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MAY 24 PM 4:24

COMMISSION  
CLERK

May 24, 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

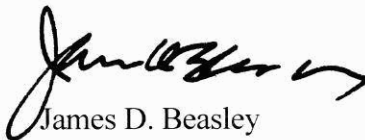
Dear Ms. Bayo:

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 responses to Florida  
Public Service Commission Staff's Fifth Request for Production of Documents (Nos. 34-38).

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

CMP \_\_\_\_\_

COM \_\_\_\_\_

CTR JDB/pp

ECR 1 Enclosure

GCL 1 cc: All Parties of Record (w/enc.)

OPC \_\_\_\_\_

MMS \_\_\_\_\_

RCA \_\_\_\_\_

SCR \_\_\_\_\_

SEC 1

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RECEIVED & FILED

  
FPSC-BUREAU OF RECORDS

(FOR CONF DN 05237-04)

DOCUMENT NUMBER - DATE

05927 MAY 24 04

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 24, 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 information contained in portions of its Responses to Fifth Request for Production of Documents (Nos. 34 - 38) of the Florida Public Service Commission Staff and printed on yellow paper stock and stamped "CONFIDENTIAL" (the "Confidential Information"). A single copy of the above production answers was filed with a Notice of Intent to Seek Confidential Classification of Information on May 5, 2004. The Confidential Information is contained in Tampa Electric's responses to Production of Documents No. 38. 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 the Confidential Information set forth in its Responses to Fifth Request for Production of Documents (No. 38) of the Florida Public Service Commission Staff be accorded confidential classification for the reasons set forth above.

DATED this 24<sup>th</sup> day of May 2004.

Respectfully submitted,



LEE L. WILLIS  
JAMES D. BEASLEY  
JOHN P. FONS  
RICHARD E. DORAN  
Ausley & McMullen  
Post Office Box 391  
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(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 Classification, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 24<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

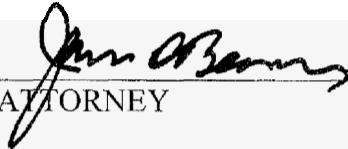
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Post Office Box 271  
Tallahassee, FL 32302

  
ATTORNEY

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**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED  
PORTIONS OF TAMPA ELECTRIC'S RESPONSES TO STAFF'S FIFTH  
REQUEST FOR PRODUCTION OF DOCUMENTS (FILED MAY 5, 2004)**

<b><u>Bates Stamp</u></b>	<b><u>POD</u></b>	<b><u>Detailed Description</u></b>	<b><u>Rationale</u></b>
<b><u>Page No.</u></b>	<b><u>No.</u></b>		
6 - 22	38	All of the Information on the Listed Pages	(1), (2)

- 
- (1) The information contained on the listed pages contains bid information provided in response to Tampa Electric's RFP. Disclosing bidders' identities and the information included in their confidential proposals would discourage those bidders from participation in future RFPs as they do not desire for their competitors to have access to the terms and conditions under which they will bid on transportation services. As such public disclosure of the information contained on these pages would adversely affect the competitive interests of TECO Transport and the bidders and the ability of Tampa Electric to contract for goods and services on favorable terms. The disclosure of this information would therefore be harmful to competitive interests, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.
  
  - (2) The information in question reveals the identity of bidders that submitted proposals in response to Tampa Electric's RFP. Disclosing bidders identities and the information included in their confidential proposals would discourage those bidders from participation in future RFPs as they do not desire for their competitors to have access to the terms and conditions under which they will bid on transportation services. As such, public disclosure of this information would adversely affect the competitive interests of the bidders and the ability of Tampa Electric to contract for goods and services on favorable terms. The disclosure of this information is entitled to confidential treatment pursuant to Section 366.093(e) and (e), Florida Statutes.

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