

ORIGINAL

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May 5, 2004

HAND DELIVERED

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COMMISSION  
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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

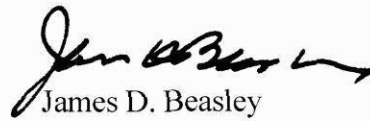
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa  
Electric Company's Request for Specified Confidential Treatment relating to certain information  
requested by Staff.

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

- JMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR 1
- GCL 1 JDB/pp
- OPC \_\_\_\_\_ Enclosure
- MMS \_\_\_\_\_ ec: Wm. Cochran Keating IV (w/enc.)
- RCA \_\_\_\_\_ All Parties of Record (w/enc.)
- SCR \_\_\_\_\_
- SEC 1
- OTH Leent records

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
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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: May 5, 2004  
\_\_\_\_\_ )

**TAMPA ELECTRIC COMPANY'S  
REQUEST FOR SPECIFIED CONFIDENTIAL TREATMENT  
OF DOCUMENTS SUPPLIED AT STAFF'S REQUEST**

Tampa Electric Company ("Tampa Electric" or "the company") hereby requests confidential treatment of certain information provided at the request of the Commission's Staff and, as ground therefor, says:

1. Pursuant to an agreement among the parties Staff visited the offices of the undersigned on May 5, 2004 and reviewed the proprietary computer models of Tampa Electric witness, Brent Dibner. At the conclusion of that review Staff printed out 21 pages of output from Mr. Dibner's ocean barge rate model and has asked that these 21 pages be filed with the Commission Clerk's office so that they may be further accessed by Staff. These pages are Staff's work product and not Tampa Electric's or Mr. Dibner's. Tampa Electric does not endorse or accept as reasonable any input assumptions utilized by Staff in generating the 21 pages of output. However, since they were generated utilizing Mr. Dibner's models, the 21 pages in question need to be treated confidentially in order to preserve the proprietary nature of Mr. Dibner's work.

2. Mr. Dibner's computer models are the essence of proprietary confidential business information in that they contain many details of Mr. Dibner's knowledge and expertise developed throughout his career. Attached hereto as Exhibit "A" is copy of an Affidavit of Mr.

Dibner explaining the need to protect these models from disclosure to any person. The original of this Affidavit was filed in this docket on December 16, 2003.

3. Tampa Electric is filing under a separate cover letter one confidential version of the 21 pages of output requested by Staff. These pages are printed on yellow paper stock and stamped "CONFIDENTIAL" in red.

4. Specified confidential classification of the 21 pages of output will protect the proprietary nature of Mr. Dibner's work and at the same time allow Staff access to the information in question.

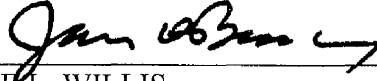
5. The 21 pages of output are entitled to confidential protection pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, in that they constitute trade secrets as well as information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

6. Tampa Electric has and continues to treat all facets of Mr. Dibner's models, including the assumptions, inputs, the workings of the models themselves and the outputs produced by the models, as proprietary confidential business information and has not disclosed that information publicly.

WHEREFORE, Tampa Electric Company submits the foregoing in support of its Request for Specified Confidential Treatment of the 21 pages of outputs of Mr. Brent Dibner's computer models requested by Staff.

DATED this 5<sup>th</sup> day of May 2004.

Respectfully submitted,



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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 Specified Confidential Treatment, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 5<sup>th</sup> day of May 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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117 S. Gadsden Street  
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Mr. Robert Vandiver  
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Office of Public Counsel  
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Mr. John W. McWhirter, Jr.  
McWhirter, Reeves, McGlothlin,  
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Landers & Parsons, P.A.  
Post Office Box 271  
Tallahassee, FL 32302

  
\_\_\_\_\_  
ATTORNEY

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## AFFIDAVIT OF BRENT DIBNER

I, Brent Dibner, am the President of Dibner Maritime Associates, LLC with my primary business address at 151 Laurel Road, Chestnut Hill, MA 02467.

I am in possession of the Florida Industrial Power Users Group's First Request for Production of Documents to Tampa Electric Company (Nos. 1-23). I have reviewed the definitions, instructions, and requests. Request for Production of Documents No. 14 instructs me to provide full, working copies of the "Inland Model" and the "Ocean Model" that were used to develop the rates that are the subject of my work for Tampa Electric and are pertinent to Tampa Electric's coal transportation hearing before the Florida Public Service Commission.

The models requested are proprietary models that represent the sum of my knowledge and expertise in the inland river and ocean transportation industries. I do not make them public or even available for sale to the public precisely because they represent my intellectual property and form the basis of my livelihood. These two models are custom-built to accurately describe the specific barge, towboat, and ocean-vessel operations that are necessary to transport coal from specific locations to specific destinations. The models are large and complex, and draw upon more than 27 years of management consulting experience and expertise that I have gained from almost continuous involvement in this industry, including consulting to many leading inland barge lines as well as a number of shippers. My career as a management consultant specializing in the maritime industry, and particularly the U.S. maritime industry, is based upon factual development of intellectual capital that has been carefully created, maintained, and utilized. My livelihood is based upon the competitive advantages that I have relative to other sources of information, analysis, insight, and expertise. These competitive advantages depend on not providing other existing or potential competitors with the benefit of my 27 years of experience. In my 27 years of practice, I have sold, managed and delivered between \$50 million and \$80 million of consulting services on a wide range of topics, but a significant portion of this revenue was tied to U.S.-flag maritime transportation and inland river transportation. It is reasonable to assume that my expertise in these areas represents many millions of dollars of past revenue and many millions of dollars of potential revenue in my future career. My models are supported by related or separate insights and databases of information that collectively, along with my models, represent my expertise. If my intellectual capital is disseminated to others, the value of my future career will be impaired.

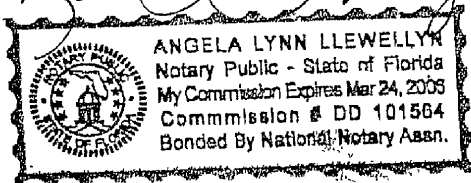
In addition, the models that I and others in this industry use must be managed by highly knowledgeable users. In the hands of another person with less understanding, experience, knowledge, and/or sensitivity a model can quickly produce misleading, erroneous or harmful results. My models are not designed to be stretched or pulled to the point of breakage by other parties but are tools with which to apply my expert knowledge and assumptions. My models are also supported by many other efforts that represent an even greater portion of my knowledge, expertise and competitive advantage. I rarely transfer models to my clients precisely because they are highly prone to misuse.

BD

My models should not be produced for the reasons given above. In addition to those facts, the reality is that my models are not necessary to gain an understanding of the evaluation and analysis I completed for Tampa Electric. The recommended market rates are straightforward and based on bids received or the market analysis I completed. All of my work is described in detail in my testimony and final report. In my testimony and exhibit filed in Docket No. 030001-EI and to be filed in Docket No. 031033-EI, I have provided descriptions of the principles, results, and explanations of these models, as well as comparisons of the market rates with bid rates. I have answered all questions asked of me concerning these models. I have described or discussed many of the drivers of the inland and ocean modes in my report and during the deposition. During my deposition with Tampa Electric witness, Joann Wehle, I reviewed information presented to me and offered guidance on its usefulness, accuracy and limitations. I compared my model's results with bids and with Tampa Electric's current rates. I described the core return assumptions, the value of barges, and the modest returns on asset value that I assumed. The composition of rates provides further insights into the capital costs, variable costs, and fuel costs. In my report, filed as the exhibit to my testimony, I provided precise guidance as to many of the contractual terms, operational factors and elements that are the basis for the established market rates. In my report pages 8, 9, 10, 11, 12, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 47, 48, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 70, 71, 74, 75, 76, 77, and 78 provide a comprehensive description of factors, assumptions, cost structures, considerations, competitive rates, etc. The information included in my report is sufficient to provide any persons with a passing knowledge of the general transportation industry with the basis to create or modify their own straightforward model to approximate rates and evaluate whether the bids received and the rates I developed are of a reasonable order of magnitude, without the production of the models themselves.



Brent Dibner, President  
Dibner Maritime Associates, LLC



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#S 77729481