

ORIGINAL

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May 14, 2004

HAND DELIVERED

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04 MAY 14 PM 4:36
COMMISSION CLERK

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

Re: Review of Tampa Electric Company's waterborne transportation contract with
TECO Transport and associated benchmark; FPSC Docket No. 031033-EI

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa
Electric Company's Request for Confidential Classification of the Deposition Transcript and
Deposition Exhibits of William B. McNulty.

Also enclosed is a redacted copy of the transcript and exhibit pages.

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,

[Handwritten signature of James D. Beasley]

James D. Beasley

- CMP
COM
CTR
ECR
GCL JDB/pp Enclosure
OPC
MMS cc: All Parties of Record (w/enc.)(not transcript)
RCA
SCR
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FPSC-BUREAU OF RECORDS

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Tampa Electric Company's	)	
Waterborne transportation contract with	)	DOCKET NO. 031033-EI
TECO Transport and associated benchmark.	)	FILED: May 14, 2004
_____	)	

**TAMPA ELECTRIC COMPANY'S  
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 the Deposition Transcript and Deposition Exhibits of William B. McNulty filed in this proceeding on April 23, 2004 (the "Confidential Information"). 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.

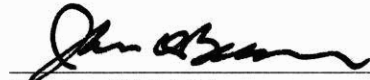
4. The material for which confidential classification is sought is intended to be and is treated by Tampa Electric as private and has not been disclosed.

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.

WHEREFORE, Tampa Electric respectfully requests that highlighted portions of the Confidential Information contained in the Deposition Transcript and Deposition Exhibits of William B. McNulty be accorded confidential classification for the reasons set forth above.

DATED this 14<sup>th</sup> day of May 2004.

Respectfully submitted,



LEE L. WILLIS  
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JOHN P. FONS  
RICHARD E. DORAN  
Ausley & McMullen  
Post Office Box 391  
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(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 14<sup>th</sup> day of May 2004 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

Ms. Vicki Gordon Kaufman  
Mr. Timothy J. Perry  
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Davidson, Kaufman & Arnold, P.A.  
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Post Office Box 271  
Tallahassee, FL 32302

  
\_\_\_\_\_  
ATTORNEY

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**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF CONFIDENTIAL  
INFORMATION CONTAINED IN THE DEPOSITION TRANSCRIPT  
AND DEPOSITION EXHIBITS OF WILLIAM B. MCNULTY (FILED APRIL 23, 2004)**

<b><u>Transcript Page No. &amp; Line No.</u></b>	<b><u>Description</u></b>	<b><u>Rationale</u></b>
Page 84, lines 14 and 15	The Yellow Highlighted Information	(1)
Page 85, lines, 1, 21 and 23	The Yellow Highlighted Information	(1)
Page 86, lines 13, 14, 15, 20, 21, 22, 23 and 25	The Yellow Highlighted Information	(1)
Page 87, lines 3, 15, 23 and 24	The Yellow Highlighted Information	(1)
Page 88, line 15	The Yellow Highlighted Information	(1)
Page 89, lines 8, 9 and 10	The Yellow Highlighted Information	(1)
Page 90, lines 2, 3 and 14	The Yellow Highlighted Information	(1)
Page 91, lines 4 and 5	The Yellow Highlighted Information	(1)
Page 93, line 1	The Yellow Highlighted Information	(1)
Page 96, lines 4, 5, 6, 7, 8, 11 and 22	The Yellow Highlighted Information	(1)
Page 97, lines 5, 6 and 8	The Yellow Highlighted Information	(1)
Page 98, lines 6, 7, 11 and 12	The Yellow Highlighted Information	(1)
Page 99, line 10	The Yellow Highlighted Information	(1)
Page 100, lines 6, 7, 8, 11 and 16	The Yellow Highlighted Information	(1)
Page 101, line 25	The Yellow Highlighted Information	(3)
Page 102, lines 4-5 and 9-17	The Yellow Highlighted Information	(4)
Page 103, line 1 and 25	The Yellow Highlighted Information	(2)
Page 103, lines 3-5 17 and 19	The Yellow Highlighted Information	(4)

Page 104, line 19	The Yellow Highlighted Information	(4)
Page 105, lines 3, 6 and 15	The Yellow Highlighted Information	(2)
Page 106, line 2	The Yellow Highlighted Information	(2)
Page 106, lines 13, 17 and 18	The Yellow Highlighted Information	(2)
Page 108, lines 2, 11, 19, 20, 21, 22 and 25	The Yellow Highlighted Information	(2)
Page 108, lines 9 and 10	The Yellow Highlighted Information	(2)
Page 110, lines 11 and 19	The Yellow Highlighted Information	(2)
Page 110, lines 24 and 25	The Yellow Highlighted Information	(5)
Page 111, lines 18, 20 and 22	The Yellow Highlighted Information	(2)
Page 113, line 3	The Yellow Highlighted Information	(2)
Page 113, line 5	The Yellow Highlighted Information	(2)
Page 113, lines 12, 18, 19, 20, 21, 22 and 23	The Yellow Highlighted Information	(5)
Page 113, lines 13 and 16	The Yellow Highlighted Information	(5)
Page 114, line 7	The Yellow Highlighted Information	(5)
Page 114, line 11	The Yellow Highlighted Information	(5)
Page 115, lines 9 and 10	The Yellow Highlighted Information	(2)
Page 116, lines 21, 22 and 25	The Yellow Highlighted Information	(2)
Page 117, lines 8-9	The Yellow Highlighted Information	(4)
Page 117, lines 19 and 21	The Yellow Highlighted Information	(2)
Page 128, line 21	The Yellow Highlighted Information	(1)
Page 142, line 18	The Yellow Highlighted Information	(2)
Page 147, lines 1, 3, 10, 13, 18, 19 and 21	The Yellow Highlighted Information	(2)

Page 148, lines 1, 4, 11, 12 and 17	The Yellow Highlighted Dollar Amounts	(2)
Page 148, line 9 and 17	The Yellow Highlighted Percentage	(2)
<b><u>Deposition Exhibits</u></b>		
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Deposition Exhibit 8	All Information on the Page	(1)
Deposition Exhibit 9	All Information on the Page	(1)
Deposition Exhibit 10	All Information on the Page	(1)
Deposition Exhibit 12 (Bates stamp pages 37 and 38)	All Information on the Page	(2), (5)

- (1) The information in question reveals the identity of bidders that submitted proposals in response to Tampa Electric's RFP. Disclosing bidders identifies and the information included in their confidential proposals would discourage those bidders from participation 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 this information would adversely affect the competitive interests of the bidders and the ability of Tampa Electric to contract for goods and services on favorable terms. The disclosure of this information would therefore be harmful to competitive interests, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.
- (2) The information in question contains bid information provided in response to Tampa Electric's RFP or information contained in prior proposals relating to coal transportation. Disclosing bidders' identities and the information included in their confidential proposals would discourage those bidders from participation in future RFPs as they do not desire to their competitors to have access to the terms and conditions under which they will bid on transportation services. This information, in conjunction with publicly disclosed information, would allow a competitor to back into the contract rates established for Tampa Electric's contract with TECO transport. As such public disclosure of the information in question would adversely affect the competitive interests of TECO

Transport and the bidders and the ability of Tampa Electric to contract for goods and services on favorable terms. The disclosure of this information would therefore be harmful to competitive interests, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.

- (3) This information discloses a specific and significant component of a bid proposal received by 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 waterborne transportation services. Consequently, the information in question is entitled to confidential treatment under Section 366.093(d) and (e), Florida Statutes.
- (4) The information is requested by CSXT's counsel to be treated confidentially as it relates either to CSXT's bid(s) or some other information for which CSXT claims the need for confidential treatment.
- (5) The information in question contains information about the contract terms and rates that were paid for transportation services under Tampa Electric's contracts with TECO Transport during the period 1998 through 2003 or that will be paid for transportation services under Tampa Electric's contract with TECO Transport that took effect January 1, 2004. This information is competitive contractual information, the disclosure of which would be harmful to the position of TECO Transport in negotiating future contracts with other clients. Disclosing this information would also harm Tampa Electric's position in determining rates for future transportation contracts since the providers bid responses might be influenced if they had knowledge of the previous or current contract rates. The disclosure of this information would therefore be harmful to TECO Transport's competitive interests and to the ability of Tampa Electric to contract for goods and services of favorable terms, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.



**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF CONFIDENTIAL  
INFORMATION CONTAINED IN THE DEPOSITION TRANSCRIPT  
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