

ORIGINAL

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

May 21, 2007

HAND DELIVERED

Ms. Ann Cole, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RECEIVED  
07 MAY 21 PM 3:46  
COMMISSION  
CLERK

Re: Fuel and Purchased Power Cost Recovery Clause  
with Generating Performance Incentive Factor  
FPSC Docket No. 070001-EI

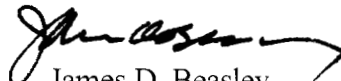
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Request for Confidential Classification of portions of a document entitled Procurement of Solid Fuel Transportation Services 2009-2013.

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~~ \_\_\_\_\_

~~SCR~~ 1

~~SCL~~ 1

~~OPC~~ \_\_\_\_\_

JDB/pp

~~PCA~~ \_\_\_\_\_

Enclosure

~~SCR~~ \_\_\_\_\_

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

~~SGA~~ \_\_\_\_\_

~~SEC~~ \_\_\_\_\_

~~OTH~~ \_\_\_\_\_

*leaf records*

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

04124 MAY 21 07

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost Recovery )  
Clause with Generating Performance Incentive )  
Factor. )  
\_\_\_\_\_ )

DOCKET NO. 070001-EI  
FILED: May 21, 2007

**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 portions of a document entitled Procurement of Solid Fuel Transportation Services 2009-2013 for a minimum period of two years. In support of its request, Tampa Electric states as follows:

1. On April 30, 2007 Tampa Electric Company submitted its Notice of Intent to Seek Confidential Classification of portions of a document entitled Procurement of Solid Fuel Transportation Services 2009-2013 ("Procurement Report"). Along with that notice Tampa Electric submitted under separate cover a single confidential version of the Procurement Report with the confidential information highlighted in yellow.

2. Tampa Electric subsequently reevaluated the information highlighted in yellow in the Procurement Report. Tampa Electric has determined that certain of the information contained on pages 6 and 7 of the Procurement Report need not be treated confidentially. Accordingly, the company is separately filing this date under separate cover a single confidential version of the Procurement Report marked "Revised 5/21/2007" with the information for which confidential treatment is sought highlighted in yellow. Attached hereto are two redacted versions of the

DOCUMENT NUMBER-DATE

04124 MAY 21 5

FPSC-COMMISSION CLERK

Procurement Report revised 5/21/2007 with the confidential information redacted from these public versions of the Procurement Report.

3. Tampa Electric requests that the Staff authorize the return of the April 30, 2007 confidential version of the Procurement Report to the undersigned and that that confidential document be protected from public disclosure for the reasons set forth herein pending the Staff's processing of this request for its return.

**Basis for Requested Confidential Treatment**

4. Subsection 366.093(1), Florida Statutes, provides that any records “found by the Commission to be propriety confidential business information shall be kept confidential and shall be exempt from s. 119.07(1) [requiring disclosure under the Public Records Act].” Proprietary confidential business information includes, but is not limited to “[i]nformation concerning . . . 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.” Subsection 366.093(3)(d). Proprietary confidential business information also includes “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Section 366.093(3)(e). The designated portions of the Procurement Report fall within these statutory categories and, thus, constitute propriety confidential business information entitled to protection under Section 366.093 and Rule 25-22.006.

5. Attached hereto as Exhibit "A" and by reference made a part hereof is a detailed justification for the request for specified confidential treatment of the highlighted portions of the Procurement Report marked Revised 5/21/2007. For the reasons set forth therein the company asks that the highlighted portions of the Procurement Report be treated confidentially and

exempt from public disclosure under the Public Records Law consistent with the above statutory and rule provisions governing the treatment of confidential information.

6. Tampa Electric Company treats the above-referenced confidential information as such and has not disclosed it publicly.

**Requested Duration of Confidential Classification**

7. Tampa Electric requests that the confidential information contained in the Procurement Report marked Revised 5/21/2007 be treated by the Commission as confidential proprietary business information for a minimum of two years for the reasons set forth in Exhibit "A".

WHEREFORE, Tampa Electric respectfully requests that the highlighted information set forth in the Procurement Report marked Revised 5/21/2007 be accorded confidential classification for the reasons set forth above for a two year period following the designation of such material as confidential and that the initial single confidential version of the Procurement Report filed April 30, 2007 be returned to the undersigned as having been superseded by the single confidential version of a Procurement Report marked Revised 5/21/2007 being filed herewith under separate cover.

DATED this 21<sup>st</sup> day of May 2007.

Respectfully submitted,



JEE 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 copy of the foregoing Request for Confidential Classification, filed on behalf of Tampa Electric Company, has been furnished by U.S. Mail or hand delivery (\*) on this 21<sup>st</sup> day of May 2007 to the following:

Ms. Lisa Bennett\*  
Staff Attorney  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Mr. John T. Burnett  
Associate General Counsel  
Progress Energy Service Co., LLC  
Post Office Box 14042  
St. Petersburg, FL 33733-4042

Mr. Paul Lewis, Jr.  
106 East College Avenue  
Suite 800  
Tallahassee, FL 32301-7740

Mr. John W. McWhirter, Jr.  
McWhirter, Reeves & Davidson, 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, P.A.  
Post Office Box 15579  
Tallahassee, FL 32317

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

Mr. John T. Butler  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420

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

Mr. R. Wade Litchfield  
Associate General Counsel  
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. Robert Scheffel Wright  
Mr. John T. LaVia, III  
Young van Assenderp, P.A.  
225 South Adams Street, Suite 200  
Tallahassee, FL 32301

Mr. Michael B. Twomey  
Post Office Box 5256  
Tallahassee, FL 32314-5256

Karen S. White, Lt Col, USAF  
Damund E. Williams, Capt., USAF  
AFLSA/JACL-ULT  
139 Barnes Drive, Suite 1  
Tyndall Air Force Base, FL 32403-5319

Mr. James W. Brew  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, NW  
Eighth Floor, West Tower  
Washington, D.C. 20007-5201

Mr. Jack Shreve  
Senior General Counsel  
Ms. Cecilia Bradley  
Senior Assistant Attorney General  
Office of the Attorney General  
The Capitol – PL01  
Tallahassee, FL 32399-1050

  
\_\_\_\_\_  
ATTORNEY

Docket No. 070001-EI

**Request for Specified Confidential Treatment****Report Titled "Procurement of Solid Fuel Transportation Services 2009-2013"**

<b><u>Page(s)</u></b>	<b><u>Paragraph</u></b>	<b><u>Description</u></b>	<b><u>Justification</u></b>	<b><u>Declassification Date</u></b>
3	1	All yellow highlighted information	(1)	May 21, 2009
3	2	All yellow highlighted information	(1)	May 21, 2009
3	Chart	All yellow highlighted information	(1)	May 21, 2009
4	Chart	All yellow highlighted information	(1)	May 21, 2009
4	1	All yellow highlighted information	(1)	May 21, 2009
4	2	All yellow highlighted information	(1)	May 21, 2009
4	3	All yellow highlighted information	(1)	May 21, 2009
5	1	All yellow highlighted information	(1)	May 21, 2009
5	2	All yellow highlighted information	(1)	May 21, 2009
5	3	All yellow highlighted information	(1), (2)	May 21, 2009
5	Section titled "Calculation of Insurance Adjustment"	All yellow highlighted information under the heading "Calculation of Insurance Adjustment"	(1), (2)	May 21, 2009
5	Section titled "River Barge Transloading Rate"	All yellow highlighted information under the heading "River Barge Transloading Rate"	(1), (2)	May 21, 2009
5	Section titled "Ocean Vessel Transloading Rate"	All yellow highlighted information under the heading "Ocean Vessel Transloading Rate"	(1), (2)	May 21, 2009

<u>Page(s)</u>	<u>Paragraph</u>	<u>Description</u>	<u>Justification</u>	<u>Declassification Date</u>
5	Final paragraph	All yellow highlighted information	(1)	May 21, 2009
6	1	All yellow highlighted information	(1)	May 21, 2009
6	3	All yellow highlighted information	(1), (3)	May 21, 2009
6	4	All yellow highlighted information	(1), (3)	May 21, 2009
7	1	All yellow highlighted information	(1), (3)	May 21, 2009
7	3	All yellow highlighted information	(1)	May 21, 2009
7	4	All yellow highlighted information	(1)	May 21, 2009
7	6	All yellow highlighted information	(1)	May 21, 2009
7	7	All yellow highlighted information	(1)	May 21, 2009
7	8	All yellow highlighted information	(1)	May 21, 2009
8	3 columns at top of page	All yellow highlighted information in columns at top of page	(1), (3)	May 21, 2009
8	1	All yellow highlighted information	(1)	May 21, 2009
8	2	All yellow highlighted information	(1), (2)	May 21, 2009
8	Table	All yellow highlighted information	(1), (2)	May 21, 2009
8	3	All yellow highlighted information	(1), (2)	May 21, 2009
8	4	All yellow highlighted information	(1), (2)	May 21, 2009
9	1	All yellow highlighted information	(1), (2)	May 21, 2009
9	2	All yellow highlighted information	(1), (2)	May 21, 2009
9	4	All yellow highlighted information	(1), (2)	May 21, 2009
9	5	All yellow highlighted information	(1), (2)	May 21, 2009



<u>Page(s)</u>	<u>Paragraph</u>	<u>Description</u>	<u>Justification</u>	<u>Declassification Date</u>
9	6	All yellow highlighted information	(1), (2)	May 21, 2009
9	8	All yellow highlighted information	(1), (2)	May 21, 2009
9	10	All yellow highlighted information	(1), (2)	May 21, 2009
10	Exhibit A	All yellow highlighted information	(1), (2)	May 21, 2009
11	Exhibit B	All yellow highlighted information	(1), (2)	May 21, 2009

(1) This information is competitive information, which, if made public, "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. The highlighted information describes (1) the proposed alternative regulatory mechanism or "market proxy" methodology which would be used to set the price of solid fuel transportation services for each segment if Tampa Electric does not receive competitive bids; and (2) estimated transportation rates calculated using the market proxy methodology. The market proxy methodology and estimated 2009 rates must be kept confidential to protect Tampa Electric's customers from paying higher prices for solid fuel transportation than they otherwise would. If potential bidders know the rates or are able to calculate the value of the market proxy prior to submitting their responses to Tampa Electric's Request for Proposals ("RFP") for solid fuel transportation for the period 2009 through 2013, the bidders are unlikely to submit responses that are less than the value of the market proxy. The market proxy methodology and estimated rates must be kept confidential so that potential RFP responses that are less than the value of the applicable segment market proxy are not precluded.

(2) This information is competitive, contract information, which, if made public, "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. The highlighted information describes existing segmented transportation contract rates and escalation terms for Tampa Electric's contract with TECO Transport. The contract rates and escalation must be kept confidential to protect Tampa Electric's customers from paying higher prices for solid fuel transportation than they otherwise would. If potential bidders know the rates, or able to calculate the rates using contract escalation provisions and publicly disclosed (declassified) contract pricing information from previous years, prior to submitting their responses to Tampa Electric's RFP for solid fuel transportation for the period 2009 through 2013, then the bidders are unlikely to submit responses that are less than the value of the current contract. The contractual information must be kept confidential so that potential RFP responses that are less than the value of the rates under the existing contract for solid fuel transportation are not precluded.

It is the segmented transportation cost data which are proprietary and confidential. The disclosure of the segmented transportation costs would have a direct impact on Tampa Electric's future fuel and transportation contracts by informing potential bidders of current prices paid for services provided. That harm, which would flow to Tampa Electric and its Customers from such disclosure, was the subject of Prepared Direct Testimony of Mr. John R. Rowe, Jr. on behalf of Tampa Electric in Docket No. 860001-EI-D. A copy of Mr. Rowe's Direct Testimony from the September 29, 1986 hearing in that docket is attached hereto as Exhibit "A" and by reference made a part hereof.

In the Commission's Order No. 12645 issued in Docket No. 830001-EU on November 3, 1983 (In re: Investigation of Fuel Adjustment Clauses of Electric Utilities), the Commission prescribed the current 423 Form filings. In so doing, the Commission observed:

Next, we must determine whether any portion of the monthly reports should be accorded confidential treatment. We agree that certain portions of the confidential information. However, many portions of the monthly reports will not. The proprietary information for all types of fuel is transportation. Any breakout of transportation costs must be treated confidentially. In addition, F.O.B. mine prices for coal is proprietary in nature as is the price of fuel oil. Disclosure of separate transportation or F.O.B. mine prices would have a direct impact on a utility's future fuel and transportation contracts by informing potential bidders of current prices paid for services. Disclosure of fuel oil prices would have an indirect effect upon bidding suppliers. Suppliers would be reluctant to provide significant price concessions to an individual utility if prices were disclosed because other purchasers would seek similar concessions.

The vigorous competition discussed in Mr. Rowe's earlier testimony, as recognized by the Commission, justifies proprietary confidential treatment of the information described above. The information for which confidential treatment is requested is the same information that is protected from disclosure on Tampa Electric's monthly 423 filings, and as such, should be similarly protected.

(3) This information is competitive information, which, if made public, "would impair the efforts of Tampa Electric to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. The highlighted information is bid information that was received in response to an RFP conducted on behalf of Tampa Electric. The bid information must be kept confidential to protect Tampa Electric's customers from paying higher prices for solid fuel transportation than they otherwise would. If potential bidders see that competitive bid information submitted to Tampa Electric may not be kept confidential, they may decide not to participate in Tampa Electric's RFP for solid fuel transportation for the period 2009 through 2013. Lack of

participation in the RFP would have the effect of limiting competition among suppliers and would likely result in higher costs to Tampa Electric and its ratepayers. The bid information must be kept confidential to encourage a robustly competitive RFP process in awarding the 2009-2013 contract(s) to provide solid fuel transportation services.

Period of Time for Confidential Treatment

(4) Tampa Electric seeks protection of the market proxy information, contract information regarding Tampa Electric's contract with TECO Transport, and bid information specified as confidential for a period of two years.

(5) The need for two years of confidentiality is vital to Tampa Electric and its ratepayers because a new contract for solid fuel transportation will not take effect until 2009.

(6) The need for two or more years of confidentiality is vital not only to Tampa Electric and its ratepayers, but to the vendors of coal transportation services as well.

(7) In addition to its existing contract with Tampa Electric, TECO Transport markets bulk commodity transportation services in the open non-regulated marketplace. The prices at which its services are sold are not publicly disclosed anywhere by publication or voluntary dissemination because it would materially lessen their competitive posture with customers other than Tampa Electric. Outside customers who negotiate for coal transportation services are placed at a competitive advantage for these goods or services if they know the cost of the services TECO Transport is currently providing.

(8) As long as an outside customer does not know how the contract escalation clause changes the price, the cost of services that TECO Transport provides be calculated. However, publicizing the price of coal transportation services will tell an outside customer how much the escalation has been and make it easy for him to calculate cost. Because of seasonality of costs in this business, a full year's cost data is necessary for an accurate cost measurement.

(9) A second year must pass before one full year can be compared with a second year to measure the escalation accurately. So a perceptive vendor seeks two years of data to make his cost estimates. The competitive industries recognize that data beyond two years is not helpful to them, as enough factors may change in that time frame for costs to be much different from what was incurred. A loss of outside business by TECO Transport will affect not only TECO Transport, but if large enough, it could affect the credibility of the company. The prices negotiated with Tampa Electric by this vendor took into consideration its costs and revenues at the time of negotiation, including the revenues from outside customers. A significant loss of outside business could cause TECO Transport to fail, since under market pricing regulation Tampa Electric will not make up the difference to it in cost. In turn, a failure of this vendor would leave Tampa Electric and its customers with only higher cost alternatives for coal transportation to Tampa, a higher cost that would be paid by Tampa Electric's ratepayers. So the continued credibility of TECO Transport is important to protect Tampa Electric's ratepayers from higher cost alternatives.

(10) The above rationale for a two-year confidential protection of the information in question has been approved by the Commission in this docket. (See, e.g., Order No. PSC-07-0413-CFO-EI, dated May 9, 2007.

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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

---

**DATE:** 5-21-07  
**TO:** James Beasley  
**FROM:** I. Henry, Division of the Commission Clerk &  
Administrative Services  
**RE:** **Acknowledgment of Receipt of Confidential Filing**

---

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket No. 070001-21 or (if filed in an undocketed matter) concerning Procurement of Solid Fuel Trans. SCS, and filed on behalf of TECO/Beasley. The document will be maintained in locked storage.

Any questions regarding this matter should be directed to Marguerite Lockard at (850) 413-6770.

I:\Confid\ackconf.doc

PSC/CCA019-C(Rev 12/06)

**CONFIDENTIAL**

DOCUMENT NUMBER-DATE

04125 MAY 21 8

FPSC-COMMISSION CLERK