

State of Florida



ORIGINAL

Public Service Commission

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

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OCT 30 PM 3:39  
COMMISSION  
CLERK

**DATE:** October 30, 2003  
**TO:** Cochran Keating  
**FROM:** Roland Floyd *RF*  
**RE:** Recommendation on Request for Confidential Classification - Document No. 09011-03

On October 10, 2003, Tampa Electric Company requested confidential classification of certain information contained in portions of its responses to Third Request for Production of Documents (Nos. 13 and 14) of the Florida Public Service Commission Staff. Staff agrees with the request for confidential classification 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 *Marguente*

DOCUMENT NUMBER-DATE  
10765 OCT 30 8  
FPSC-COMMISSION CLERK

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)

**Public Service Commission**

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

DATE: October 10, 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): 09011-03

DESCRIPTION: TECO/Beasley - (Confidential) Portions of answers to staff's 3rd request for production of DNs (Nos. 13 & 14)

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SOURCE: Tampa Electric Company

DOCKET NO(S): 030001-EI

The above material was received with 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.

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: Robert Floyd

Date: 10/30/03

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 10, 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

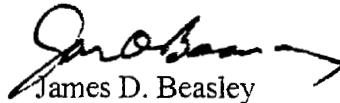
Dear Ms. Bayo:

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 Response to Staff's Third Request for Production of Documents (Nos. 13 and 14).

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

09910 OCT 10 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 10, 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 Third Request for Production of Documents (Nos. 13 and 14) of the Florida Public Service Commission Staff (the "Confidential Information"). A single copy of the above production answers is being filed under a separate transmittal letter marked "Confidential" with the confidential information highlighted in yellow. The Confidential Information is all contained in Tampa Electric's response to Production of Document No. 13. 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 the highlighted Confidential Information set forth in its Responses to Third Request for Production of Documents (Nos. 13-14) of the Florida Public Service Commission Staff be accorded confidential classification for the reasons set forth above.

DATED this 10<sup>th</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 10<sup>th</sup> 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.  
Post Office Box 14042  
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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

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Tallahassee, FL 32302

Mr. Ronald C. LaFace  
Mr. Seann M. Frazier  
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Tallahassee, FL 32302

Mr. John T. Butler  
Steel Hector & Davis LLP  
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Miami, FL 33131-2398

Mr. William Walker  
Florida Power & Light Company  
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Juno Beach, FL 33408

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McWhirter, Reeves, McGlothlin,  
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Tampa, FL 33601-5126

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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  
P.O. Box 1842  
Knoxville, TN 37901

  
\_\_\_\_\_  
ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT  
OF BATE STAMPED PAGES 35 THROUGH 198 OF TAMPA ELECTRIC  
COMPANY'S RESPONSE TO STAFF'S PRODUCTION OF DOCUMENT (NO. 13)**

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 No. 13.

<u>Bates Stamp Page No.</u>	<u>Justification</u>
35	(1)
36	(2)
37	(3)
38-40	(4)
41-45	(5)
46-53	(6)
54-61	(7)
62	(8)
63-64	(9)
65-67	(10)
68-123	(11)
124-198	(12)

- 
- (1) The information contained on this page is an e-mail containing the proprietary work product of Tampa Electric's consultant, Dibner Marine Associates or "DMA". The disclosure of this information could allow duplication of the consultant's work without compensation for the consultant's efforts to gather and update the information and develop methods of analysis. This information is in nature of a trade secret owned by DMA. It is also in the nature of information relating to competitive interests, the disclosure of which would impair DMA's competitive business interests by diminishing the demand for DMA's proprietary work product. As such, the information in question is entitled to confidential treatment pursuant to Section 366.093(3)(a) and (e), Florida Statutes.



- (2) This page discloses expected monthly coal and petcoke use by contract or fuel type. Disclosure of this information could harm Tampa Electric's position in negotiating additional fuel purchases during 2004 and beyond. As such, this information concerns contractual data the disclosure of which would impair the efforts of Tampa Electric to contract for goods in the future. For this reason it is entitled to confidential protection under Section 366.093(3)(d), Florida Statutes.
- (3) The information on Bates stamp page 37 shows the rates of Tampa Electric's transportation contract with TECO Transport. It also reveals bidders identity and information included in their confidential proposals. 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. 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 Bates stamp page 37 would adversely affect the competitive interests of TECO Transport and the ability of Tampa Electric to contract for goods and services on favorable terms. Consequently, the information in question is entitled to confidential protection under Section 366.093(d) and (e), Florida Statutes.
- (4) These pages present a summary of coal commodity contract rates and transportation contract rates currently in effect for Tampa Electric. Disclosure of the commodity contract information will adversely affect Tampa Electric in future negotiations for coal purchases. Similarly disclosing the transportation rates of Tampa Electric's contract with TECO Transport will damage that company's competitive position in the waterborne transportation markets. As such, the information in question is entitled to protection under Section 366.093(d) and (e), Florida Statutes.
- (5) These pages set forth evaluation of bidders proposals and reveal Tampa Electric's coal commodity pricing, transportation rates under its current contract with TECO Transport as well as bidders identities and information on their proposals to Tampa Electric. As such, the information on pages 41-45 are entitled to confidential protection for the same reasons set forth above with respect to page 37 and pages 38-40.
- (6) These pages disclose TECO Transport's monthly delivery schedule to Tampa Electric and position reports – by vessel. Public disclosure of this information would adversely affect TECO Transport's competitive position in the waterborne transportation markets by allowing Transport's competitors to profile the capacity, availability and non-availability of the various individual vessels in Transport's fleet. As such, the information in question is entitled to confidential protection pursuant to Section 366.093(d) and (e), Florida Statutes.
- (7) These pages consist of a Tampa Electric memo and calculated contract adjustments under the existing TECO Transport contract with Tampa Electric. These pages reveal detailed

contract rate information and, therefore, are entitled to confidential protection for the same reasons stated above with respect to pages 37 and 38-40.

- (8) This page reveals expected locations from which Tampa Electric would take coal deliveries on the river system. Disclosure of this information would adversely affect Tampa Electric's position in future coal supply negotiations as well as TECO Transport's competitive position for negotiating contracts for transportation for other clients. As such, the information in question is entitled to confidential treatment under Section 366.093(3)(d) and (e), Florida Statutes.
- (9) These pages contain notes from a meeting with Tampa Electric's consultant DMA, that described the consultant's work product, the data selected for review and DMA's analytical methods. As such, this information is entitled to confidential treatment for the same reasons stated above with respect to Bates stamp page 35.
- (10) These pages present a summary of the bidders' proposals and proposal evaluation materials. This discloses detailed bidders information contrary to the competitive interests of those bidders and contrary to Tampa Electric's ability to solicit bids from those bidders in future RFP solicitation. This would adversely affect the competitive interests of the bidder as well as Tampa Electric's ability to contract for goods and services on favorable terms in the future. As such, the information is entitled to confidential treatment under Section 366.093(3)(d) and (e), Florida Statutes.
- (11) These pages consist of reports Tampa Electric has purchased from Dunn & Bradstreet ("D&B"). These reports were provided to Tampa Electric under contract with D&B and for Tampa Electric's exclusive use. The information in question cannot be disclosed without appropriate compensation to D&B. In addition, these pages reveal the identity of bidders which could adversely affect Tampa Electric's ability to contract for goods and services in future solicitations. The D&B work product and the identity of the bidders are entitled to confidential treatment pursuant to Section 366.093(3)(d) and (e), Florida Statutes.
- (12) These pages contain the work product of Tampa Electric consultants, 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 included in that bidder's proposal. As such, the information in question is entitled to confidential treatment for the same reasons set forth above with Bates stamp pages 35 and 65-67.