

AUSLEY & McMULLEN

ORIGINAL

ATTORNEYS AND COUNSELORS AT LAW

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(850) 224-9115 FAX (850) 222-7560

May 13, 2004

HAND DELIVERED

RECEIVED-FPSC
04 MAY 13 PM 3:46
COMMISSION
CLERK

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-referenced matter are the original and fifteen (15) copies of
Tampa Electric Company's Notice of Intent to Serve Subpoena Duces Tecum for Deposition of
Consumer Federation of the Southeast, c/o its registered agent CorpDirect Agent, Inc.

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.

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC RED/em
- MMS _____
Enclosures
- RCA cc: All Parties of Record (w/encl.)
- SCR _____
- SEC 1
- OTH _____

Sincerely,

Richard E. Doran

RECEIVED & FILED

M. Beckard
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

05567 MAY 13 03

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Review of Tampa Electric)
Company's 2004-2008 Waterborne)
transportation contract with TECO)
Transport and associated benchmark)
_____)

Docket No. 031033-EI

**NOTICE OF INTENT TO SERVE SUBPOENA ON NONPARTY PURSUANT TO
RULE 1.351, FLORIDA RULES OF CIVIL PROCEDURE**

Comes now Tampa Electric Company by and through its attorneys and hereby files this notice pursuant to Rule 1.351, Florida Rules of Civil Procedure. Notice is hereby given that pursuant to the attached subpoena (Attachment 1), Tampa Electric Company requests production of documents as listed in the attached subpoena from:

Consumer Federation of the Southeast
c/o of its registered agent
CorpDirect Agents, Inc.
103 N. Meridian Street
Tallahassee, FL 32301

Respectfully submitted this 13th day of May, 2004.



Richard E. Doran, Esq.
Ausley & McMullen
227 S. Calhoun Street
Post Office Box 391 (32302)
Tallahassee, Florida 32301
Attorney for Tampa Electric Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Docket No. 031033-EI -)
Review of Tampa Electric Company's)
2004-2008 waterborne transportation)
contract with TECO Transport and)
associated benchmark.)

SUBPOENA DUCES TECUM
FOR DEPOSITION

THE STATE OF FLORIDA

TO: CorpDirect Agents, Inc., Registered Agent for Consumer Federation of the Southeast, 103 N. Meridian Street, Tallahassee, Florida 32301

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at the Offices of Ausley & McMullen, P.A., 227 South Calhoun Street, Tallahassee, FL 32301, on Thursday, May 20, 2004, at 9:30 a.m., to testify in this action, and to have with you at that time and place the following: The documents described in Attachment A, "Document Request."

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from this subpoena by these attorneys or the Commission, you shall respond to this subpoena as directed.

DATED on May 13, 2004.

Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

By: Kay Flynn
Kay Flynn, Chief, Bureau of Records

(S E A L)

Richard E. Doran, Esq.
Ausley & McMullen
227 S. Calhoun Street
Post Office Box 391 (32302)
Tallahassee, Florida 32301
Attorney for Tampa Electric Company

ATTACHMENT A

REQUESTED DOCUMENTS

**PLEASE REVIEW THIS ATTACHMENT IN ITS ENTIRETY
IN ORDER TO COMPLY WITH THIS SUBPOENA**

DEFINITIONS AND INSTRUCTIONS

A. The term "Document" shall mean any written, recorded, or graphic material of any kind, whether prepared by plaintiff or by any other person, that is in the possession, custody or control of plaintiff including, but not limited to, tapes or other forms of audio, visual, or audio/visual recordings, drawings, films, graphs, charts, photographs, e-mails, phone records, any retrievable data, whether in computer storage, carded, punched, taped or coded form, or stored electrostatically, electromagnetically, or otherwise. Without limiting the generality of the foregoing, "document" specifically includes all contracts, agreements, forms, correspondence, letters, telegrams, telephone messages, notices, notes (handwritten or otherwise), memoranda, records, reports, diaries, minutes, statements, worksheets, summaries, books, journals, ledgers, audits, maps, diagrams, drafts, newspapers, appointment books, desk calendars, notes or summaries of personal interview or conversations, messages (including without limitation reports of telephone conversations and conferences), acknowledgments, telexes, telecopies, all other written or printed matter of any kind, and all other data compilations from which information can be obtained and translated if necessary. "Document" shall also specifically include all checks, credit card statements, receipts, invoices, personal or business checks, and any and all other modes of billing and payment. Every draft or non-identical copy of a document is a

separate document as defined herein. A non-identical copy is a document originally identical in all relevant respects to another document, but no longer identical by virtue of any notation, modification, or attachment of any kind. A document is deemed to be in your control if you have the right to secure the document or a copy thereof from another person or public or private entity having actual physical possession thereof.

B. The terms "refer," "relate," "reflect," "concern," or "regarding" means refer to, relate to, reflect, embody, touch on, pertain to, discuss, mention, support, evidence, contradict, modify, or in any way whatsoever concern the subject.

C. The terms "CFSE" means the Consumer Federation of the Southeast, Inc., a Florida non-profit corporation, together with its officers, employees, consultants, agents, representatives, attorneys and any other person or entity acting on its behalf.

D. The term "Case" means the matter *In re: Review of Tampa Electric Company's Waterborne transportation contract with TECO Transport and associated benchmark DOCKET NO. 031033-EI*.

E. The terms "communication" and "communicate" shall mean any recordation, exchange or transfer of information, whether in writing, oral or other form, including, but not limited to, memoranda or notes to the file, telephone conversations and meetings, letters, telegraphic and telex communications, and includes all information relating to all oral communications and "documents" (as hereinabove defined), whether or not such document, or information contained herein was transmitted by its author to any other person.

F. As used herein the terms “you” and “your” refers to Mr. Walter Dartland, together with any other person or entity acting on his behalf in his capacity as Director of the CFSE.

G. Words in the past tense include the present, and words in the present tense include the past. Use of the singular includes the plural, and use of the masculine includes the feminine where appropriate, and vice versa.

H. In the event that any request seeks the production of documents or things for which a claim of privilege is asserted, the party responding to this request for production must produce all non-privileged items responsive to the request, and then for each document for which a privilege is claimed state the following information: (a) the name of the person(s) in whose files the documents are maintained; (b) the author or creator of the document; (c) the date of creation of the document; (d) the names of the persons to whom a copy of the document has been provided or shown; (e) a general description of the nature of the contents of the document, sufficient for determination of whether a claim of privilege has been properly asserted; and (f) the privilege asserted, and the basis therefor.

I. If you or CFSE have possession, custody, or control of the originals of the documents requested, please produce the originals or a complete copy of the originals and all copies, which are different in any way from the original, whether by interlineations, receipt stamp or notation. If you do not have possession, custody, or control of the originals of the documents requested, please produce any copies, however made, in your possession, custody, or control.

J. You should construe the words "and" as well as "or" either disjunctively or conjunctively as necessary to bring within the scope of this production of documents any document which might otherwise be construed to be outside the scope.

K. Unless otherwise indicated, please only produce documents created since January 1, 2002 through and until May 17, 2004.

DOCUMENTS REQUESTED

1. All documents relating to or referring to any contribution or donation made to CFSE by any of the following persons or entities, or by persons or entities acting on their behalf;
 - a. CSX Corporation;
 - b. CSX Transportation;
 - c. Drummond Company Inc. or its subsidiaries.

2. All documents, including but not limited to checks, credit card statements, and receipts, relating to or reflecting payment made by you or by CFSE or by any other person or entity on behalf of you or CFSE, to any of the following persons or entities, or to any persons or entities acting on their behalf:
 - a. CSX Corporation;
 - b. CSX Transportation;
 - c. Drummond Company Inc. or its subsidiaries.
 - d. Michael Twomey, Esq.
 - e. Dr. Anatoly Hochstein
 - f. Natural Ports and Waterways Institute, University of New Orleans

3. All documents reflecting communication by, between or among CFSE, Walter Dartland, Ronald Sachs, Ron Sachs Communication, Michelle Ubbin referring or relating to the formation or the CFSE, the mission of the CFSE, Tampa Electric Company, Drummond Coal Company, CSX, or the Case.
4. All documents reflecting communication by, between or among Michael Twomey, Esq. and CFSE or it's officers, directors and/or employees relating or referring to the Case.
5. All documents reflecting communication by, between or among you and Drummond Coal Company Inc. or other persons or entities acting on behalf of Drummond Coal Company Inc.
6. All documents reflecting communication by, between or among you and CSX Corporation or CSX Transportation or other persons or entities acting on behalf of CSX.
7. All documents reflecting communication by, between or among you and Dr. Timothy "Tim" Lynch, or other persons or entities acting on his behalf.
8. All contracts, memorandum of understanding, or engagement letters between CFSE and Michael Twomey, Esq.
9. All contracts, memorandum of understanding, or engagement letters between CFSE and Dr. Timothy "Tim" Lynch.
10. All contracts, memorandum of understanding, or engagement letters between CFSE and Drummond Coal Company Inc. or its affiliates, officers, directors, employees, agents or attorneys.

11. All contracts, memorandum of understanding, or engagement letters between CFSE and CSX Corporation or its affiliates, officers, directors, employees, agents or attorneys.
12. All contracts, memorandum of understanding, or engagement letters between CFSE and CSX Transportation or its affiliates, officers, directors, employees, agents or attorneys.
13. All documents provided to Dr. Timothy "Tim" Lynch by CFSE in connection with Dr. Lynch's analysis of the case.
14. All documents reviewed by Dr. Timothy "Tim" Lynch in connection with his analysis of the case.
15. All documents provided to Dr. Anatoly Hochstein by CFSE in connection with Dr. Hochstein's analysis of the case.
16. All documents reviewed by Dr. Anatoly Hochstein in connection with his analysis of the case.