

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Review of Tampa Electric)
Company's 2004-2008 Waterborne) DOCKET NO. 031033-EI
Transportation Contract with TECO)
Transport and Associated Benchmark) FILED: October 12, 2005
)

CSX TRANSPORTATION'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION

CSX Transportation ("CSXT") pursuant to Section 366.093, Florida Statutes¹ and Rule 25-22.006, Florida Administrative Code, hereby files this request for confidential classification of certain information introduced into the record of the hearing in the above-styled action. In further support of its Request for Confidential Classification, CSXT states as follows.

1. During the course of the hearing in this docket, certain parties introduced into evidence documents that contain confidential information. Specifically, the documents addressed by this request include the following:

- a. Exhibit No. 81, PSC Document No. 06650-04, identified as "CSX Gannon rail contracts;"
- b. Exhibit No. 103, including PSC Document Nos. 06732-04 and 06781-04, identified as "updated bid prices from witness Robert White;" and
- c. Exhibit No. 104, PSC Document No. 06657-04, which is a letter from Mr. Richard Schumann to Mr. Robert White relating to estimated costs of certain upgrades to coal handling facilities.

¹ All references herein to the Florida Statutes are to the 2005 edition thereof.

DOCUMENT NUMBER DATE
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FPSC-COMMISSION CLERK

2. CSXT remains in need of confidential protection of these documents and accordingly requests same by this pleading.

3. 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)," which would otherwise require disclosure of the information pursuant to the Public Records Act. Proprietary confidential business information includes, but is not limited to, the following:

- (d) 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.

4. The information for which CSXT here seeks confidential classification is competitively sensitive, proprietary business information that is entitled to protection within the scope and meaning of Section 366.093(3)(e), Florida Statutes. Exhibit No. 81 is a contract that includes pricing information for coal transportation services provided by CSXT to Tampa Electric. Although for past services, other entities with whom CSXT contracts could use the information contained therein to CSXT's competitive disadvantage in future contract negotiations. Similarly, Exhibit No. 103 contains updated bid prices submitted to Tampa Electric in the course of negotiations for CSXT to provide coal transportation services to Tampa Electric. This information could be used by other entities with whom CSXT negotiates and contracts to CSXT's competitive disadvantage in

future contract negotiations. Exhibit No. 104 contains proprietary estimates of the costs of certain upgrades to coal handling facilities that were prepared by Mr. Schumann in connection with CSXT's negotiations with Tampa Electric during 2002 and 2003. This information could be used by Tampa Electric personnel or others to CSXT's competitive disadvantage in future contract negotiations.

4. The subject information, i.e., Exhibit Nos. 81, 103, and 104 identified above, further constitutes confidential information within the meaning of Section 366.093(3)(e), Florida Statutes, in that it is information that CSXT treats as confidential and has not otherwise disclosed publicly, and in that disclosure of the confidential information to the public or to anyone in a position to use such information against CSXT's competitive business interests would be detrimental to CSXT's competitive, business, and economic interests. Accordingly, CSXT is entitled to confidential protection of the subject information pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C.

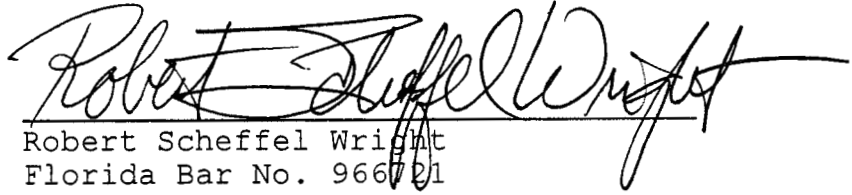
5. In accord with the provisions of this statute and rule, CSXT requests that the Commission classify the subject Exhibit No. 81, Exhibit No. 103, and Exhibit No. 104 as confidential and issue a protective order requiring that all persons coming into possession of the confidential information treat the information as confidential and protect it from disclosure to anyone other

than as permitted by the non-disclosure agreements between CSXT and such parties. CSXT also requests that the Commission's protective order declare the confidential information exempt from the provisions of Chapter 119, Florida Statutes.

WHEREFORE, CSX Transportation respectfully requests that the Commission classify the subject Exhibit No. 81, Exhibit No. 103, and Exhibit No. 104 in the hearing record of this docket, as confidential and further respectfully moves the Commission to issue a protective order as prayed above.

Respectfully submitted this 12th day of October, 2005.

LANDERS & PARSONS



Robert Scheffel Wright
Florida Bar No. 966721
John T. LaVia, III
Florida Bar No. 853666
310 West College Avenue (32301)
Post Office Box 271
Tallahassee, Florida 32302
Phone: 850/681-0311
FAX: 850/224-5595

Counsel for CSX Transportation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Mail or hand delivery (*) this 12th day of October, 2005, on the following:

Wm. Cochran Keating, Esq.*
Jennifer Rodan, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Harold McLean, Esq., Public Counsel
Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

Lee L. Willis, Esq.*
James D. Beasley, Esq.
Ausley & McMullen
227 South Calhoun Street
Tallahassee, FL 32301

Timothy J. Perry, Esq.
McWhirter, Reeves & Davidson, P.A.
117 South Gadsden Street
Tallahassee, FL 32301

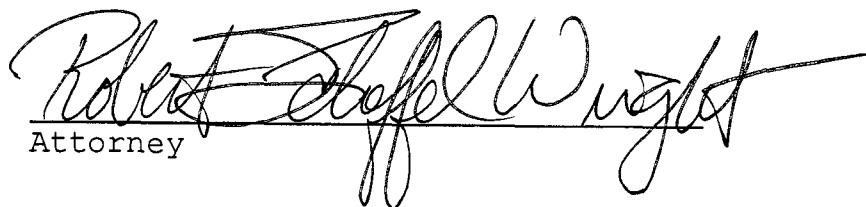
Florida Industrial Power Users Group
c/o John W. McWhirter, Jr., Esq.
McWhirter Reeves
400 North Tampa Street, Suite 2450
Tampa, FL 33602

Florida Retail Federation
John Rogers, Esq.
227 South Adams Street
Tallahassee, FL 32301

Ms. Angela Llewellyn
Regulatory Affairs
P.O. Box 111
Tampa, FL 33601-0111

Michael B. Twomey, Esq.
P.O. Box 5256
Tallahassee, FL 32314-5256

TECO Transport Company
c/o Benjamin Hill III/Landis Curry III
Hill Ward Law Firm
P.O. Box 2231
Tampa, FL 33601-2231


Attorney