pay Tampa Electric for sulfuric acid produced at the Polk plant. The sulfuric acid agreement was a competitively negotiated agreement for the sale of sulfuric acid. Public disclosure of the pricing provisions of this contract could adversely affect Tampa Electric's ability to negotiate a favorable sulfuric acid sale agreement in the event the existing contract is terminated. As such, this information is proprietary business information, the disclosure of which would adversely affect Tampa Electric's ability to contract for goods or services on favorable terms. Thus, the information is entitled to confidential treatment and exemption from public disclosure pursuant to Section 366.093, Florida Statutes.

Other future purchasers of sulfuric acid from this Tampa Electric facility clearly would be interested in knowing the existing contract price Tampa Electric is willing to accept for the sale of sulfuric acid. This knowledge would enable future purchasers to negotiate closer to the existing price rather than perhaps higher if they did not have the information available regarding the existing contract price. Thus, public disclosure of the pricing information could adversely affect Tampa Electric's ability to obtain a higher price for sulfuric acid in the future. This could adversely affect the company's customers by reducing the contribution to revenue requirement generated by the sulfuric acid sale.

Exhibit "A"

- (2) This information would show the negotiated percentage split as between the buyer and seller of the Average Netback. As such it would disclose to potential future purchasers of sulfuric acid from Tampa Electric the degree to which Tampa Electric is willing to share these revenues. This is a sensitive price related component of the agreement and, thus, is entitled to protection for the same rationale set forth in rationale (1) above.
- (3) Disclosure of the highlighted dollar amounts would enable any interested potential future purchaser of sulfuric acid from Tampa Electric to back into the negotiated sharing percentages of the Average Netback as between buyer and seller under the current agreement. As such, the dollar amounts in question are entitled to confidential protection in order to avoid disclosing the negotiating percentages discussed under rationale (2) above.

**Date of Declassification:**

<u>PAGE</u>	<u>LINE(S)</u>	<u>RATIONALE</u>
8	4,6,9,11,13	(1)
Exhibit B	4,9,10,14, 15,16,17	(1)
Exhibit B	4,9,10,15,17	(1)

---

**Rationale:**

- (1) Tampa Electric has requested that the above referenced proprietary confidential business information not be declassified until six months after the existing agreement is terminated and a replacement agreement is fully executed and in effect. By not declassifying the confidential pricing information until that time Tampa Electric will be able to negotiate and have in place a new contract without the potential purchasers pursuant to that contract having this information available when they negotiate with Tampa Electric for the purchase of sulfuric acid. Publicizing this information prior to that time would tend to produce a lower negotiated contract price for the purchase of sulfuric acid from Tampa Electric than would otherwise be negotiated in the absence of that information being available.

Exhibit "B"

---