

# AUSLEY & McMULLEN

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June 14, 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

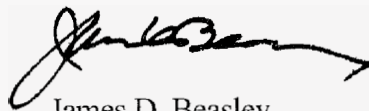
Dear Ms. Bayo:

On May 24, 2003 we filed on behalf of Tampa Electric a Notice of Intent to Seek Confidential Classification of certain information contained in the Late Filed Deposition Exhibit No. 1 of Tampa Electric's witness Brent Dibner. As a follow up to that Notice, and in accordance with Rule 25-22.006, Florida Administrative Code, we enclose for filing the original and fifteen (15) copies of Tampa Electric Company's Request for Confidential Classification of certain information contained in the Late Filed Deposition Exhibit No. 1 of Tampa Electric's witness Brent Dibner.

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

JDB/pp  
Enclosure

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

DOCUMENT NUMBER-DATE

06570 JUN 14 8

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: June 14, 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 the Late Filed Deposition Exhibit of Tampa Electric's witness Brent Dibner and stamped "CONFIDENTIAL" (the "Confidential Information"). The Confidential Information is for the reference on pages 2 of 2 of Mr. Dibner's Late Filed Deposition Exhibit No. 1. 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.

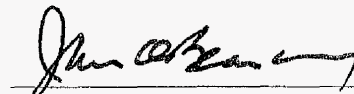
4. The material for which confidential classification is sought is intended to be and is treated by Tampa Electric as private and has not been disclosed.

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 the Late Filed Deposition Exhibit No. 1, Page 2 of 2, of Brent Dibner be accorded confidential classification for the reasons set forth above.

DATED this 14<sup>th</sup> day of June 2004.

Respectfully submitted,



LEE L. WILLIS  
JAMES D. BEASLEY  
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 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 14<sup>th</sup> day of June 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  
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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 WITNESS BRENT DIBNER'S  
LATE FILED DEPOSITION EXHIBIT NO. 1**

<u>Page No.</u>	<u>Line No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
Page 2 of 2	All Lines	The Yellow Highlighted Information	(1)

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- (1) 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.

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