

ORIGINAL

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STATE OF FLORIDA

COMMISSIONERS:  
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LISA POLAK EDGAR



DIVISION OF THE COMMISSION CLERK & AM 10: 53  
ADMINISTRATIVE SERVICES  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770 (CLERK)  
(850) 413-6330 (ADMIN)

COMMISSION  
CLERK

Public Service Commission

M-E-M-O-R-A-N-D-U-M

DATE: September 22, 2005

TO: \_\_\_\_\_ OFFICE OF THE GENERAL COUNSEL  
\_\_\_\_\_ DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT  
XX \_\_\_\_\_ DIVISION OF ECONOMIC REGULATION  
\_\_\_\_\_ DIVISION OF REGULATORY COMPLIANCE  
& CONSUMER ASSISTANCE

FROM: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

RE: CONFIDENTIALITY OF CERTAIN INFORMATION

DOCUMENT NO(s): 08412-05 and 08413-05

DESCRIPTION: (DN 08412-05) TECO (Beasley) - (CONFIDENTIAL) Answers to 2nd set of interrogatories (Nos. 2, 6, 9, and 13) to Commission staff.

(DN 08413-05) - TECO (Beasley) - (CONFIDENTIAL) Answers to 1st request for PODs (Nos. 1-2) to Commission staff.

CMP \_\_\_\_\_

COM \_\_\_\_\_

SOURCE: Tampa Electric Company

CTR \_\_\_\_\_

DOCKET NO(S): 050001-EI

ECR \_\_\_\_\_

GCL \_\_\_\_\_

The above material was received with a filing of a request for confidential classification and for a protective order. Please prepare a recommendation for the attorney assigned to the case by completing the section below and forwarding a copy of this memorandum, together with a brief memorandum supporting your recommendation, to the attorney. Copies of your recommendation should also be provided to the Division of the Commission Clerk and Administrative Services, Bureau of Records and Hearing Services, and to the Office of General Counsel.

OPC \_\_\_\_\_

RCA \_\_\_\_\_

SCR \_\_\_\_\_

SGA \_\_\_\_\_

SEC 1

OTH Locke

DOCUMENT NUMBER-DATE

09575 OCT-6 08

FPSC-COMMISSION CLERK

**Please read each of the following and check if applicable.**

- The document(s) is (are), in fact, what the utility asserts it (them) to be.
- The utility has provided enough details to perform a reasoned analysis of its request.
- The material has been received incident to an inquiry.
- The material is confidential business information because it includes:
  - (a) Trade secrets;
  - (b) Internal auditing controls and reports of internal auditors;
  - (c) Security measures, systems, or procedures;
  - (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms;
  - (e) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities;
  - (f) Tax returns or tax-related information;
  - (g) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- The material appears to be confidential in nature and harm to the company or its ratepayers will result from public disclosure.
- The material appears not to be confidential in nature.
- The material is a periodic or recurring filing and each filing contains confidential information.

Response prepared by: Bernard Windham

Date: 10-3-05

cc:  GCL     FLL  
 CMP     CCA  
 ECR     RCA  
 MMS

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

September 21, 2005

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: Fuel and Purchased Power Cost Recovery Clause with Generating  
Performance Incentive Factor; FPSC Docket No. 050001-EI

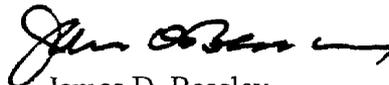
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Request for Confidential Classification and for a Protective Order of portions of its answers to Staff's Second Set of Interrogatories (Nos. 2-13) and First Request for Production of Documents (Nos. 1-2).

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

0896 | SEP 21 '05

FPSC-COMMISSION CLERK

SEP 22 11 4: 02  
REGULATION

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost Recovery )  
Clause with Generating Performance Incentive ) DOCKET NO. 050001-EI  
Factor. ) FILED: September 21, 2005  
\_\_\_\_\_ )

**REQUEST FOR CONFIDENTIAL CLASSIFICATION**  
**AND FOR A PROTECTIVE ORDER**

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 portions of its answers to the Florida Public Service Commission Staff’s Second Set of Interrogatories (Nos. 2-13) and First Request for Production of Documents (Nos. 1-2). The confidential information in question appears on page 1 of 1 of the company’s answer to Interrogatory No. 2; page 1 of 1 of Interrogatory No. 6; page 1 of 1 of Interrogatory No. 9; page 1 of 1 of Interrogatory No. 13; pages 2 of 3 and 3 of 3 of Production of Document No. 1; and pages 2 of 4, 3 of 4 and 4 of 4 of Production of Documents No. 2, (referred to as the “Confidential Information”). A single yellow highlighted copy of the Confidential Information was filed with a Notice of Intent to Seek Confidential Classification and Motion for Temporary Protective Order on September 2, 2005 in the above proceeding. This request is also intended to serve as a request for a protective order, within the contemplation of Rule 25-22.006(6)(b), Florida Administrative Code, such that it will protect the Confidential Information from public disclosure while in the possession of the Office of Public Counsel. 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)

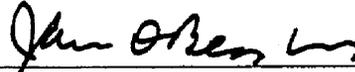
3. The Confidential Information falls within the above statutory categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093 and Rule 25-22.006.

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.

WHEREFORE, Tampa Electric respectfully requests that the highlighted Confidential Information set forth in its Answers to Staff’s Second Set of Interrogatories (Nos. 2-13) and First Production of Documents (Nos. 1-2) be accorded confidential classification for the reasons set forth above.

DATED this 21<sup>st</sup> day of September 2005.

Respectfully submitted,



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LEE L. WILLIS  
JAMES D. BEASLEY  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, Florida 32302  
(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 21<sup>st</sup> day of September 2005 to the following:

Ms. Adrienne E. Vining\*  
Senior Attorney  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0863

Mr. James A. McGee  
Associate General Counsel  
Progress Energy Florida, Inc.  
Post Office Box 14042  
St. Petersburg, FL 33733

Mr. Gary V. Perko  
Hopping Green & Sams P.A.  
P.O. Box 6526  
Tallahassee, FL 32314

Mr. Timothy J. Perry  
McWhirter, Reeves, McGlothlin,  
Davidson, Kaufman & Arnold, P.A.  
117 S. Gadsden Street  
Tallahassee, FL 32301

Mr. John W. McWhirter, Jr.  
McWhirter, Reeves, McGlothlin,  
Davidson, Kaufman & Arnold, P.A.  
400 North Tampa Street, Suite 2450  
Tampa, FL 33601-5126

Ms. Patricia A. Christensen\*  
Associate Public Counsel  
Office of Public Counsel  
111 West Madison Street – Room 812  
Tallahassee, FL 32399-1400

Mr. Norman Horton  
Messer Caparello & Self  
Post Office Box 1876  
Tallahassee, FL 32302

Ms. Cheryl Martin  
Florida Public Utilities Company  
P. O. Box 3395  
West Palm Beach, FL 33402-3395

Mr. John T. Butler  
Squire, Sanders & Dempsey, L.L.P.  
200 South Biscayne Boulevard  
Suite 4000  
Miami, FL 33131-2398

Mr. William Walker  
Florida Power & Light Company  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301-1859

Mr. R. Wade Litchfield  
Florida Power & Light Company  
700 Universe Blvd.  
Juno Beach, FL 33408-0420

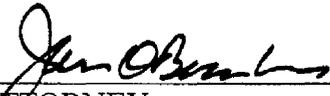
Ms. Susan Ritenour  
Secretary and Treasurer  
Gulf Power Company  
One Energy Place  
Pensacola, FL 32520-0780

Mr. Jeffrey A. Stone  
Mr. Russell A. Badders  
Beggs & Lane  
Post Office Box 12950  
Pensacola, FL 32591-2950

Mr. Jon C. Moyle, Jr.  
Moyle, Flanigan, Katz, Raymond &  
Sheehan, P.A.  
118 N. Gadsden Street  
Tallahassee, FL 32301

Mr. Mark Hoffman  
Legal Department  
CSX Transportation  
500 Water Street, 14<sup>th</sup> Floor  
Jacksonville, FL 32202

Mr. Robert Scheffel Wright  
Mr. John T. LaVia, III  
Landers & Parsons, P.A.  
310 West College Avenue  
Tallahassee, FL 32301

  
\_\_\_\_\_  
ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED  
PORTIONS OF TAMPA ELECTRIC'S RESPONSES TO STAFF'S SECOND  
SET OF INTERROGATORIES (NOS. 2-13) AND FIRST REQUEST  
FOR PRODUCTION OF DOCUMENTS (NOS. 1-2) (FILED SEPTEMBER 2, 2005)**

<b><u>Bates Stamp Page No.</u></b>	<b><u>Interrogatory No.</u></b>	<b><u>Detailed Description</u></b>	<b><u>Rationale</u></b>
1	2 (Page 1 of 1)	All Highlighted Dollar Amounts	(1)
5	6 (Page 1 of 1)	All Highlighted Dollar Amounts	(1)
8	9 (Page 1 of 1)	The Highlighted Dollar Amount	(1)
12	13 (Page 1 of 1)	All Highlighted Dollar Amounts	(1)

<b><u>Bates Stamp Page No.</u></b>	<b><u>POD No.</u></b>	<b><u>Detailed Description</u></b>	<b><u>Rationale</u></b>
2	1 (Page 2 of 3)	All Highlighted Dollar Amounts	(1)
3	1 (Page 3 of 3)	All Highlighted Columns	(1)
5	2 (Page 2 of 4)	All Highlighted Dollar Amounts	(1)
6	2 (Page 3 of 4)	All Highlighted Dollar Amounts	(1)
7	2 (Page 4 of 4)	All Highlighted Dollar Amounts	(1)

- 
- (1) The information in question consists of coal and/or coal transportation prices contained in bids presented to Tampa Electric, or information that can be used in conjunction with other publicly available data to derive or "back into" confidential coal and/or coal transportation pricing. All of the information in each of the highlighted columns is proprietary confidential business information as defined in Section 366.093(d), Florida Statutes, in that it is:

(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.

This includes the prices shown for coal and segmented coal transportation services, along with other details of information included in the evaluated bids. Public disclosure of this

information would adversely affect Tampa Electric's ability to contract for goods and services on favorable terms. Disclosing private bid prices would adversely affect Tampa Electric's ability to secure the lowest possible bid prices in future coal procurement efforts. The Commission for many years has recognized that details concerning coal and coal transportation pricing are entitled to confidential protection to insure that the economic interests of Tampa Electric, its affiliated providers of coal and coal transportation services and the customers ultimately served by Tampa Electric are not adversely affected. See, e.g., Order No. PSC-05-0882-CFO-EI entered on August 31, 2005 in Docket No. 050001-EI.