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RECEIVED-FPSC  
06 APR -9 PM 2:55  
COMMISSION  
CLERK

April 9, 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 Request for Confidential Classification of portions of its answers to CSX  
Transportation's First Set of Interrogatories (Nos. 1-4).

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

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH \_\_\_\_\_

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

RECEIVED & FILED

  
FPSC-BUREAU OF RECORDS

(for 03706-04)  
DOCUMENT NUMBER-DATE

04430 APR-9 3

FPSC-COMMISSION CLERK

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: April 9, 2004  
\_\_\_\_\_ )

**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 portions of its answers to CSX Transportation's First Set of Interrogatories (Nos. 1-4). The confidential information in question appears on Bates stamp page numbers 916-917, 919-925, 929-937, 942-943, 945-962, 967-973, 977-985, 990-991, 993-1,010, 1,017-1,019, 1,021-1,026, 1,030-1,038, 1,044-1,046, 1,048-1,065, 1,071-1,079, 1,083-1,091, 1,097-1,099, 1,101-1,106, 1,110-1,118, 1,123-1,124, 1,126-1,128, 1,135-1,143, 1,147, 1,149-1,151, 1,155-1,166, 1,171-1,172, 1,174-1,176 and 1,180-1,191 of the company's answer to Interrogatory No. 3; Bates stamp page 1,193 of the company's answer to Interrogatory No. 4, (collectively referred to as the "Confidential Information"). A single copy of the Confidential Information was filed with a Notice of Intent to Seek Confidential Classification of Information on March 19, 2004 in the above proceeding. 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)

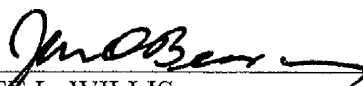
3. The Confidential Information falls within the above statutory categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093 and Rule 25-22.006.

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.

WHEREFORE, Tampa Electric respectfully requests that the highlighted Confidential Information set forth in its Answers to CSX Transportation’s First Set of Interrogatories (Nos. 3 and 4) be accorded confidential classification for the reasons set forth above.

DATED this 9<sup>th</sup> day of April 2004.

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 copy of the foregoing Request for Confidential Classification, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 9<sup>th</sup> day of April 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  
Mr. Timothy J. Perry  
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Davidson, Kaufman & Arnold, P.A.  
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Post Office Box 271  
Tallahassee, FL 32302

  
\_\_\_\_\_  
ATTORNEY

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**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED  
PORTIONS OF TAMPA ELECTRIC'S RESPONSES TO CSXT'S FIRST  
SET OF INTERROGATORIES (FILED MARCH 19, 2004)**

<b><u>Bates Stamp Page No.</u></b>	<b><u>Interrogatory No.</u></b>	<b><u>Detailed Description</u></b>	<b><u>Rationale</u></b>
916-917, 919-925, 929-937, 942-943, 945-962, 967-973, 977-985, 990-991, 993-1,010, 1,017-1,019, 1,021-1,026, 1,030-1,038, 1,044-1,046, 1,048-1,065, 1,071-1,079, 1,083-1,091, 1,097-1,099, 1,101-1,106, 1,110-1,118, 1,123-1,124, 1,126-1,128, 1,135-1,143, 1,147, 1,149-1,151, 1,155-1,166, 1,171-1,172, 1,174-1,176, 1,180-1,191	3	All Yellow Highlighted Information	(1)
1,193	4	All Yellow Highlighted Information	(2)

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- (1) The response is a copy of confidential Form 423 filings, with yellow highlighting. These filings reveal the contract rates that were paid for transportation services, or, together with public information the confidential highlighted data would allow competitors to calculate the contract rates, under Tampa Electric's contracts with TECO Transport during 2002, 2003 and 2004. These filings also contain information about the

commodity pricing of Tampa Electric's coal procurement contracts. This information is competitive contractual information, the disclosure of which would be harmful to the position of TECO Transport in negotiating future contracts with other clients. Disclosing this information would also harm Tampa Electric's position in determining rates for future transportation contracts or coal commodity purchases since the providers' bid responses might be influenced if they had knowledge of the contract rates for these recent years. 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 Transport 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.

- (2) The information contained on the listed pages contains a description of Tampa Electric's actual and expected coal purchases from different mines during 2002, 2003 and 2004. Inasmuch as the company has not already contracted for all of its expected coal needs in 2004 and beyond, public disclosure of this information would harm the company's negotiating position in its attempts to purchase coal at the most economic rate. Consequently, this information is entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.