

AUSLEY & McMULLEN

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RECEIVED-FPSC

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COMMISSION
CLERK

June 21, 2010

HAND DELIVERED

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

Re: UNDOCKETED CONFIDENTIAL FILING
(Responses to Staff's June 1, 2010 Data Requests Nos. 1-5)

Dear Ms. Cole:

Enclosed for filing in the above-styled matter are the original and seven (7) copies of Tampa Electric Company's Request for Confidential Classification and Motion for Temporary Protective Order.

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

- COM _____
- APA _____
- ECR 5
- GCL 1
- RAD _____
- SSC _____
- ADM _____
- OPC _____
- CLK Perce

COMMUNICATIONS UNIT

05145 JUN 21 2010

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

UNDOCKETED

FILED: June 21, 2010

**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)

Responses to June 1, 2010 letter from Mr. Timothy J. Devlin to Tampa Electric requesting data (Requests Nos. 1-5) (Bates stamp pages 1-7). 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." 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 propriety 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. Finally, Tampa Electric requests that the Confidential Information be returned to the company before the 18-month confidential protection period expires.

DATED this 21st day of June, 2010.

Respectfully submitted,




JAMES D. BEASLEY
J. JEFFRY WAHLEN
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 21st day of June, 2010 to the following:

Mr. S. Curtis Kiser*
General Counsel
Florida Public Service Commission
Room 301J – Gerald L. Gunter Bldg.
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850



ATTORNEY

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

| <u>Page Nos.</u> | <u>Line Nos.</u> | <u>Detailed Description</u> | <u>Rationale</u> |
|------------------|--------------------------------------|-----------------------------|------------------|
| 1, 3 and 4 | Those containing highlighted amounts | All highlighted information | (1) |

-
- (1) The amounts shown reflect competitively negotiated payments by Tampa Electric or its parent for various services the companies require on a continuing basis. Public disclosure of the Confidential Information will enable other potential providers of these services to know how much Tampa Electric or its parent is willing to pay for the particular types of services identified in Tampa Electric's responses to these data requests. Armed with such knowledge the other potential providers will be able to develop a "floor" on the amounts they would offer to charge for providing services similar to those identified in the responses. This can only have the effect of increasing what Tampa Electric or its parent may have to pay in the future for these services. Public disclosure of amounts paid to employees or consultants could also encourage other entities to attempt to lure away talented professionals serving Tampa Electric's needs through higher offers of compensation. All of these adverse effects could ultimately raise the level of costs Tampa Electric must pay for needed services which, in turn, could raise the level of rates Tampa Electric must charge its customers for the services it provides. As such, the Confidential Information is entitled to confidential protection under Section 366.093, Florida Statutes.

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 2

Public Version(s) of the Document(s) previously filed on n/a

REDACTED

**TAMPA ELECTRIC COMPANY
UNDOCKETED: STAFF'S FIRST
AMENDED DATA REQUEST
REQUEST NO. 1
PAGE 1 OF 1
FILED: JUNE 21, 2010**

1. Has TECO or its parent company hired any former PSC employees? If yes, provide the names, the years employed, and annual cost (salary and benefits).
- A. Yes, Tampa Electric hired Mr. Wilbur J. Stiles, II, a former Florida Public Service Commission employee, in December 2003. Mr. Stiles left the employment of the Commission in August 2000. Mr. Stiles remains employed by Tampa Electric and the annual cost for his position is provided below.

| | Annual Cost |
|-----------|--------------------|
| 2001 | N/A |
| 2002 | N/A |
| 2003 | |
| 2004 | |
| 2005 | |
| 2006 | |
| 2007 | |
| 2008 | |
| 2009 | |
| 2010 Est. | |

**TAMPA ELECTRIC COMPANY
UNDOCKETED: STAFF'S FIRST
AMENDED DATA REQUEST
REQUEST NO. 2
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- 2.** Has TECO or its parent company had a business relationship with an entity that employs or is under contract with a current and/or former PSC employee at any time during this period? If yes, provide the name(s) of the current and/or former PSC employee(s), name of the associated business entity, and the time period of the business relationship.
- A.** Yes, Tampa Electric or its parent company had or has a business relationship with an entity that employs or is under contract with a current and/or former PSC employee at any time during this period. However, as stated in the cover letter for this data request, Tampa Electric does not have access to employee records of entities it has contracted with and does not know the identities of all employees of the Commission going back to calendar year 2000. Recognizing these limitations, see the attached table for the requested information.

| | Name of Associated Business Entity ⁽¹⁾ | Current /Former PSC Employee Name ⁽²⁾ | Time Period of Business Relationship | Type of Service | Payment Made Year 2000 | Payment Made Year 2001 | Payment Made Year 2002 |
|---|---|---|--------------------------------------|---------------------|------------------------|------------------------|------------------------|
| 1 | Ackerman Senterfit | Braulio Baez JoAnn Chase Matthew Feil Lila Jaber Beth Keating | January 2000 - Present | Legal - Litigation | | | |
| 2 | Archon | Jose Garcia | November 2003 - April 2006 | Consulting Services | - | - | - |
| 3 | CSX Corporation, Inc. | Todd Bohrman | July 2008 - Present | Fuel Transportation | - | - | - |
| 4 | David Swafford | David Swafford | January 2000 - January 2010 | Consulting Services | | | |
| 5 | Floridian Partners, LLC (formerly Barreto) | Jorge Chamizo | November 2005 - Present | Consulting Services | - | - | - |
| 6 | Harold A. McLean, LLC | Harold A. McLean | October 2008 - Present | Consulting Services | - | - | - |
| 7 | Katz, Kutter, Alderman, Bryant & Yon | Susan Clark Wilbur J. Stiles II | November 2000 - March 2004 | Legal - Regulatory | | | |
| 8 | Radey Thomas Yon & Clark | Susan Clark J. Terry Deason Wilbur J. Stiles II | April 2003 - Present | Legal - Regulatory | - | - | - |
| 9 | Wayne Makin | Wayne Makin | August 2006 - January 2009 | Consulting Services | - | - | - |

1.) Tampa Electric business relationships with utilities that routinely provide telephone, cable, water and wastewater services to Tampa Electric and its parent are not included as those types of services are provided to the public generally.

2.) While Tampa Electric had or has a business relationship with the above listed entities, the current/former FPSC employees listed were not necessarily engaged directly with Tampa Electric's regulatory business activities. In other words, the current/former employee is listed only because Tampa Electric is aware of their employment with the respective entity.

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| Name of Associated Business Entity ⁽¹⁾ | Payment Made Year 2003 | Payment Made Year 2004 | Payment Made Year 2005 | Payment Made Year 2006 | Payment Made Year 2007 | Payment Made Year 2008 | Payment Made Year 2009 | Payment Made 2010 YTD |
|---|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|-----------------------|
| 1 Ackerman Senterfit | | | | | | | | |
| 2 Archon | | | | | | | | |
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3. With respect to any business entity mentioned in answer to question 2, provide the type of service and payment amounts by year.
- A. See the company's response to Staff's First Amended Data Request No. 2.

**TAMPA ELECTRIC COMPANY
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REQUEST NO. 4
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4. If the answer to either question 1 or 2 is affirmative, please specify whether the former PSC employee was hired to fill an existing position or whether the position filled by the former PSC employee was created for the individual retained:
- A. Regarding Staff's First Amended Data Request No. 1, Mr. Stiles was hired to fill an existing position within Tampa Electric.

Regarding Staff's First Amended Data Request No. 2, the individuals listed were not hired as employees of Tampa Electric, its parent company or affiliates. The business relationship is with the entity employing the individual.

**TAMPA ELECTRIC COMPANY
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REQUEST NO. 5
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- 5.** If the answer to either question 1 or 2 is affirmative, please identify whether the former PSC employee's salary and benefits are commensurate with other similarly situated employees in similar positions.
- A.** Regarding Staff's First Amended Data Request No. 1, Mr. Stiles' salary and benefits are commensurate with other similarly situated employees in similar positions.

This question is not applicable for Staff's First Amended Data Request No. 2 as the individuals listed were not hired as employees of Tampa Electric, its parent company or affiliates.

1. Has TECO or its parent company hired any former PSC employees? If yes, provide the names, the years employed, and annual cost (salary and benefits).
- A. Yes, Tampa Electric hired Mr. Wilbur J. Stiles, II, a former Florida Public Service Commission employee, in December 2003. Mr. Stiles left the employment of the Commission in August 2000. Mr. Stiles remains employed by Tampa Electric and the annual cost for his position is provided below.

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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: