

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET  
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(850) 224-9115 FAX (850) 222-7560

**REDACTED**

November 2, 2009

HAND DELIVERED

RECEIVED-FPSC  
09 NOV -2 PM 3:34  
COMMISSION  
CLERK

Ms. Ann Cole, Director  
Division of Commission Clerk  
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. 090001-EI

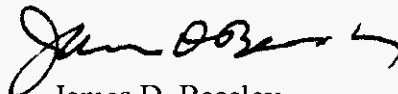
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Request for Confidential Classification and Motion for Temporary Protective Order of witness Joann T. Wehle's page 1 of 1 of Exhibit No. \_\_ (JTW-1).

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.)

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<u>ECR</u>	<u>13</u>
GCL	1
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DOCUMENT NUMBER-DATE

11049 NOV-28

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 090001-EI

FILED: November 2, 2009

**TAMPA ELECTRIC COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
AND MOTION FOR TEMPORARY 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 request confidential classification of the yellow highlighted information contained in the following described document(s) ("the Document(s)") stamped "CONFIDENTIAL" and all information that is or may be printed on yellow paper stock stamped "CONFIDENTIAL" within the Document(s), all of said confidential information being hereinafter referred to as "Confidential Information."

**Description of the Document(s)**

Tampa Electric witness Joann T. Wehle's page 1 of 1 of Exhibit \_\_ (JTW-1), filed in this docket on November 2, 2009. In support of this request, the company states:

1. 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), Florida Statutes [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."

DOCUMENT NUMBER-DATE

11049 NOV-28

FPSC-COMMISSION CLERK

Subsection 366.093(3)(d), Florida Statutes. 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), Florida Statutes. The Confidential Information that is the subject of this request and motion falls within the statutory categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.

2. Attached hereto as Exhibit "A" is a justification for confidential treatment of the Confidential Information contained in the Document(s).

3. Attached hereto as Exhibit "B" are two public versions of the Document(s) with the Confidential Information redacted, unless previously filed as indicated.

4. The Confidential Information contained in the Document(s) is intended to be and is treated by Tampa Electric as private and has not been publicly disclosed.

5. For the same reasons set forth herein in support of its request for confidential classification, Tampa Electric also moves the Commission for entry of a temporary protective order pursuant to Rule 25-22.006(6)(c), Florida Administrative Code, protecting the Confidential Information from public disclosure.

**Requested Duration of Confidential Classification**

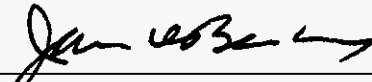
6. Tampa Electric requests that the Confidential Information be treated by the Commission as confidential proprietary business information for at least the 18 month period prescribed in Rule 25-22.006(9)(a), Florida Administrative Code. If, and to the extent that the company is in need of confidential classification of the Confidential Information beyond the 18

month period set forth in the Commission rule, the justification and grounds for such extended confidential treatment are set forth in Exhibit "C" to this request and motion.

WHEREFORE, Tampa Electric Company respectfully requests that the Confidential Information that is the subject of this request and motion be accorded confidential classification for the reasons set forth herein and for a minimum period of 18 months, subject to any request for a longer period of confidential classification as may be set forth in Exhibit "C" to this request and motion. The company further moves for the entry of a temporary protective order pursuant to Rule 25-22.006(6)(c), Florida Administrative Code, protecting the Confidential Information from public disclosure.

DATED this 2<sup>nd</sup> day of November 2009.

Respectfully submitted,



---

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 and Motion for Temporary Protective Order, filed on behalf of Tampa Electric Company, has been served by hand delivery (\*) or U. S. Mail on this 2<sup>nd</sup> day of November 2009 to the following:

Ms. Lisa C. 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.  
Post Office Box 3350  
Tampa, FL 33601-3350

Ms. Vicki Kaufman  
Mr. Jon C Moyle  
Keefe Anchors Gordon & Moyle, PA  
118 N. Gadsden Street  
Tallahassee, FL 32301

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 15579  
Tallahassee, FL 32317

Mr. Mehrdad Khojasteh  
Florida Public Utilities Company  
P. O. Box 3395  
West Palm Beach, FL 33402-3395

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

Mr. R. Wade Litchfield  
Florida Power & Light Company  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301-1859

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

Mr. Jeffrey A. Stone  
Mr. Russell A. Bidders  
Mr. Steven R. Griffin  
Beggs & Lane  
Post Office Box 12950  
Pensacola, FL 32591-2950

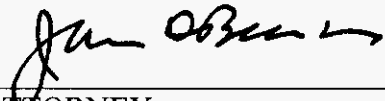
Mr. Michael B. Twomey  
Post Office Box 5256  
Tallahassee, FL 32314-5256

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

Karen S. White, Lt Col, USAF  
Shayla L. McNeill, Capt, USAF  
AFCESA/ULT  
139 Barnes Drive, Suite 1  
Tyndall Air Force Base, FL 32403-5319

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

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

  
\_\_\_\_\_  
ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF HIGHLIGHTED  
PORTIONS OF THE DOCUMENT(S)**

<b><u>Exhibit No.</u></b>	<b><u>Line Nos.</u></b>	<b><u>Detailed Description</u></b>	<b><u>Rationale</u></b>
JTW-1	All highlighted lines	All highlighted information	(1)

- 
- (1) All yellow highlighted information shown on Exhibit No. (JTW-1), page 1 of 1, to the prepared direct testimony of Witness Joann T. Wehle is entitled to confidential classification under Section 366.093(3)(d) and (e), Florida Statutes. Disclosure of the highlighted information would impair the efforts of Tampa Electric to contract for goods and services on favorable terms. In addition, it would harm the competitive interests of Tampa Electric's transportation supplier which could ultimately harm Tampa Electric and its customers. There exists vigorous competition among suppliers of these waterborne transportation services; and therefore, any public disclosure of prices charged by Tampa Electric transportation supplier would eliminate any negotiating leverage which the suppliers have in marketing their services to others, thereby weakening the supplier and perhaps its ability to continue meeting Tampa Electric's needs.

**PUBLIC VERSION(S) OF THE DOCUMENT(S)**

Attached hereto (unless previously filed as may be noted below) are two public versions of the Document(s) with the Confidential Information redacted.

Public Version(s) of the Document(s) attached   X  

Public Version(s) of the Document(s) previously filed on \_\_\_\_\_



DOCKET NO. 090001-EI  
FAC 2010 PROJECTION FILING  
EXHIBIT NO. \_\_\_\_\_ (JTW-1)

EXHIBIT TO THE TESTIMONY OF  
JOANN T. WEHLE

WATERBORNE TRANSPORTATION COSTS DISALLOWANCE  
JANUARY 2008 - DECEMBER 2008

REDACTED

REDACTED

Docket No. 090001-EI  
 FAC 2010 Projection Filing  
 Exhibit No. \_\_\_\_\_ (JTW-1)  
 Page 1 of 1

REDACTED January - December 2008	(A)	(B)	(C)	(D)	(A*D)	(B*D)	(C*D)
	Contract \$/Ton <sup>(1) (3)</sup>	Adjusted \$/Ton <sup>(2)</sup>	Disallowance \$/Ton	Total Tons	Contract Total	Adjusted Total	Disallowed Total
<b>Inland River Docks</b>							
Pet Coke Refinery (M.P. 127)					\$ 1,024,010	\$ 886,396	\$ 137,614
Chester Dock					5,196,818	4,487,881	708,937
Overland/Camp					-	-	-
Hamilton					-	-	-
Empire Dock					-	-	-
Cora, Non-Zeigler					3,278,601	2,831,938	446,663
Yankeetown					-	-	-
Mount Vernon					3,048,361	2,632,675	415,686
Cook					1,489,481	1,287,728	201,752
Henderson River Port					-	-	-
Rigsby & Barnard (Arclar)					-	-	-
Patriot					-	-	-
Owensboro					322,210	278,527	43,682
New Hope					-	-	-
Dekoven					5,102,179	4,406,771	695,408
Jefferson					-	-	-
Powhatan					2,152,294	1,859,258	293,035
Caseyville					683,289	590,021	93,268
S. Indiana/Evansville					-	-	-
Pyramid					-	-	-
Ken Mine					-	-	-
GRT					-	-	-
Kentucky Lakes Dock					-	-	-
Calvert City					1,531,486	1,323,788	207,698
Sebree					1,612,374	1,392,768	219,607
Arnon					1,604,090	1,385,432	218,658
Shawneetown					4,573,138	3,948,612	624,525
<b>Total River</b>					<b>\$ 31,618,331</b>	<b>\$ 27,311,797</b>	<b>\$ 4,306,534</b>
<b>Ocean</b>							
Coal			\$ 2.41		33,297,675	23,241,610	10,056,065
Petcoke from Texas			\$ 4.08		-	-	-
<b>Total Ocean</b>					<b>\$ 33,297,675</b>	<b>\$ 23,241,610</b>	<b>\$ 10,056,065</b>
<b>Adjustment</b>							<b>3,000,000</b>
						<b>Total</b>	<b>\$ 17,362,599</b>

<sup>1</sup> Contract rate per contract signed with TECO Transport.

<sup>2</sup> Adjusted rate based on methodology set forth in Order No. PSC-04-0999-FOF-EI, which takes the weighted average rate for all upriver terminals minus \$1 and divides it by the weighted average rate of all upriver terminals multiplied by the contract rate for that specific upriver terminal. Ocean rate based on the aforementioned Order.

<sup>3</sup> Contract rate subject to quarterly escalation provisions in the contract. Therefore, ratio between total contract amount and adjustment will change moving forward.

DOCKET NO. 090001-EI  
FAC 2010 PROJECTION FILING  
EXHIBIT NO. \_\_\_\_\_ (JTW-1)

EXHIBIT TO THE TESTIMONY OF  
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Docket No. 090001-EI  
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<sup>3</sup> Contract rate subject to quarterly escalation provisions in the contract. Therefore, ratio between total contract amount and adjustment will change moving forward.

**REQUESTED DURATION OF CONFIDENTIAL CLASSIFICATION**

Tampa Electric requests that the Confidential Information that is the subject of this request be treated as proprietary confidential business information exempt from the Public Records Law for a minimum of 18 months from the date of the order granting such classification. To the extent the company needs confidential protection of the Confidential Information for a period longer than 18 months, the company's justification therefor is set forth below:

n.a.

STATE OF FLORIDA

COMMISSIONERS:  
MATTHEW M. CARTER II, CHAIRMAN  
LISA POLAK EDGAR  
NANCY ARGENZIANO  
NATHAN A. SKOP  
DAVID E. KLEMENT



OFFICE OF COMMISSION CLERK  
ANN COLE  
COMMISSION CLERK  
(850) 413-6770

# Public Service Commission

## ACKNOWLEDGEMENT

DATE: November 2, 2009

TO: James D. Beasley, Ausley Law Firm

FROM: Ruth Nettles, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 090001 or, if filed in an undocketed matter, concerning Exhibit No. JTW-1 of Joanne T. Wehle, and filed on behalf of Tampa Electric Company. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Kim Peña, Records Management Assistant, at (850) 413-6393.

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

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