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RECEIVED-FPSC

04 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 certain information contained in the  
Deposition Transcript and Deposition Exhibits of Michael J. Majoros, Jr.

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 \_\_\_\_\_
  - ECR  JDB/pp  
 Enclosure
  - GCL
  - OPC \_\_\_\_\_
  - MMS \_\_\_\_\_
  - RCA \_\_\_\_\_
  - SCR \_\_\_\_\_
  - SEC
  - OTH  *conf records*
- cc: All Parties of Record (w/enc.)

RECEIVED & FILED  
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FPSC-BUREAU OF RECORDS

*Conf.*  
(*PER DN 0519-04*)

DOCUMENT NUMBER-DATE

05928 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

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**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 the Deposition Transcript and Deposition Exhibits of Michael J. Majoros, Jr. filed in this proceeding with the Commission Clerk's Office on May 4, 2004 and identified as Document No. 05119-04 (the "Confidential Information"). A single copy of the Confidential Information was filed with a Notice of Intent to Seek Confidential Classification of Information in the above proceeding on May 6, 2004. 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. <sup>4</sup> 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.

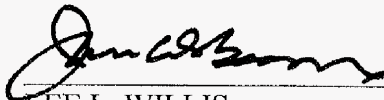
4. The material for which confidential classification is sought is intended to be and is treated by Tampa Electric as private and has not been disclosed.

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 highlighted portions of the Confidential Information contained in the Deposition Transcript and Deposition Exhibits of Michael J. Majoros, Jr. 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  
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JOHN P. FONS  
RICHARD E. DORAN  
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(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Confidential Classification 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

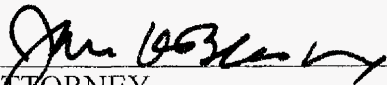
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\_\_\_\_\_  
ATTORNEY

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**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF CONFIDENTIAL  
INFORMATION CONTAINED IN THE DEPOSITION TRANSCRIPT AND  
DEPOSITION EXHIBITS OF MICHAEL J. MAJOROS, JR. (FILED MAY 4, 2004)**

<b><u>Transcript Page No. &amp; Line No.</u></b>	<b><u>Description</u></b>	<b><u>Rationale</u></b>
Page 12, lines 13, 18	The Yellow Highlighted Information	(1), (2)
Page 13, lines 1, 6, 10	The First Highlighted Number	(1)
Page 13, lines 1, 6, 10	The Second Highlighted Number	(1), (2)
Page 14, line 3	The Yellow Highlighted Information	(1)
Page 14, line 4	The Yellow Highlighted Information	(1), (2)
Page 26, lines 22, 23	The Yellow Highlighted Information	(2), (3)
Page 50, lines 12, 15, 20, 22	The Yellow Highlighted Information	(4)
Page 51, lines 3, 5	The Yellow Highlighted Information	(4)
Page 54, lines 4, 7, 18, 24	The Yellow Highlighted Information	(1), (2)
Page 54, lines 14	The Yellow Highlighted Information	(1)
Page 54, line 21	The First, Third and Fourth Yellow Highlighted Numbers	(1), (2)
Page 54, line 21	The Second Yellow Highlighted Number	(1)
Page 55, lines 5, 23	The Yellow Highlighted Information	(1), (2)
Page 56, line 2	The Yellow Highlighted Information	(1), (2)
Page 57, lines 19, 20, 24, 25	The Yellow Highlighted Information	(1)
Page 58, lines 4, 8	The Yellow Highlighted Information	(1)
Page 58, line 11	The First Yellow Highlighted Number	(1)
Page 58, lines 11	The Second Yellow Highlighted Number	(5)
Page 58, lines 14, 23	The Yellow Highlighted Information	(5)

Page 59, line 20	The Yellow Highlighted Information	(5)
Page 60, lines 2, 4, 5, 7, 23	The Yellow Highlighted Information	(5)
Page 61, lines 2, 13, 17, 19	The Yellow Highlighted Information	(5)
Page 63, line 6	The Yellow Highlighted Information	(1), (2)
Page 67, line 22	The Yellow Highlighted Information	(1), (2)
Page 75, lines 6, 7	The Yellow Highlighted Information	(5)
Page 79, lines 9, 10, 11, 21, 23	The Yellow Highlighted Information	(1), (2)
Page 79, line 22	The First Yellow Highlighted Number	(1)
Page 79, line 22	The Second Yellow Highlighted Number	(1), (2)
Page 81, line 7	The Yellow Highlighted Information	(1), (2)
Page 85, line 22	The Yellow Highlighted Information	(5)
Page 86, lines 6, 7, 8	The Yellow Highlighted Information	(1)

**Errata Sheet**

Line 2	The Yellow Highlighted Information	(4)
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**Deposition Exhibits**

**Comparison of Rates**

Late Filed (MJM-1) Page 1 of 5, line 1	The Yellow Highlighted Information	(1)
Page 1 of 5, lines 2, 3	The Yellow Highlighted Information	(1), (2)

**Impact of Adjustments**

Late Filed (MJM-1) Page 1 of 5, lines 4, 5, 6, 7, 8	The Yellow Highlighted Information	(1), (2)
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**Source by Row**

Late Filed (MJM-1) Page 1 or 5, lines 4, 5, 7	The First Yellow Highlighted Number	(1)
Late Filed (MJM-1) Page 1 of 5, lines 4, 5, 7	The Second Yellow Highlighted Number	(1), (2)

Late Filed (MJM-1) Page 1 of 5, line 6	The Yellow Highlighted Numbers	(1), (2)
Late Filed (MJM-1) Page 2 of 5	All Information on the Page	(1), (2), (4)
Late Filed (MJM-1) Page 3 of 5	All Information on the Page	(1), (2), (4)
Late Filed (MJM-1) Page 4 of 5	All Information on the Page	(1), (2), (4)
Late Filed (MJM-1) Page 5 of 5	All Information on the Page	(1), (2), (4)

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- (1) The information in question contains information about the contract terms and rates that were paid for transportation services under Tampa Electric's contracts with TECO Transport during the period 1998 through 2003 or that will be paid for transportation services under Tampa Electric's contract with TECO Transport that took effect January 1, 2004. 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 since the providers bid responses might be influenced if they had knowledge of the previous or current contract rates. The disclosure of this information would therefore be harmful to TECO Transport's competitive interests and to the ability of Tampa Electric to contract for goods and services of favorable terms, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.
  - (2) This information, although not necessarily confidential in and of itself, if made public would allow one to "back into" confidential proprietary business information. As such, this information needs to be protected in order to not disclose other information that is confidential.
  - (3) The information in question contains bid information provided in response to Tampa Electric's RFP or information contained in prior proposals relating to coal transportation. 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 to their competitors to have access to the terms and conditions under which they will bid on transportation services. This information, in conjunction with publicly disclosed information, would allow a competitor to back into the contract rates established for Tampa Electric's contract with TECO transport. As such public disclosure of the information in question 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.

- (4) The information in question contains the proprietary work product of Tampa Electric's consultant, Dibner Maritime Associates LLC or "DMA". The disclosure of this information could allow duplication of the consultant's work without compensation for the consultant's efforts to gather and update the information and develop methods of analysis. This information is in the nature of a trade secret owned by DMA. It is also in the nature of information relating to competitive interests, the disclosure of which would impair DMA's competitive business interests by diminishing the demand for DMA's proprietary work product. As such, the information in question is entitled to confidential treatment pursuant to Section 366.093(3)(a) and (e), Florida Statutes.
- (5) 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 would therefore be harmful to competitive interests and, as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (3), Florida Statutes.