

# AUSLEY & McMULLEN

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September 21, 2005

HAND DELIVERED

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: Fuel and Purchased Power Cost Recovery Clause with Generating  
Performance Incentive Factor; FPSC Docket No. 050001-EI

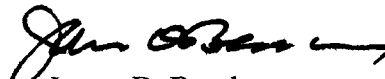
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Request for Confidential Classification and for a Protective Order of portions of its answers to Staff's Second Set of Interrogatories (Nos. 2-13) and First Request for Production of Documents (Nos. 1-2).

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

08961 SEP 21 05

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost Recovery )  
Clause with Generating Performance Incentive )  
Factor. )  
\_\_\_\_\_ )

DOCKET NO. 050001-EI  
FILED: September 21, 2005

**REQUEST FOR CONFIDENTIAL CLASSIFICATION**  
**AND FOR A PROTECTIVE ORDER**

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 answers to the Florida Public Service Commission Staff’s Second Set of Interrogatories (Nos. 2-13) and First Request for Production of Documents (Nos. 1-2). The confidential information in question appears on page 1 of 1 of the company’s answer to Interrogatory No. 2; page 1 of 1 of Interrogatory No. 6; page 1 of 1 of Interrogatory No. 9; page 1 of 1 of Interrogatory No. 13; pages 2 of 3 and 3 of 3 of Production of Document No. 1; and pages 2 of 4, 3 of 4 and 4 of 4 of Production of Documents No. 2, (referred to as the “Confidential Information”). A single yellow highlighted copy of the Confidential Information was filed with a Notice of Intent to Seek Confidential Classification and Motion for Temporary Protective Order on September 2, 2005 in the above proceeding. This request is also intended to serve as a request for a protective order, within the contemplation of Rule 25-22.006(6)(b), Florida Administrative Code, such that it will protect the Confidential Information from public disclosure while in the possession of the Office of Public Counsel. 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)

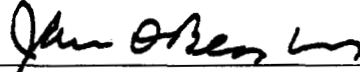
3. The Confidential Information falls within the above statutory categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093 and Rule 25-22.006.

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.

WHEREFORE, Tampa Electric respectfully requests that the highlighted Confidential Information set forth in its Answers to Staff’s Second Set of Interrogatories (Nos. 2-13) and First Production of Documents (Nos. 1-2) be accorded confidential classification for the reasons set forth above.

DATED this 21<sup>st</sup> day of September 2005.

Respectfully submitted,



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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 21<sup>st</sup> day of September 2005 to the following:

Ms. Adrienne E. Vining\*  
Senior Attorney  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
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Florida Power & Light Company  
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Secretary and Treasurer  
Gulf Power Company  
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Mr. Russell A. Badders  
Beggs & Lane  
Post Office Box 12950  
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Mr. Jon C. Moyle, Jr.  
Moyle, Flanigan, Katz, Raymond &  
Sheehan, P.A.  
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Tallahassee, FL 32301

Mr. Robert Scheffel Wright  
Mr. John T. LaVia, III  
Landers & Parsons, P.A.  
310 West College Avenue  
Tallahassee, FL 32301

Mr. Mark Hoffman  
Legal Department  
CSX Transportation  
500 Water Street, 14<sup>th</sup> Floor  
Jacksonville, FL 32202

  
\_\_\_\_\_  
ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED  
PORTIONS OF TAMPA ELECTRIC'S RESPONSES TO STAFF'S SECOND  
SET OF INTERROGATORIES (NOS. 2-13) AND FIRST REQUEST  
FOR PRODUCTION OF DOCUMENTS (NOS. 1-2) (FILED SEPTEMBER 2, 2005)**

<b><u>Bates Stamp Page No.</u></b>	<b><u>Interrogatory No.</u></b>	<b><u>Detailed Description</u></b>	<b><u>Rationale</u></b>
1	2 (Page 1 of 1)	All Highlighted Dollar Amounts	(1)
5	6 (Page 1 of 1)	All Highlighted Dollar Amounts	(1)
8	9 (Page 1 of 1)	The Highlighted Dollar Amount	(1)
12	13 (Page 1 of 1)	All Highlighted Dollar Amounts	(1)

<b><u>Bates Stamp Page No.</u></b>	<b><u>POD No.</u></b>	<b><u>Detailed Description</u></b>	<b><u>Rationale</u></b>
2	1 (Page 2 of 3)	All Highlighted Dollar Amounts	(1)
3	1 (Page 3 of 3)	All Highlighted Columns	(1)
5	2 (Page 2 of 4)	All Highlighted Dollar Amounts	(1)
6	2 (Page 3 of 4)	All Highlighted Dollar Amounts	(1)
7	2 (Page 4 of 4)	All Highlighted Dollar Amounts	(1)

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- (1) The information in question consists of coal and/or coal transportation prices contained in bids presented to Tampa Electric, or information that can be used in conjunction with other publicly available data to derive or "back into" confidential coal and/or coal transportation pricing. All of the information in each of the highlighted columns is proprietary confidential business information as defined in Section 366.093(d), Florida Statutes, in that it is:

(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.

This includes the prices shown for coal and segmented coal transportation services, along with other details of information included in the evaluated bids. Public disclosure of this

information would adversely affect Tampa Electric's ability to contract for goods and services on favorable terms. Disclosing private bid prices would adversely affect Tampa Electric's ability to secure the lowest possible bid prices in future coal procurement efforts. The Commission for many years has recognized that details concerning coal and coal transportation pricing are entitled to confidential protection to insure that the economic interests of Tampa Electric, its affiliated providers of coal and coal transportation services and the customers ultimately served by Tampa Electric are not adversely affected. See, e.g., Order No. PSC-05-0882-CFO-EI entered on August 31, 2005 in Docket No. 050001-EI.