

State of Florida



ORIGINAL

Public Service Commission

-M-E-M-O-R-A-N-D-U-M- RECEIVED-FPSC NOV 12 AM 10:37

COMMISSION CLERK

DATE: November 10, 2003
TO: Cochran Keating
FROM: Roland Floyd
RE: Recommendation on Request for Confidential Classification - Document No. 10488-03

On November 7, 2003, Tampa Electric Company requested confidential classification of certain information contained in the Direct Testimony and Exhibit (WBM-1) of William B. McNulty. Staff agrees with the request for the reasons stated in the justification provided in Exhibit A of the request.

Attachment

cc: Kay Flynn/Records and Hearing Services
Harold McLean/General Counsel

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DOCUMENT NUMBER-DATE

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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: November 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): 10488-03

DESCRIPTION: GCL/C. Keating - (Confidential) Supplemental direct testimony of William B. McNulty with attached Exhibits WBM-1, WBM-2, and WBM-3. [See DN 10026-03]

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: Roland Flanagan

Date: 11/10/03

cc: GCL EXT
 CMP CCA
 ECR AUS
 MMS

PSC/CCA 15 (Rev 11/02)

AUSLEY & MCMULLEN

ATTORNEYS AND COUNSELORS AT LAW

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TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

November 7, 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 certain information contained in the Direct Testimony and Exhibit (WBM-1) of William B. McNulty.

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

11141 NOV-7 3

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: November 7, 2003
_____)

**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, hereby requests confidential classification of certain highlighted information contained in the Direct Testimony of William B. McNulty filed in this proceeding on October 23, 2003 and highlighted portions of the Exhibit (WBM-1) which accompanied that testimony (the "Confidential Information"). The Commission's Staff filed the above testimony and exhibit under a separate transmittal memorandum 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 highlighted portions of the Confidential Information contained in the Direct Testimony of William B. McNulty and the accompanying Exhibit (WBM-1) be accorded confidential classification for the reasons set forth above.

DATED this 7th day of November 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 2th day of November 2003 to the following:

Mr. Wm. Cochran Keating, IV*
Senior Attorney
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Florida Public Service Commission
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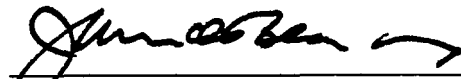
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Tallahassee, FL 32302



ATTORNEY

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**JUSTIFICATION FOR CONFIDENTIAL TREATMENT
OF CONFIDENTIAL INFORMATION CONTAINED IN THE
PREPARED DIRECT TESTIMONY OF WILLIAM B. MCNULTY
AND ACCOMPANYING EXHIBIT (WBM-1)**

<u>Testimony Page & Line No.</u>	<u>Description</u>	<u>Rationale</u>
Page 5, lines 3 and 8	The highlighted reference to the proposed bidder	(1)
Page 12, lines 13, 16, 21, 22, 23 and 24	The highlighted reference to the proposed bidder	(1)
Page 13, lines 2, 4, 6, 7 and 12	The highlighted reference to the proposed bidder	(1)
Page 14, lines 8, 10, 14, 20, 21 and 23	The highlighted reference to the proposed bidder	(1)
Page 15, lines 1, 3 and 6	The highlighted reference to the proposed bidder	(1)
Page 5, lines 5, 6 and 7	The highlighted dollar amounts	(2)
Page 13, line 25	The highlighted percentage	(3)
Page 14, line 12	The highlighted amount	(4)
Page 14, line 24	The highlighted dollar amount	(4)
Page 15, lines 3 and 4	The highlighted dollar amount	(2) and (4)
Page 16, line 12, 13 and 14	The highlighted percentage amount and the dollar amounts	(5)
<u>Exhibit (WBM-1) – Page 1 of 1</u>		
Columns (D), (E), (F), (G), (H), (I) and (J)	All highlighted values	(2) and (4)
	The dollar amount shown in Footnote (1)	(4)
<u>Exhibit (WBM-3) – Page 1 of 1</u>		
Columns (B), (D), (F) and (H)	All highlighted values	(5)

-
- (1) This information discloses the identity of coal transportation contract bidders. 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 would discourage those bidders from participation in future RFPs as they do not desire for their competitors to have knowledge as to the contracts they bid on. Consequently, public disclosure of the information in question would adversely affect the competitive interests of TECO Transport and the ability of Tampa Electric to contract for goods and services on favorable terms. As such, the information in question is entitled to confidential protection under Section 366.093(d) and (e), Florida Statutes.
 - (2) The values in question disclose or would enable someone to use this information with other publicly available information to ascertain the transportation contract rate under the 2004 – 2008 Tampa Electric/TECO Transport contract. Public disclosure of this information would harm the competitive interests of Tampa Electric and TECO Transport. Public disclosure of existing contractual data would adversely affect the competitive and contractual positions of the parties to the agreement. As such, the information in question is entitled to confidential protection under Section 366.093(d) and (e), Florida Statutes.
 - (3) This shows the witness's calculation of the extent to which Tampa Electric's coal requirements for 2005 have not been locked up by Tampa Electric as of October 3, 2003. This discloses the extent to which the company may or may not have flexibility to purchase additional coal which provides suppliers valuable information when negotiating to meet Tampa Electric's future coal requirements. Disclosure of this information would adversely affect Tampa Electric's position in future coal supply contract negotiations. As such, the information in question is entitled to confidential treatment under Section 366.093(d) and (e), Florida Statutes.
 - (4) This information discloses a specific and significant component of a bid proposal received by TECO Transport. 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. Consequently, the information in question is entitled to confidential treatment under Section 366.093(d) and (e), Florida Statutes.
 - (5) The values in question would enable one to determine the negotiated price Tampa Electric has been paying and continues to pay for coal transportation services under contract with its affiliate, TECO Transport. Public disclosure of this information would adversely affect Tampa Electric and TECO Transport in that it would disclose confidential contractual terms and conditions. This would adversely affect both companies in future contract negotiations. Accordingly, the information is entitled to confidential treatment under Section 366.093(3)(d) and (e), Florida Statutes.