

State of Florida

ORIGINAL



Public Service Commission

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

RECEIVED-FPSC  
OCT 28 AM 11:25  
COMMISSION  
CLERK

**DATE:** October 27, 2003  
**TO:** Cochran Keating  
**FROM:** Roland Floyd *RF*  
**RE:** Recommendation on Request for Confidential Classification – Document No. 09566-03

On October 23, 2003, Tampa Electric Company requested confidential classification of information contained in the direct testimony and exhibits of Florida Industrial Power Users Group's witnesses Sheree L. Brown and information contained in the direct testimony and exhibits of Office of Public Counsel's witnesses Majoros and Zaetz. 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 1
- OTH *Request*

DOCUMENT NUMBER-DATE  
10646 OCT 28 03  
FPSC-COMMISSION CLERK

STATE OF FLORIDA

COMMISSIONERS:  
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J. TERRY DEASON  
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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): 09566-03

DESCRIPTION: FIPUG/Kaufman - (Confidential) Direct testimony and Exhibit Nos. SLB-1 through SLB-8 of Sheree L. Brown  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 11:11:16  
RECEIVED  
GENERAL COUNSEL

Please read each of the following and check if applicable.

PAGE 2

- 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: Roland Floyd

Date: 10/27/03

cc:  GCL       EXT  
 CMP       CCA  
 ECR       AUS  
 MMS

PSC/CCA 15 (Rev 11/02)

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Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

# 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 information contained in the direct testimony and exhibits of Florida Industrial Power Users Group's witness Sheree L. Brown and information contained in the direct testimony and exhibits of Office of Public Counsel's witnesses Michael J. Majoros, Jr. and William M. Zaetz.

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

10478 OCT 23 8

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 direct testimony and exhibits of Florida Industrial Power Users Group (“FIPUG’s”) witness Sheree L. Brown and Office of Public Counsel (“OPC’s”) witnesses Michael J. Majoros, Jr. and William M. Zaetz (the “Confidential Information”). A single highlighted confidential version of that direct testimony and exhibits was filed under a Notice of Intent to Seek Confidential Classification by counsel for FIPUG on October 2, 2003 and by OPC on October 2, 2003. 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.

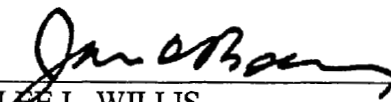
5. The request for confidential classification is intended to serve as Tampa Electric's motion for a protective order pursuant to Rule 25-22.006(6), Florida Administrative Code.

6. Tampa Electric has concluded that certain of the information highlighted in Ms. Brown's direct testimony and exhibits need not be treated confidentially. The company will indicate in Exhibit "A" those portions which it believes do not need confidential treatment.

WHEREFORE, Tampa Electric respectfully requests that certain of the highlighted information contained in the direct testimony and exhibits of FIPUG's witness, Sheree L. Brown, and OPC's witnesses Michael Majoros and William Zaetz be accorded confidential classification for the reasons set forth above and in Exhibit "A" to this request.

DATED this 23<sup>rd</sup> 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 23 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

Mr. James A. McGee  
Associate General Counsel  
Progress Energy Florida, Inc.  
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St. Petersburg, FL 33733

Ms. Vicki Gordon Kaufman  
McWhirter, Reeves, McGlothlin,  
Davidson, Kaufman & Arnold, P.A.  
117 S. Gadsden Street  
Tallahassee, FL 32301

Mr. Robert Vandiver  
Associate Public Counsel  
Office of Public Counsel  
111 West Madison Street – Suite 812  
Tallahassee, FL 32399-1400

Mr. Norman Horton  
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Post Office Box 1876  
Tallahassee, FL 32302

Mr. Ronald C. LaFace  
Mr. Seann M. Frazier  
Greenberg Traurig, P.A.  
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Tallahassee, FL 32302

Mr. John T. Butler  
Steel Hector & Davis LLP  
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Mr. William Walker  
Florida Power & Light Company  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301-1859

Mr. R. Wade Litchfield  
Florida Power & Light Company  
700 Universe Blvd.  
Juno Beach, FL 33408

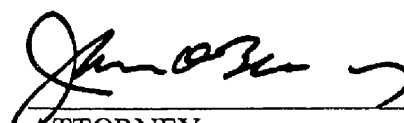
Mr. John W. McWhirter, Jr.  
McWhirter, Reeves, McGlothlin,  
Davidson, Kaufman & Arnold, P.A.  
400 North Tampa Street, Suite 2450  
Tampa, FL 33601-5126

Ms. Susan Ritenour  
Gulf Power Company  
One Energy Place  
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 CERTAIN  
INFORMATION CONTAINED IN THE PREPARED DIRECT TESTIMONY  
AND EXHIBITS OF FIPUG'S WITNESS SHEREE L. BROWN AND  
TESTIMONY AND EXHIBITS OF OPC'S WITNESSES  
MICHAEL MAJOROS AND WILLIAM ZAETZ**

**Testimony of FIPUG Witness Sheree Brown**

<b><u>Testimony/Exhibit Page No.</u></b>	<b><u>Description</u></b>	<b><u>Rationale</u></b>
Testimony, page 16, lines 12-18	2003 and 2004 O&M budget amounts	(1)
Testimony, page 16, line 21	Scenario descriptions	(2)
Testimony, pages 1-6	Scenario descriptions	(2)
Testimony, page 17, lines 7-8 and 16-17	2003 O&M budget amount	(3)
Testimony, page 18, lines 11-12 and 14-18	Dollar amounts shown on lines 11, 12, 15, 17, and 18	(1)
Testimony, page 19, line 1 Testimony, page 24, line 12 Testimony, page 25, line 17	\$63.7 million dollar total period O&M savings calculated by Sheree Brown	(2)
Testimony, page 19, lines 2 and 12	O&M savings amounts calculated by Sheree Brown That, if disclosed, would allow A person to back into the Tampa Electric O&M budget amounts	(1)
Testimony, page 19, line 13 Testimony, page 24, line 13	Tampa Electric O&M budget amounts	(1)
Testimony, page 19, lines 16-19 Testimony, page 20, lines 8-9	The dollar amounts	(1)
Testimony, page 20, line 10	Dollar amount of calculated fuel cost impact	(2)
Testimony, page 26, line 0	(Table)	(2)



**Testimony and Exhibit of OPC Witness Michael Majoros**

Testimony, page 8, line 4	Tampa Electric O&M budget target amount	(1)
Testimony, page 12, lines 4-5, 7 and 9-10	Fuel clause and O&M projected impact amounts	(1)
Testimony exhibit, MJM-2, Page 1 of 1	Bates stamped page 1186	(1)
Testimony exhibit, MJM-5, Page 1 of 1	Bates stamped page 1187	(4)

**Testimony of OPC Witness William Zaetz**

Testimony, page 10, lines 6-10		(5)
Testimony exhibit WMZ-1, Pages 1-45 of 45	Bates stamped pages 1,815-1,859	(6)

- 
- (1) This information consists of 2003 and 2004 O&M budget amounts. Only the dollar amounts shown on lines 13 and 14 are confidential. Such amounts are confidential because they reveal details of the very recent daily operation of Tampa Electric's business and its strategic planning. Disclosure of this information could impact agreements or contract negotiations that Tampa Electric attempts to enter into in the future. An example of how this could negatively impact the company is that of contractors viewing the budgeted amounts for a particular project or station and, because they are now aware of the funds Tampa Electric allocated for that particular project, bidding higher than they would have without that knowledge. This would increase Tampa Electric's overall cost. As such, the information is entitled to confidential treatment under Section 366.093(3)(d) and (e), Florida Statutes.
  - (2) Does not need confidential treatment.
  - (3) This information is the 2003 O&M budget amount; fuel clause and O&M projected impact amounts for Scenario 5, all from Tampa Electric's planning documents. These dollar amounts are confidential for the same reason described in Rationale No. (1) above.
  - (4) This information shows projected clause and operating income impact amounts. As such, it is entitled to confidential protection for the same reasons set forth in Rationale No. (1).

- (5) This information discloses Tampa Electric Company's capital investment information which is confidential for the same reasons that the O&M budget is confidential. As such, this information is entitled to confidential protection for the same reasons as stated in Rationale No. (1).
  
- (6) This document is a recently prepared strategic document which outlines Tampa Electric's strategies and plans for operating Gannon Station. The information contained in that document is transferable in most respects to the operation and maintenance of another Tampa Electric coal-fired station. For this reason it should continue to be protected even though Gannon Station will cease to operate soon. In addition, the document contains sensitive budget information, which is confidential for the reason set forth in Rationale No. (1).

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