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January 2, 2004

HAND DELIVERED

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 Objection and Motion for Protective Order with Respect to CSXT Transportation's First Request for Production of Documents (Nos. 1 and 2) to Tampa Electric Company.

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
Enclosures

cc: All Parties of Record (w/encls.)

DOCUMENT NUMBER-DA

00011 JAN-2 8

FPSC-COMMISSION CLEF

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: January 2, 2004
_____)

**TAMPA ELECTRIC COMPANY'S OBJECTION
AND MOTION FOR PROTECTIVE ORDER
WITH RESPECT TO CSXT TRANSPORTATION'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
(NOS. 1 AND 2) TO TAMPA ELECTRIC COMPANY**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Rule 28-106.206, Florida Administrative Code, Rule 1.280 and 1.350, Florida Rules of Civil Procedure, and Order No. PSC-03-1398-PCO-EI issued in this proceeding on December 11, 2003, files this its objections to the First Request for Production of Documents (Nos. 1-2) filed in this proceeding and served on Tampa Electric by CSXT on December 24, 2003, and says:

1. CSXT has not been granted intervention in this proceeding and is, therefore, not a party qualified to seek discovery in this proceeding. CSXT should not be authorized to intervene for the reasons set forth in Tampa Electric Company's December 22, 2003 Response in Opposition to CSXT's Petition to Intervene.

2. Even if CSXT were a party to this proceeding, it should not be provided access to certain competitive information that would harm the interests of Tampa Electric and its coal transportation affiliate. CSXT's POD Requests Nos. 1 and 2 ask for all of the documents Tampa Electric will produce in response to the first requests for production of documents filed by Office of Public Counsel and the Florida Industrial Power Users Group. Many of the subject documents contain highly proprietary confidential business information concerning competitive coal

transportation services, bids and other related contractual data. CSXT competes directly with TECO Transport in the bulk commodities transportation industry. Disclosure of information to CSXT relating to bids and other contractual data associated with the transportation of coal for Tampa Electric would afford CSXT a competitive advantage and cause Tampa Electric's coal transportation affiliate and other transportation suppliers a competitive disadvantage in the provision of coal transportation for Tampa Electric. This would have an ultimate detrimental effect on Tampa Electric and its general body of customers.

3. Section 366.093, Florida Statutes, expressly defines proprietary confidential business information to include, but not to be limited to, trade secrets and 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. That statutory definition also includes information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Much of the information requested to be produced by FIPUG and OPC and, therefore, encompassed by CSXT's requests for production of documents fits squarely within the statutory definition of proprietary confidential information. If furnished, the proprietary confidential business information in question would be made available to CSXT, a direct competitor, who could use that information to the competitive disadvantage of TECO Transport and other competitors in providing bulk commodity transportation services and Tampa Electric in securing coal transportation services.

4. Rule 1.280(c), Florida Rules of Civil Procedure, authorizes the entry of a protective order to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense that justice requires, including a remedy that discovery not be had.

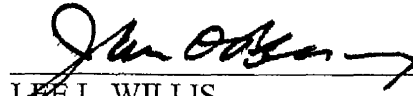
That remedy is acutely appropriate in this instance, given the competitive position of CSXT and the adverse impact Tampa Electric, its bulk commodity transportation affiliate and other potential suppliers of transportation services to Tampa Electric would suffer if CSXT is afforded access to the confidential proprietary business information in question.

5. Attached hereto as Exhibit A is an Affidavit of Joann T. Wehle, Tampa Electric's Director of Wholesale Marketing and Fuels, setting forth in greater detail the nature of the competition between CSXT and TECO Transport and the harm that would be visited on the competitive interests of Tampa Electric, TECO Transport, bidders in Tampa Electric's RFP process, service providers in the waterborne transportation industry and all other potential bidders in Tampa Electric's future RFP processes if the confidential information sought in CSXT's First Request for Production of Documents is provided to CSXT.

WHEREFORE, Tampa Electric Company objects to providing responses to CSXT's First Request for Production of Documents (Nos. 1 and 2) on the ground that CSXT is not a party to this proceeding. To the extent that CSXT is allowed intervenor status, Tampa Electric objects to producing the documents in question to the extent they contain confidential proprietary business information the disclosure of which to CSXT would be harmful to the competitive interests of Tampa Electric, its transportation affiliate and other present and prospective suppliers of transportation services to Tampa Electric. Tampa Electric, likewise, moves the Commission for entry of a protective order that the requested discovery not be had to the extent that it calls for the production to CSXT of proprietary confidential business information as set forth above.

DATED this 2nd day of January 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lee L. Willis", written over a horizontal line.

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 Objection and Motion for Protective Order, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (*) on this 2nd day of January 2004 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

Ms. Vicki Gordon Kaufman
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Mr. Michael B. Twomey
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Mr. John T. LaVia, III
Landers & Parsons, P.A.
Post Office Box 271
Tallahassee, FL 32302



ATTORNEY

AFFIDAVIT OF JOANN T. WEHLE

I, Joann T. Wehle, am the Director of Wholesale Marketing and Fuels for Tampa Electric Company. My business address is 702 N. Franklin Street, Tampa, Florida, 33602.

As filed in Docket No. 031033-EI, the Office of Public Counsel ("OPC") and the Florida Industrial Power Users Group ("FIPUG") have served on Tampa Electric the following sets of discovery requests: OPC's First Set of Interrogatories, FIPUG's First Set of Interrogatories, FIPUG's First Request for Production of Documents and OPC's First Request for Production of Documents. The responses to the discovery requests include many pages of confidential competitive information.

CSXT ("CSXT") sought to intervene in Docket No. 031033-EI on December 16, 2003. In the event that CSXT is granted status in this docket, Tampa Electric requests that CSXT not be allowed to view any confidential, competitive information provided by Tampa Electric to FPSC Staff or any other party to the docket. Confidential information should not be provided to CSXT, even under a non-disclosure agreement, because the company is a direct competitor of TECO Transport and the bidders in this process. Therefore, Tampa Electric must guard against providing confidential information to CSXT that would damage the competitive interests of other companies, including TECO Transport, the other RFP bidders and all companies that provide U.S. inland and ocean waterborne transportation or terminal services.

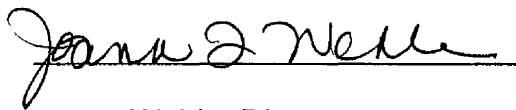
CSXT is a competitor to TECO Transport in all facets of TECO Transport's existing waterborne shipping routes, and CSXT produced a bid in response to Tampa Electric's RFP for waterborne coal transportation services for the period 2004 through 2008. Bidders should not receive confidential information provided by other competitors. Tampa Electric does not release bidder information to others unless the other party is an incumbent vendor and a provision allowing the release of this information is specifically outlined in a contract for the purposes of validating a right of first refusal. In this case, the confidential information would provide a competitive advantage to CSXT over TECO Transport and all bidders for negotiating for possible future business. Additionally, the results of Tampa Electric's future bid processes will be affected if bidders believe that their confidential proposals will be shared with competitors. Many companies will likely decline to bid in that case. This would hurt Tampa Electric's competitive position because it would potentially raise the costs of Tampa Electric's future contracts if the best providers decline to bid, which results in higher costs to ratepayers.

Furthermore, providing competitive information about the waterborne transportation industry to CSXT would disadvantage both those companies whose information is revealed and all other companies that operate in the

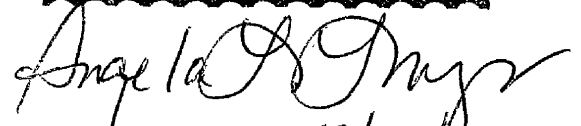
waterborne transportation markets. As a rail provider, CSXT may not be as familiar with the standard terms, charges and practices of the waterborne transportation network as are those companies that operate within it. Providing any confidential, competitive information would divulge confidential information and provide a competitive advantage to CSXT over TECO Transport and other waterborne service providers, that CSXT would not otherwise receive.

Thus, CSXT must not be allowed to receive or review any of the confidential competitive information provided in response any discovery requests filed in this docket. CSXT should also be prohibited from accessing the confidential, competitive models, information or data contained in or utilized by the model, the results or output of the model, and the final report of Tampa Electric's waterborne transportation consultant, Mr. Brent Dibner, because providing that information would provide company- and industry-specific information that would compromise the competitive interests of the companies analyzed by Mr. Dibner, the competitors of CSXT. Providing a copy of Mr. Dibner's confidential final report would allow CSXT to view the market rates utilized in Tampa Electric's transportation agreement with TECO Transport beginning in 2004 as well as confidential information provided by the other bidders. Confidential information cannot be unlearned or forgotten once it has been revealed to and absorbed by CSXT and any individuals advising CSXT in a representative or consultative role with respect to competitive transportation matters. Thus, providing confidential information CSXT would be unfair and would violate the spirit, purpose and intent of Section 366.093(d), Florida Statutes.

In summary, CSXT is a competitor of the incumbent service provider and those that provide waterborne transportation services, including river, terminal and ocean transportation services. Providing any of the confidential information that Tampa Electric files in this docket to CSXT will harm the competitive interests of Tampa Electric, TECO Transport, bidders in Tampa Electric's RFP process, service providers in the waterborne transportation industry and all other potential bidders in Tampa Electric's future RFP processes. Therefore, confidential information should not be provided to CSXT, even if the company executed a non-disclosure agreement.



Joann Wehle, Director
Wholesale Marketing and Fuels Department
Tampa Electric Company
702 N. Franklin St.
Tampa, FL 33602



12/30/03