

ORIGINAL

RECEIVED-FPSC

STATE OF FLORIDA

COMMISSIONERS:
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DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)
OCT 18 AM 10:54
COMMISSION CLERK

Public Service Commission

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

DATE: October 5, 2005

TO: _____ OFFICE OF THE GENERAL COUNSEL
_____ DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
XX _____ DIVISION OF ECONOMIC REGULATION
_____ DIVISION OF REGULATORY COMPLIANCE
& CONSUMER ASSISTANCE

FROM: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

CMP _____
COM _____ RE: CONFIDENTIALITY OF CERTAIN INFORMATION

CTR _____ DOCUMENT NO(s): 06645-04, 06646-04, 06652-04, and 06654-04

ECR _____ DESCRIPTION: Hearing Exhibit No. 69 (DN 06645-04)

GCL _____ Hearing Exhibit No. 70 (DN 06646-04)

OPC _____ Hearing Exhibit No. 84 (DN 06652-04)

RCA _____ Hearing Exhibit No. 89 (DN 06654-04)

SCR _____

SGA _____ SOURCE: Tampa Electric Company

SEC 1

OTH Locked DOCKET NO(S): 031033-EI

The above material was received with a 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.

DOCUMENT NUMBER-DATE

10071 OCT 18 05

FPSC-COMMISSION CLERK

Please read each of the following and check if applicable.

- 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: Bernard Nindham

Date: 10-14-05

cc: GCL FLL
 CMP CCA
 ECR RCA
 MMS

PSC/CCA 15 (Rev 05/04)

* with the exception that item 70 is not Confidential
Per Company statement in this request.

ORIGINAL
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 4, 2005

HAND DELIVERED

05000

RECEIVED FPSC
05 OCT -4 PM 2:59
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 portions of hearing Exhibit Nos.
69, 70, 84 and 89. — 06654-04
06652-04
06645-04 06646-04
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
James D. Beasley

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL JDB/pp
- JPC _____
- ICA cc: _____
- CR _____
- 3A _____
- C _____
- 4 Lockard _____

All Parties of Record (w/enc.)

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

05 OCT -5 PM 4:11
REGISTRATION

DOCUMENT

ORIGINAL

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: October 4, 2005
_____)	

**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, files this its request for confidential classification of certain information, and says:

1. During the course of the hearing conducted in the above proceeding, certain parties introduced into evidence documents provided by Tampa Electric through discovery on a confidential basis pursuant to confidentiality agreements or other requests for temporary protection from public disclosure. They included the following hearing exhibits.

<u>Exhibit No.</u>	<u>Document Description</u>
69	Letter dated September 25, 2003 regarding right to exercise option under the Transportation Storage and Transfer Agreement between Tampa Electric Company and TECO Transport Corporation, dated June 30, 1998. (TECO's response to CSXT's Seventh Request for Production of Documents.); FPSC Document No. 06645-04
70	Barge loading logs. (TECO's response to OPC's 4 th Request for Production of Documents.); FPSC Document No. 06646-04
84	TECO Fuels Department Prices for the Third Quarter 2003. (TECO's response to OPC's 4 th Request for Production of Documents.); FPSC Document No. 06652-04
89	January 1, 1999 Coal Contract between Tampa Electric Company and The American Coal Company. (TECO's response to CSXT's 2 nd Request for Production of Documents.); FPSC Document No. 06654-04

DOCUMENT NUMBER-DATE

09443 OCT-4 05

FPSC-COMMISSIONER'S OFFICE

2. Tampa Electric no longer requires confidential treatment of Exhibit 70, but remains in need of confidential protection of portions of Exhibits 69, 84 and 89 (“the Confidential Information”).

3. 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)

4. 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)

5. Attached hereto as Exhibit “A” is a justification for designating the Confidential Information proprietary confidential business information under the above-referenced statute and rule.

6. 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.

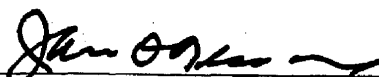
7. The material for which confidential classification is sought is intended to be and is treated by Tampa Electric as private and has not been disclosed.

8. 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 the Confidential Information set forth in Exhibits 69, 84 and 89 be accorded confidential classification for the reasons set forth above, as detailed in Exhibit "A."

DATED this 4th day of October 2005.

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 copy of the foregoing Request for Specified Confidential Classification, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (*) on this 4th day of October 2005 to the following:

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

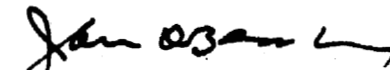
Mr. Timothy J. Perry
McWhirter, Reeves, McGlothlin,
Davidson, Kaufman & Arnold, P.A.
117 S. Gadsden Street
Tallahassee, FL 32301

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street – Suite 812
Tallahassee, FL 32399-1400

Mr. John W. McWhirter, Jr.
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Mr. Michael B. Twomey
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Tallahassee, FL 32314-5256

Mr. Robert Scheffel Wright
Mr. John T. LaVia, III
Landers & Parsons, P.A.
Post Office Box 271
Tallahassee, FL 32302



ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED
PORTIONS OF TAMPA ELECTRIC'S EXHIBITS TO DOCKET NO. 031033-EI**

<u>Bates Stamp Page No.</u>	<u>Exhibit No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
21	69	All of the Information on the Listed Page	(2)
207-229	89	All of the Information on the Listed Page	(1)
818 - 819	84	All of the Information on the Listed Pages	(1), (2)
817	84	All of the Information on the Listed Pages	(1), (2), (3)

-
- (1) The information contained on the listed pages reveals the identity of bidders that submitted proposals in response to Tampa Electric's RFP. 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 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 contained on these pages 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 contained on the listed pages 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 on favorable terms, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.
 - (3) The information discloses Tampa Electric Company's commodity contract rates and transportation rates, by contract on a projected basis going out a number of years into the future. Public disclosure of this information would provide in minute detail the company's projected rates for all of the detail components of the company's projected

fuel and fuel transportation costs. As such, this information is entitled to confidential protection pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. These types of rates on a commodity and segmented transportation basis have been recognized by the Commission on numerous occasions to constitute proprietary confidential business information the disclosure of which would be harmful to Tampa Electric's ability to contract for goods and services on favorable terms and, likewise, harmful to the competitive interests of Tampa Electric and its affiliate, TECO Transport Corporation. This is the specific type of information described in Section 366.093(3)(d) and (e) as being entitled to confidential protection and exemption from the Public Records Law.