

# 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

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July 22, 2009

HAND DELIVERED

Ms. Ann Cole, Director  
Division of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: UNDOCKETED – Motion for a Protective Order Affording Confidential Treatment of Information requested informally by Staff by letter dated June 19, 2009 and Justification for Confidential Classification

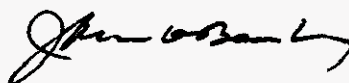
Dear Ms. Cole:

Enclosed for filing in the above-styled matter are the original and fifteen (15) copies of Tampa Electric Company's Motion for a Protective Order Affording Confidential Treatment of Information Requested Informally by Staff by Letter Dated June 19, 2009 and Justification for Confidential Classification.

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  
ECL 13 Enclosure  
GCL 1  
OPC cc: Beth Salak (w/enc.)  
RCP  
SSC  
SGA  
ADM  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Motion for a Protective Order Affording ) UNDOCKETED  
Confidential Treatment of Information requested )  
informally by Staff by letter dated June 19, 2009. ) FILED: July 22, 2009  
\_\_\_\_\_ )

**TAMPA ELECTRIC COMPANY'S MOTION FOR A PROTECTIVE ORDER  
AFFORDING CONFIDENTIAL TREATMENT OF INFORMATION  
REQUESTED INFORMALLY BY STAFF BY LETTER DATED JUNE 19, 2009  
AND JUSTIFICATION 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, moves the Commission for entry of a protective order affording confidential treatment of certain information requested by the Commission's Staff in an informal data request and, as grounds therefore, says:

1. In a letter dated June 19, 2009, Staff requested that Tampa Electric file certain sensitive employee information by July 1, 2009. On July 1, 2009 Tampa Electric Company submitted a single unredacted confidential version of answers to Staff's informal data requests Nos. 1-4 along with a Notice of Intent to Seek Confidential Treatment of those answers. This Motion for a protective order is also intended to serve as Tampa Electric's justification for confidential treatment of those answers consistent with Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.

2. Section 366.093, Fla. Stat. provides for the confidential treatment of certain "Proprietary Confidential Information." 366.093(3) defines Proprietary Confidential Information to include, but not be limited to, (among other things):

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- (e) Information relating to competitive interests the disclosure of which would impair the competitive business of the provider of the information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications or responsibilities.

3. The reference to "employee personnel information unrelated to compensation duties, qualifications and responsibilities" in paragraph (3)(f) does not preclude requesting confidential treatment of information under paragraph (3)(e) where it can be shown that public disclosure of such information will harm the competitive interests of the provider of the information.

4. Public disclosure of the information informally requested by Staff, including employees' names, titles and respective salaries, will harm the competitive interests of Tampa Electric, which must compete in the market for qualified employees who are essential for the provision of quality electric service.

5. Placing the requested information in the public domain will do nothing to advance the Commission's review of the information but will significantly harm the morale of Tampa Electric's employees, drive up compensation costs and expose the company to poaching of its employees by other entities that compete for similarly qualified individuals.

6. The Commission has recognized its ability to protect compensation information from public disclosure and has determined on multiple occasions that it was appropriate to do so. *See*, Order No. PSC-05-0626-PCO-EI, issued June 7, 2005, Docket No. 050078-ET, *In re: Petition for rate increase by Progress Energy Florida, Inc.* (allowing employee compensation information to receive confidential treatment); Order No. PSC-02-1755-CFO-GU, issued December 12, 2002, Docket No. 020384-GU, *In re: Petition for rate increase by Peoples Gas*

*System* (allowing executive compensation and executive incentive compensation to receive confidential treatment); Order No. PSC-02-1613-PCO-GU, issued November 21, 2002, Docket No. 020384-GU, *In re: Petition for rate increase by Peoples Gas System* (allowing compensation philosophy and incentive compensation to receive confidential treatment); Order No. PSC-02-0050-PCO-EI, issued January 7, 2002, Docket No. 010949-EI, *In re: Request for rate increase by Gulf Power Company* (allowing incentive compensation plan to receive confidential treatment); Order No. PSC-01-2528-CFO-EI, issued December 28, 2001, Docket No. 010001-EI, *In re: Fuel and purchased power cost recovery clause and generating performance incentive factor* (allowing employees' names, positions, and factors considered in their compensation to receive confidential treatment).

7. Additionally, in one order denying confidential treatment over summary-level compensation information, the Commission stated that the information that was the subject of that request did not reveal "any specifics of compensation plans or compensation levels that would cause irreparable harm to [the utility's] competitive plans." Order No. PSC-02-0235-CFO-EI, issued February 25, 2002, Docket No. 010949-EI, *In re: Request for rate increase by Gulf Power Company*. The Commission went on to state that "the information is given in total dollar amounts and percentages and does not reveal individual employees' names, levels, incentive compensation, or bonuses which would be competitively sensitive or confidential in nature." *Id.* Clearly the Commission has recognized the sensitive nature of certain types of compensation information in the past.

8. The specific information that is the subject of this Motion continues to be available to the Commission and its Staff. However, it is not in the best interests of Tampa Electric or its customers to make this information publicly available. Tampa Electric operates

within a highly competitive market for management talent. Disclosure of employee names and titles along with compensation and incentive compensation information would enable competing employers to meet – or beat – the compensation offered by Tampa Electric. This would result in (i) the loss of highly skilled and trained employees to competitors and perhaps the inability to attract new talent, or (ii) the need to increase the level of compensation and incentives already paid in order to retain these employees and attract new talent. The harm to customers that would directly result is obvious. In the case of the first scenario, Tampa Electric would have to potentially settle for the less-than-most-desirable employees, and the quality of service our customers enjoy would suffer. In the second scenario, the quality of service would be maintained but the cost of that service would increase, potentially significantly.

9. Confidential treatment for employee names and titles linked with salary information is also necessary to protect the individual employees' rights to privacy. In Florida, a citizen's right to privacy is independently protected by the state constitution. *See, Art. V, § 23, Fla. Const.* Accordingly, the citizens of Florida, in amending the state constitution, explicitly recognized individual privacy interests. To protect the privacy interest of its employees (who are not subject to the mandatory disclosure requirements of the Security Exchange Commission), Tampa Electric will continue to request confidential treatment for individual employees' names and titles linked to their salaries.

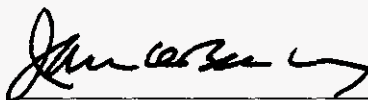
10. Tampa Electric treats the information in question confidentially and has not disclosed it publicly.

WHEREFORE, for the foregoing reasons, Tampa Electric, respectfully requests that this Commission determine that (i) confidential classification of this information is available pursuant to Section 366.093(3), Florida Statutes; (ii) disclosure of competitively sensitive

compensation information would detrimentally affect the IOUs and their customers by reducing the quality of service or increasing the cost of service; (iii) disclosure of individual employees' names and titles along with salary information would be a violation of their constitutionally protected privacy interests, and (iv) this information therefore should be treated as confidential and protected from public disclosure. Tampa Electric intends for the foregoing to serve as the confidentiality justification following up the company's July 1, 2009 Notice of Intent to Seek Confidential Classification.

DATED this 22<sup>nd</sup> day of July, 2009.

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