

State of Florida

ORIGINAL



Public Service Commission

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

RECEIVED FPSC
OCT 30 PM 3:39
COMMISSION
CLERK

DATE: October 30, 2003
TO: Cochran Keating
FROM: Roland Floyd *RJ*
RE: Recommendation on Request for Confidential Classification - Document No. 09800-03

On October 8, 2003, Tampa Electric Company requested confidential classification of certain of its answers to Fifth Request for Production of Documents (Nos. 18-27) 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 _____
- DTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC _____
- DTH *Marguente*

DOCUMENT NUMBER DATE
10766 OCT 30 8
FPSC-COMMISSION CLERK

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



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 9, 2003

TO: OFFICE OF THE GENERAL COUNSEL
DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
X 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): 09800-03

DESCRIPTION: TECO/Beasley - (Confidential) Response to No. 22 in staff's 5th request for production of documents.

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.

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: Richard F. [Signature]

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 8, 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-E1

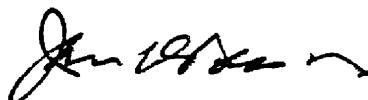
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and ten (10) copies of Tampa
Electric Company's Request for Confidential Classification.

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
09799 OCT-8 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 8, 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 certain of its Answers to Fifth Request for Production of Documents (Nos.18-27) of the Florida Public Service Commission Staff (the "Confidential Information"). The Confidential Information consists of Tampa Electric's response to Document Request No. 22, a single copy which is being filed under a separate transmittal letter marked "Confidential" with the confidential information highlighted in yellow. 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.

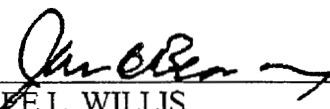
4. The material for which confidential classification is sought is intended to be and is treated by Tampa Electric as private and has not been disclosed.

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 Answers to Staff's Fifth Request for Production of Documents (Nos. 18-28) be accorded confidential classification for the reasons set forth above.

DATED this 8th 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 8th 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
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
Messer Caparello & Self
Post Office Box 1876
Tallahassee, FL 32302

Mr. Ronald C. LaFace
Mr. Seann M. Frazier
Greenberg Traurig, P.A.
Post Office Drawer 1838
Tallahassee, FL 32302

Mr. John T. Butler
Steel Hector & Davis LLP
200 South Biscayne Boulevard, Suite 4000
Miami, FL 33131-2398

Mr. William Walker
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1859

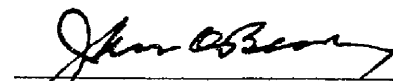
Mr. R. Wade Litchfield
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408

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
P.O. Box 1842
Knoxville, TN 37901



ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT
OF HIGHLIGHTED PORTIONS OF ANSWERS TO
FIFTH REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 18-27)
OF THE FLORIDA PUBLIC SERVICE COMMISSION STAFF**

Of Tampa Electric Company's answers to Fifth Request for Production of Documents Nos. 18-27 of the Florida Public Service Commission Staff, only the answer to Production Request No. 22 contains confidential information as follows:

<u>Production Request.</u>	<u>Page</u>	<u>Detail</u>	<u>Rationale</u>
22	Bates Stamp Page 20-56	All of the Information	(1)

-
- (1) The information discloses in great detail 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 Transfer 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.