

State of Florida



ORIGINAL

Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

COMMISSION
CLERK

03 OCT 28 AM 11:25

RECEIVED FPSC

DATE: October 27, 2003
TO: Cochran Keating
FROM: Roland Floyd *RF*
RE: Recommendation on Request for Confidential Classification – Document No. 09559-03

On October 23, 2003, Tampa Electric Company requested confidential classification of portions of its Responses to Fourth Request for Production of Documents (Nos. 15-17) of the Florida Public Service Commission Staff. See attached. Staff agrees with the request for the reasons stated in the justification provided by Tampa Electric Company.

Attachment

cc: Kay Flynn/Records and Hearing Services
 Harold McLean/General Counsel

- AUS _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC _____
- OTH *Marguente.*

DOCUMENT NUMBER-DATE

10544 OCT 28 8

FPSC-COMMISSION CLERK

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

M-E-M-O-R-A-N-D-U-M

DATE: October 24, 2003

TO: OFFICE OF THE GENERAL COUNSEL
DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
XX DIVISION OF ECONOMIC REGULATION
DIVISION OF AUDITING AND SAFETY

FROM: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

RE: CONFIDENTIALITY OF CERTAIN INFORMATION

DOCUMENT NO(s): 09559-03

DESCRIPTION: TECO/Beasley - (Confidential) Answers to staff's 4th
request for production of documents (Nos. 15-17).
[See DN 09802-03]

SOURCE: Tampa Electric Company

DOCKET NO(S): 030001-EI

The above material was received with a later filing of a request for confidential classification. Please prepare a recommendation for the attorney assigned to the case by completing the section below and forwarding a copy of this memorandum, together with a brief memorandum supporting your recommendation, to the attorney. Copies of your recommendation should also be provided to the Division of the Commission Clerk and Administrative Services, Bureau of Records and Hearing Services, and to the Office of General Counsel.

03 OCT 27 2:11:22
TECO/BEASLEY

- The document(s) is (are), in fact, what the utility asserts it (them) to be.
- The utility has provided enough details to perform a reasoned analysis of its request.
- The material has been received incident to an inquiry.
- The material is confidential business information because it includes:
 - (a) Trade secrets;
 - (b) Internal auditing controls and reports of internal auditors;
 - (c) Security measures, systems, or procedures;
 - (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms;
 - (e) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities;
 - (f) Tax returns or tax-related information;
 - (g) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- The material appears to be confidential in nature and harm to the company or its ratepayers will result from public disclosure.
- The material appears not to be confidential in nature.
- The material is a periodic or recurring filing and each filing contains confidential information.

Response prepared by: Robert Floyd

Date: 10/27/03

cc: GCL EXT
 CMP CCA
 ECR AUS
 MMS

PSC/CCA 15 (Rev 11/02)

AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

October 23, 2003

HAND DELIVERED

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

Re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance
Incentive Factor; FPSC Docket No. 030001-EI

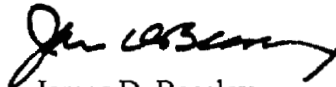
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and ten (10) copies of Tampa Electric Company's Request for Confidential Classification of portions of its Responses to Fourth Request for Production of Documents (Nos. 15-17) of the Florida Public Service Commission Staff.

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
Enclosure

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

DOCUMENT NUMBER-DATE

10479 OCT 23 '03

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost Recovery)
Clause with Generating Performance Incentive) DOCKET NO. 030001-EI
Factor.) FILED: October 23, 2003
_____)

REQUEST FOR CONFIDENTIAL CLASSIFICATION

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, hereby requests confidential classification of certain highlighted information contained in portions of its Responses to Fourth Request for Production of Documents (Nos.15-17) of the Florida Public Service Commission Staff (the "Confidential Information"). A single copy of the above production answers was filed with a Notice of Intent to Seek Confidential Classification of Information on October 2, 2003. The Confidential Information is contained in Tampa Electric's responses to Production of Documents Nos. 16 and 17. Attached hereto as Exhibit "A" is a justification for designating the Confidential Information proprietary confidential business information under the above-referenced statute and rule.

1. Subsection 366.093(1), Florida Statutes, provides that any records "found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s.119.07(1) [requiring disclosure under the Public Records Act]." The 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. (Section 366.093(3)(d), Florida Statutes)

2. Proprietary confidential business information also includes:

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. (Section 366.093(3)(e), Florida Statutes)

3. The Confidential Information falls within the above statutory categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093 and Rule 25-22.006.

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


5. The request for confidential classification is intended to serve as Tampa Electric's motion for a protective order pursuant to Rule 25-22.006(6), Florida Administrative Code.

6. Please note that Tampa Electric had originally designated Bates stamp pages 3 through 11 of its response to Staff's Fourth Request for Production of Documents (Nos. 15-17) as needing confidential treatment. Those pages were draft correspondence and a notification letter to TECO Transport that revealed the identity of the party with which Tampa Electric was negotiating its waterborne coal transportation services contract and that discussed the "right of first refusal" clause in the contract with TECO Transport that is currently in effect. Now that the 2004-2008 contract has been executed, these documents are no longer in need of confidential treatment. Copies without confidential highlighting will be provided for filing along with this request. The original confidential highlighted pages should be returned to the undersigned.

WHEREFORE, Tampa Electric respectfully requests that the highlighted Confidential Information set forth in its Responses to Fourth Request for Production of Documents (Nos. 15-17) of the Florida Public Service Commission Staff be accorded confidential classification for the reasons set forth above.

DATED this 23rd day of October 2003.

Respectfully submitted,



LEE L. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, Florida 32302
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Confidential Classification has been furnished by U. S. Mail or hand delivery (*) on this ~~23rd~~ day of October 2003 to the following:

Mr. Wm. Cochran Keating, IV*
Senior Attorney
Division of Legal Services
Florida Public Service Commission
2540 Shumard-Oak Boulevard
Tallahassee, FL 32399-0863

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Progress Energy Florida, Inc.
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Ms. Vicki Gordon Kaufman
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Pensacola, FL 32520

Mr. Jeffrey A. Stone
Mr. Russell A. Badders
Beggs & Lane
Post Office Box 12950
Pensacola, FL 32591-2950

Mr. James J. Presswood, Jr.
Southern Alliance for Clean Energy
427 Moreland Ave., NE; Suite 100
Atlanta, GA 30307

Mr. Michael B. Twomey
Post Office Box 5256
Tallahassee, FL 32314-5256



ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT
OF BATES STAMPED PAGE 21 OF TAMPA ELECTRIC COMPANY'S
RESPONSE TO STAFF'S PRODUCTION OF DOCUMENT (NO. 16)
AND BATES STAMP PAGES 101-108, 120-133 AND 109-119
OF STAFF'S PRODUCTION OF DOCUMENT (NO. 17)**

All of the page references herein are to the Bates stamped page numbers at the bottom of the pages of Tampa Electric's response to Staff's Request for Production of Documents Nos. 16 and 17.

<u>Bates Stamp Page No.</u>	<u>Justification</u>
21	(1)
101-108 and 120-133	(2)
109-119	(3)

- (1) This page discloses Tampa Electric's waterborne coal transportation services ("WCTS") contract rates for the 2004-2008 contract period. This is contractual information that should be protected to avoid adversely affecting the competitive interests of TECO Transport. Public disclosure of this information would harm the competitive interests of TECO Transport and would also compromise Tampa Electric's competitive position in future efforts to negotiate WCTS. Consequently, this information is entitled to confidential protection under Section 366.093(d) and (e), Florida Statutes.
- (2) These pages are bid evaluation and bid correspondence documents that reveal the bidders identities. Disclosing bidder identities and evaluations of their bids would discourage those bidders from participating in future RFPs as they do not desire for their competitors to have access to the terms and conditions under which they will bid on transportation services. As such, public disclosure of the information would adversely affect Tampa Electric's ability to contract for goods and services on favorable terms. Consequently, the information is entitled to protection under Section 366.093(d) and (e), Florida Statutes.
- (3) These pages contain the work product of Tampa Electric consultant's Sargent & Lundy - documents that were used to conduct analyses as well as the consultant's report. In addition, these pages reveal the identity of the rail proposal bidder and disclose specific information including in that bidder's proposal. As such, the information in question is entitled to confidential treatment because it is in the nature of a trade secret owned by Sargent & Lundy. It is also in the nature of information relating to bids and bidder identity which could adversely affect Tampa Electric's ability to procure bids in the future. As such, the information is entitled to confidential treatment under Section 366.093(3)(d) and (e), Florida Statutes.

Exhibit "A"