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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

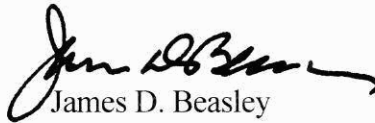
Dear Ms. Bayo:

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
Prepared Rebuttal Testimonies and Exhibits of Tampa Electric's witnesses Joann T. Wehle, Brent
Dibner, Paula Guletsky and Frederick J. Murrell.


05112-04 05113-04 05114-04 05111-04
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 cc: All Parties of Record (w/enc.)
- MMS _____
- RCA _____
- SCR _____
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records

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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 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 specified confidential classification of certain confidential information contained in the Prepared Rebuttal Testimonies and Exhibits of Tampa Electric's witnesses Joann T. Wehle, Brent Dibner, Paula Guletsky and Frederick J. Murrell, and as grounds therefor, says:

1. On May 3, 2004 Tampa Electric filed the Prepared Rebuttal Testimonies and Exhibits of Joann t. Wehle, Brent Dibner, Paula Guletsky and Frederick J. Murrell along with a Notice of Intent to Seek Confidential Classification and Motion for a Temporary Protective Order of highlighted portions of those testimonies and exhibits and portions thereof printed on yellow paper stock. Tampa Electric accompanied that filing with a submission under a separate cover letter of a single highlighted version of each of the four testimonies and exhibits. In addition, the company filed redacted versions of the testimonies and exhibits.

2. The information contained in the yellow highlighted pages or portions thereof in the testimonies and exhibits of Ms. Wehle, Mr. Dibner, Ms. Guletsky and Mr. Murrell are in need of confidential protection (the "Confidential Information"). The Confidential Information the company seeks to have protected is entitled to confidential treatment pursuant to Section

366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, as is more fully set forth in the Justification for Confidential Treatment attached hereto as Exhibit "A".


4. As noted in the above-referenced Motion for Temporary Protective Order, all of the Confidential Information in question is protected by virtue of non-disclosure agreements entered into by and between Tampa Electric on the one hand and Mr. Wright (counsel for CSXT), FIPUG and Mr. Twomey. In addition, Tampa Electric previously moved the Commission for entry of a temporary protective order with respect to Confidential Information supplied at the request of Office of Public Counsel.

6. Tampa Electric treats the Confidential Information as confidential proprietary business information and has not disclosed it publicly.

WHEREFORE, Tampa Electric Company respectfully requests that the Commission enter its order designating as specified confidential information the Confidential Information identified and discussed in Exhibit "A" to this request.

DATED this 24th day of May 2004.

Respectfully submitted,



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Confidential Classification, filed on behalf of Tampa Electric Company, has been furnished by hand delivery or U. S. Mail on this 24th day of May 2004 to the following:

Mr. Wm. Cochran Keating, IV*
Senior Attorney
Division of Legal Services
Florida Public Service Commission
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ATTORNEY

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**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED
PORTIONS OF REBUTTAL TESTIMONY AND EXHIBITS**

Joann T. Wehle – May 3, 2004

<u>Page No.</u>	<u>Line No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
16	5	The Yellow Highlighted Information	(1)
22	22	The Yellow Highlighted Information	(2)
32	9, 23	The Yellow Highlighted Information	(2)
37	11	The Yellow Highlighted Information	(1)
45	5	The Yellow Highlighted Information	(2), (3), (4)
55	7	The Yellow Highlighted Information	(4)
55	19	The Yellow Highlighted Information	(5)
55	20	The Yellow Highlighted Information	(4), (6)
63	2	The Yellow Highlighted Information	(2), (6)
64	10, 11, 13, 17	The Yellow Highlighted Information	(4), (6)

Exhibit of Joann T. Wehle

<u>Page No.</u>	<u>Ex. No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
Bates Stamp Page 94	(JTW-2)	All Information on the Listed Page	(2), (3), (4), (6)
Bates Stamp Page 95	(JTW-2)	All Information on the Listed Page	(2), (3), (4), (6)
Bates Stamp Page 97	(JTW-2)	All Information on the Listed Page	(6)
Bates Stamp Page 101	(JTW-2)	All Information on the Listed Page	(4)

Brent Dibner – May 3, 2004

<u>Page No.</u>	<u>Line No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
20	9	The Yellow Highlighted Information	(1)
21	9	The Yellow Highlighted Information	(4), (7)
29	9	The Yellow Highlighted Information	(4), (6), (8)
42	2	The Yellow Highlighted Information	(4), (8)
44	6	The Yellow Highlighted Information	(1)

Exhibit of Brent Dibner

<u>Page No.</u>	<u>Ex. No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
46	(BD-2)	All Information on the Listed Page	(4), (6), (8)
47	(BD-2)	All Information on the Listed Page	(4), (6), (8)

Paula Guletsky – May 3, 2004

<u>Page No.</u>	<u>Line No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
11	2,3,4,5,6	All Yellow Highlighted Information	(2), (9)

Exhibit of Paula Guletsky

<u>Page No.</u>	<u>Ex. No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
Bates Stamp	(PMG-1)	All Information on the Listed Page	(2), (9)

Frederick J. Murrell – May 3, 2004

<u>Page No.</u>	<u>Line No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
16	25	The Yellow Highlighted Information	(1)
17	14	The Yellow Highlighted Information	(1)

<u>Page No.</u>	<u>Line No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
24	12, 13, 14, 15, 16	The Yellow Highlighted Information	(2), (6)
25	12	The Yellow Highlighted Information	(2)
28	17	The Yellow Highlighted Information	(2)
30	19	The Yellow Highlighted Information	(2), (3)
36	15	The Yellow Highlighted Information	(4), (7)
36	16	The Yellow Highlighted Information	(4), (6), (7)

Exhibit of Frederick J. Murrell

<u>Page No.</u>	<u>Ex. No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
Bates Stamp Page 54	(FJM-1)	The Yellow Highlighted Information on line 5	(4)
Bates Stamp Page 54	(FJM-1)	The Yellow Highlighted Information on line 6	(4)
Bates Stamp Page 54	(FJM-1)	The First and Third Yellow Highlighted Information on line 7	(4)
Bates Stamp Page 54	(FJM-1)	The Second Yellow Highlighted Information on line 7	(2), (4), (6)
Bates Stamp Page 54	(FJM-1)	The Yellow Highlighted Information on line 9	(4)
Bates Stamp Page 54	(FJM-1)	The Yellow Highlighted Information on line 10	(2), (4), (6)
Bates Stamp Page 54	(FJM-1)	All Yellow Highlighted Information on lines 12, 14, 15, '6, 17	(4)

-
- (1) 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 (e), Florida Statutes.

- (2) 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 for 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.
- (3) The information in question includes Tampa Electric's bid evaluation assumptions that reveal planned operations and existing contractual data. As such public disclosure of the information contained on these pages would adversely affect the competitive interests of Tampa Electric and its ability 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 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 on favorable terms, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.

- (5) This information is a proprietary transportation rate quoted by TECO Ocean Shipping on a confidential basis. Public Disclosure of this information would severely harm TECO Ocean Shipping's competitive interests.
- (6) 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.
- (7) The information discloses in great detail Tampa Electric Company's commodity contract rates and transportation rates, by contract on a projected basis going out a number of years into the future. Public disclosure of this information would provide in minute detail the company's projected rates for all of the detailed components of the company's projected fuel and fuel transportation costs. As such, this information is entitled to confidential protection pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. 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.
- (8) 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.
- (9) The information in question contains the proprietary work product of Tampa Electric's consultant, Sargent and Lundy or "S&L". 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 S&L. It is also in the nature of information relating to competitive interests, the disclosure of which would impair S&L's competitive business interests by diminishing the demand for S&L'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.