

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: March 12, 2004

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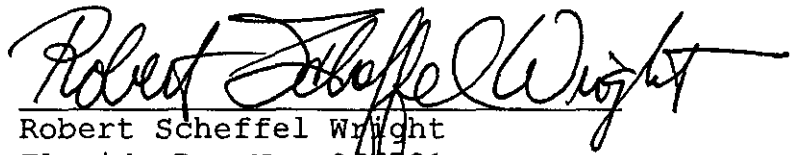
CSX TRANSPORTATION'S RESPONSES TO  
TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES TO CSXT (NOS. 1-65)

CSX Transportation, ("CSX"), pursuant to Uniform Rule 28-106.206, Florida Administrative Code, and the Commission's Order Establishing Procedure, hereby responds to Tampa Electric Company's ("TECO") First Set of Interrogatories (Nos. 1-65).

Affidavits from the individuals who assisted in the preparation of these responses will be provided to TECO under separate cover.

Respectfully submitted this 12th day of March, 2004.

LANDERS & PARSONS



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*11-26-05 (entire DN)*  
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This docketed notice of intent was filed with Confidential Document No. 03448-04. The document has been placed in confidential storage pending timely receipt of a request for confidentiality.

DOCUMENT NUMBER-DATE  
**03448 MAR 12 04**  
FPSC-COMMISSION CLERK

1. State the names, titles, addresses, telephone numbers and job responsibilities of each individual, including but not limited to CSXT employees, agents or consultants, who provided any input into the bid CSXT submitted to Tampa Electric in response to Tampa Electric's June 27, 2003 Request for Proposals for Waterborne Coal Transportation service.

CSXT'S RESPONSE

Michael Bullock, Director, Utility Coal, CSX  
Transportation, 500 Water Street, Jacksonville, FL 32202;  
(904) 359-3153

Michael Sullivan, Assistant Vice-President, Coal Services,  
CSX Transportation, 500 Water Street, Jacksonville, FL 32202;  
(904) 359-1684.

Seth Schwartz, Energy Ventures Analysis, Inc., 1901 North  
Moore St., Suite 1200, Arlington, VA 22209-1706; (703) 276-8900

Richard A. Schumann, RAS Engineering-Plus, Inc., P.O. Box  
443, Ponte Vedra, FL 32004; (904) 280-9130

Glen W. Davis, Market Manager, Utility South, CSX  
Transportation, 500 Water Street, Jacksonville, FL 32202;  
(904) 359-3324

Vic Saunier, retired from CSX Transportation, 3701 Windmoor  
Drive, Jacksonville, FL 32217

Robert White, Logistics Manager, Business Development, CSX  
Transportation, 500 Water Street, Jacksonville, FL 32202; (904)  
359-1827

Charles McBride, current address information not known;  
formerly Division Manager, CSX Transportation, 500 Water Street,  
Jacksonville, FL 32202 (no longer with CSX Transportation)

John Milton, Director, Technical Programs, CSX  
Transportation, 500 Water Street, Jacksonville, FL 32202; (904)  
359-1617

Daniel Mulvaney, Senior Director, Coal Service Design, CSX  
Transportation, 500 Water Street, Jacksonville, FL 32202; (904)  
359-3234

Martin Duff, Tampa Electric Company

Joann Wehle, Tampa Electric Company

Karen Bramley, Tampa Electric Company

Hugh Smith, Tampa Electric Company

La Rae Difulgo, Tampa Electric Company

2. State the name and firm of all consultants contacted  
by CSXT or any of its affiliated companies to advise CSXT with  
respect to transportation of coal to Tampa Electric.

**CSXT'S RESPONSE**

Seth Schwartz, Energy Ventures Analysis, Inc.

Richard Schumann, RAS Engineering-Plus, Inc.

3. State the name and firm of all coal commodity suppliers or coal transportation providers contacted by CSXT or any of its affiliated companies with respect to transportation of coal to Tampa Electric.

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

Gary Yelvington, Conrad Yelvington Distributors Inc.

John Tanner, Alliance Coal Company

Denny Hebel, Canadian National Illinois Central

Greg Dixon, Indiana Short Line Rail Road Company

Dave Goewert, Paducah and Louisville

Tom Waters, American Commercial Barge Lines

Dale Agan, Union Pacific Railroad

Thomas Epich, Burlington Northern Santa Fe

Dennis Duffy, Consol Coal Company

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4. Identify all customers to whom CSXT transports coal or synthetic fuels to destinations in Florida.

**CSXT'S RESPONSE**

Since 2001, CSXT has transported in excess of 50 million total tons of coal to Florida for the following customers: Progress Fuels Corp.; JEA; Seminole Electric Cooperative, Inc.; Gainesville Regional Utilities; Lakeland Electric; Orlando Utilities Commission; Cedar Bay Cogeneration, L.P.; Indiantown Cogeneration, L.P.; Gulf Power Company; Florida Rock Industries; CEMEX; Central Power and Lime; International Paper Company; Jefferson Smurfit Corp.; Rinker Materials; Tarmac Americas.

Since 2001, CSXT has transported synfuel in excess of 1 million total tons to the following customers: Cedar Bay Generating; City of Lakeland; JEA; Orlando Utilities; Seminole Electric Cooperative.

5. Identify all customers to whom CSXT transports petroleum coke to destinations in Florida.

**CSXT'S RESPONSE**

Since 2001, CSXT has transported in excess of 1 million total tons to the following:

Seminole Electric Cooperative, Inc.

Grand Eagle

Royal Oak Enterprises

6. Did CSXT's Bids A and B include a provision that the bid price be adjusted by CSXT's fuel surcharge per Tariff CSXT 8200 for all shipments of coal to Tampa Electric's Big Bend Station?

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSX and TECO.

CSXT's bid stated rail shipments are subject to the fuel surcharge per CSXT Tariff 8200.

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7. For each origination point from which CSXT offered to provide service to Tampa Electric's Big Bend Station pursuant to its Bids A and B submitted to Tampa Electric on July 30, 2003, state the fuel surcharge per ton as that surcharge would be calculated currently.

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

From January 1, 2002 to present the fuel surcharge has ranged from 0 to 4.8%. As of March 1, 2004 the fuel surcharge is 4.8% based on the West Texas Intermediate Fuel Oil (WTI) average price of \$34.74 per barrel as published in the Wall Street Journal.

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8. Did CSXT's Bids A and B include a provision that the bid price be adjusted upward if the cargo hauled is synfuel? If so, how much is the synfuel surcharge per ton?

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answers subject to a non-disclosure agreement executed by CSXT and TECO.

CSXT provided rates for synthetic fuel 291191, which is a distinct and separate commodity from coal or petroleum coke. The rates provided for synthetic fuel are set at \$0.25 per ton over the rates for coal.

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9. Did CSXT's Bids A and B provide for rail deliveries of petroleum coke to Tampa Electric?

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSX and TECO.

CSXT provided for the inclusion of petroleum coke STCC 29-913 in its bid package.



10. How would CSXT provide petroleum coke deliveries to Tampa Electric?

CSXT'S RESPONSE

By rail, similar to the significant volumes currently being transported by CSXT to other Florida utilities, utilizing the off-loading facilities that CSXT proposed, as part of its bids submitted to TECO, covering coal and pet-coke deliveries to Big Bend and Polk.

11. Using the equipment proposed in CSXT's Bids A and B, what is the expected ton per hour discharge rate at Big Bend Station?

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

For Bid A: 2,500 Tons per hour design capacity.

For Bid B: 1,500 Tons per hour design capacity.

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12. Since June 2003, has CSXT contacted or been contacted by the Office of Public Counsel, the Florida Public Service Commission Staff, the Florida Industrial Power Users Group, coal commodity suppliers, other utilities or any other entity regarding the Tampa Electric RFP or the company's evaluation of bid proposals received in response to the RFP?

**CSXT'S RESPONSE**

Yes.

13. What percentage of CSXT's facilities that directly serve coal mines consistently complete loading within four hours, otherwise called a "four-hour loadout?"

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory as being vague and ambiguous, specifically with regard to confusion inherent in the interrogatory as to actual clock time and time as it measured for the purpose of determining whether, as a matter of contract and/or tariff, a "four-hour loadout" has been accomplished. The interrogatory is also ambiguous as to what may be considered CSXT's facilities. CSXT typically does not build facilities at mines that CSX serves, and therefore, the interrogatory's request for information regarding the percentage of "CSXT's facilities that . . . consistently complete loading within four hours . . ." is also misplaced. Without waiving this objection, CSX answers this interrogatory as follows.

CSXT's bids defined a four-hour loadout as such would be defined and applied if TECO had accepted either of CSXT's bids. Using that definition, one hundred percent of CSXT's facilities identified in CSXT's Bids A and B consistently complete loading within four hours as time is measured in CSXT's tariff and as such "four-hour loadouts" are understood and interpreted within CSXT's Bids A and B.

It is also relevant to note that any additional charges that might occur when a four-hour loadout is not accomplished are borne by the coal company or shipper, not by the entity purchasing the coal at the end of the line.

14. Provide the percentage of four-hour loadouts completed by CSXT facilities at each mine directly served by CSXT. State your response separately for each mine.

CSXT'S RESPONSE

CSXT has objected to this interrogatory because it is vague and ambiguous, because it is unduly burdensome, and because it is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Without waiving these objections, CSXT answers as follows.

CSXT typically does not build facilities at mines that CSXT serves, and therefore, the interrogatory's reference to loadouts being "completed by CSXT facilities" is misplaced. Otherwise, see CSXT's answer to Interrogatory No. 13.

15. Who was involved in reaching the conclusion that "...the rail bid package contained herein would provide savings to Tampa Electric and it's [sic] rate payers" as stated in the first paragraph of the proposal cover letter dated July 30, 2003 from Michael C. Bullock to Martin C. Duff?

**CSXT'S RESPONSE**

Michael Bullock, Director, Utility Coal, CSX  
Transportation, 500 Water Street, Jacksonville, FL 32202; (904)  
359-3153

Michael Sullivan, Assistant Vice-President, Coal Services,  
CSX Transportation, 500 Water Street, Jacksonville, FL 32202;  
(904) 359-1684

Glen W. Davis, Market Manager, Utility South, CSX  
Transportation, 500 Water Street, Jacksonville, FL 32202; (904)  
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Vic Saunier; retired from CSX Transportation, 3701 Windmoor  
Drive, Jacksonville, FL. 32217

Robert White, Logistics Manager, Business Development, CSX  
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359-1827

Charles McBride, current address information not known;  
formerly Division Manager, CSX Transportation, 500 Water Street,  
Jacksonville, FL 32202 (no longer with CSX Transportation)

John Milton, Director, Technical Programs, CSX  
Transportation, 500 Water Street, Jacksonville, FL 32202; (904)  
359-1617

Daniel Mulvaney, Senior Director, Coal Service Design, CSX  
Transportation, 500 Water Street, Jacksonville, FL 32202; (904)  
359-3234

16. What dollar value does CSXT attach to its assessment in the third paragraph of the letter dated July 30, 2003 from Michael C. Bullock to Martin C. Duff regarding the difference in quality attributable to the use of rail transportation of coal rather than water transportation?

**CSX'S RESPONSE**

It is common knowledge and standard understanding in the coal transportation industry that losses of up to 1 percent occur each time that coal is transferred or trans-loaded. TECO's coal shipped by water is typically transferred or trans-loaded 6 or 7 times, as compared to typically 2 times for coal shipped by rail. Additionally, it is standard industry knowledge and understanding that coal transported by water will pick up approximately 2.0 percent by weight of water, which translates directly into lost value. This higher moisture content also translates into combustion losses in the boiler, as Btus are consumed to evaporate the moisture.

Because CSXT is not privy to the delivered cost of coal to Big Bend, CSXT could not make a precise estimate of the value of these losses. However, based on the above general knowledge, CSXT believes that the lost value is substantial; Dr. Sansom is presently analyzing this issue and expects to present specific estimates of this lost value in his direct testimony.

17. What is the specific basis of the statement in the fourth paragraph of the proposal cover letter dated July 30, 2003 from Michael C. Bullock to Martin C. Duff that Tampa Electric would experience a loss of one percent (1%) of the heating value of the coal to oxidation by using water transportation?

**CSXT'S RESPONSE**

This is a commonly known fact in the coal transportation industry.

18. Specifically which origination points listed in the RFP or specified in CSXT's proposal do not have direct rail service by CSXT?

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

As stated in Bids A and B: Galatia, Liberty mine, Ziegler mine and Somerville mine.

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19. On what specific basis did CSXT determine that "...Tampa Electric should see lower F.O.B. rail prices than F.O.B barge prices for a substantial amount of Tampa Electric's tons..." as stated in the penultimate paragraph of the proposal cover letter dated July 30, 2003 from Michael C. Bullock to Martin C. Duff?

**CSXT'S RESPONSE**

CSXT's specific basis for Mr. Bullock's assertion is based on several facts. First is the general economic and commercial principle that the optimization across more coal supply regions, more origins, and multiple modes of delivery will result in a lower cost distribution of FOB mine prices because many more mines can be accessed. CSXT in 2003 originated about 11



million tons of Illinois Basin coal and over 24 million tons of Northern Appalachia coal. It interlined additional coals from these regions loaded by other railroads. Specifically, some mines are lower cost FOB cleaning plant to rail; others are lower cost FOB cleaning plant to barge, some are the same cost to either mode. Any policy that limits procurements to one type of origin will result in a higher cost of coal FOB mine.

Second is CSXT's knowledge that most barge transportation "moves" of coal require railroad, belt, or truck transportation to the barge dock before the coal is transported by barge to the Davant terminal and then to TECO's plants. Furthermore, rail transportation of Eastern coals account for over two thirds of all Eastern production. Since such coals are first loaded onto rail cars, the cost of such coal F.O.B. rail would have to be less than the cost of such coal F.O.B. barge, because the F.O.B. barge cost would include the cost of the initial shipment by rail.

Finally, CSXT demonstrated to Tampa Electric that lower prices could be achieved when CSXT provided over 6.6MM tons to the Gannon plant in the last 9 years of Gannon's operations.

20. Provide the assumptions used regarding the permitting of the construction of the rail receiving facilities at Big Bend Station.

CSXT'S RESPONSE

CSXT assumed Tampa Electric would acquire and manage permits with NSPS standards.

21. Provide the assumptions used regarding the permitting of the construction of the rail receiving facilities at Polk Station.

CSXT'S RESPONSE

CSXT assumed Tampa Electric would acquire and manage permits with NSPS standards.

22. Please describe the rail facilities at origin for the following mines: Galatia, Liberty, Zeigler and Somerville.

CSXT'S RESPONSE

<u>Mine</u>	<u>Size</u>	<u>Train Loadout</u>	<u>Route</u>
Galatia	90	4-hour fast-load	IC/Paducah/CSXT
Liberty	100	4-hour fast-load	IC/Paducah/CSXT
Zeigler	100	4-hour fast-load	UP/Memphis/CSXT
Somerville	100	4-hour fast-load	ISRR/Evansville/CSXT

23. How many crew districts and crew changes would be required for each of the origination points described in the RFP or in CSXT's Bids A and B, pursuant to CSXT's Bids A and B submitted to Tampa Electric on July 30, 2003?

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the grounds that it seeks confidential, proprietary business information, that it is not reasonably calculated to lead to the discovery of admissible evidence, and that it would require CSXT to create, prepare, and compile new information.

The number of crew districts and crew changes is not relevant to any issue in this docket, because CSXT's prices pursuant to its Bids A and B are guaranteed, within the terms of each bid/offer, for five years. Without waiving the above objections, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

Mine/Rate District	Route	CSXT Crews
Galatia Mine	IC-Paducah-CSXT	9 to 11
Liberty Mine	IC-Paducah-CSXT	9 to 11
Zelgler Mine	UP-Memphis-CSXT	9 to 11
Somerville Mine	ISRR-Evansville-CSXT	9 to 11
Sullivan Rate Dist.	CSXT Direct	9 to 11
Princeton Rate Dist.	CSXT Direct	9 to 11
W. Ky Rate Dist.	CSXT Direct	9 to 11
Sou. IL Rate Dist.	CSXT Direct	9 to 11
Big Sandy Rate Dist.	CSXT Direct	9 to 11
Clinchfield Rate Dist.	CSXT Direct	9 to 11
JM/Harlan Rate Dist.	CSXT Direct	9 to 11
Hazard/Elkhorn Rate	CSXT Direct	9 to 11

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dist.		
Kanawha Rate Dist.	CSXT Direct	12 to 14
MGA Rate Dist.	CSXT Direct	13 to 15
Fairmont Rate Dist.	CSXT Direct	13 to 15
Gauley North Rate Dist.	CSXT Direct	13 to 15

Notes:

- 1) Crews are stated as a range since the number of crews varies depending on a variety of factors including, location of an individual mine within a Rate District, mine limitations or restrictions, track configuration or physical constraints, operating restrictions, and crew operating rights.
- 2) Trains received in interchange reflect CSXT crews only.
- 3) Crew requirements do not include pusher or helper crews.

24. How many crew districts and crew changes would be required for the movement of solid fuel between Big Bend Station and Polk Station, pursuant to CSXT's Bids A and B submitted to Tampa Electric on July 30, 2003?

CSXT'S RESPONSE

One crew district; one crew change including loading at Big Bend.

25. What is the basis for CSXT's statement in its bid response that "These capital improvements at Big Bend are anticipated not to exceed \$7.1" million? Who prepared this estimate?

**CSXT'S RESPONSE**

CSXT met with TECO managers, Duff, Bramley, and Wehle on May 9, 2002 to outline and analyze this particular question. CSXT visited the Big Bend site on May 21 with its outside expert consultant, Mr. Richard Schumann of RAS Engineering. Based upon these discussions and inputs from TECO's La Rae Difulgo, CSXT made the following assumptions:

CSXT developed a formal bid based upon TECO's request for representative costs and timelines dated October 23, 2002. After several requests for a follow-up discussion on the assumptions utilized, TECO and CSXT finally met on March 12, 2003. During this meeting, TECO advised CSXT that its (i.e., TECO's) ability to either provide capital or information regarding construction or permitting for Big Bend was limited. The future status of the plant was unknown due to the EPA consent agreement. Additionally, TECO's focus was on barge for Big Bend and not on rail. TECO further stressed that a rail package for Big Bend should not propose greater than a million tons for volume.

Based on these discussions and TECO's imprudent waterborne solicitation provided to CSXT on July 21, CSXT revised its bid structure from its October 23, 2002 package. Due to CSXT's concerns that TECO might raise obstacles that would effectively preclude permitting or construction at a reasonable expense, CSXT modified its bid from an estimate with appropriate due diligence and board approval to a fixed or capped dollar amount based upon best available estimates on construction and permitting given TECO's efforts to preclude a CSXT bid.

The basis for CSXT's statement regarding the cost of capital improvements at Polk are CSXT's expertise in coal delivery and off-loading systems, Richard Schumann's expertise and experience as an engineer designing such systems, and Mr. Schumann's "bottom-up" engineering estimates of the material and facilities required to install the requisite coal delivery and off-loading facilities at Polk. The subject estimate was prepared by Robert White and Richard Schumann.

26. What is the basis for CSXT's statement in its bid response that the capital cost for infrastructure to receive a shuttle train at Polk station "is estimated not to exceed \$2.4" million? Who prepared this estimate?

**CSXT'S RESPONSE**

See response to question 25. The basis for CSXT's statement regarding the cost of capital improvements at Polk are CSXT's expertise in coal delivery and off-loading systems, Richard Schumann's expertise and experience as an engineer designing such systems, and Mr. Schumann's "bottom-up" engineering estimates of the material and facilities required to install the requisite coal delivery and off-loading facilities at Polk.

This estimate was prepared by Richard Schumann and Robert White.

27. On what specific basis did CSXT determine that "Rail shipments and the design of our delivery system can allow blending to be accomplished at Big Bend" as stated in the fifth paragraph of the proposal cover letter dated July 30, 2003 from Michael C. Bullock to Martin C. Duff?

**CSXT'S RESPONSE**

CSXT proposed that coal would be delivered to Big Bend by rail and conveyed to the existing storage yard system at Big Bend. The proposal contemplated that the new rail dump system would tie into the storage yard system at the point where the existing barge unloader system ties in. This would provide the ability to stack different types/grades of coal or other fossil fuels in separate areas of the storage yard by using the stacker/reclaimers to stack products in particular areas. It was assumed that these fuels could then be reclaimed by two separate stacker/reclaimers and delivered to a common point in the system creating the desired blend.

28. How does the statement quoted in Interrogatory No. 27 address blending of fuel destined for Polk Station?

**CSXT'S RESPONSE**

The statement referenced in Interrogatory No. 27 above addresses blending of fuel destined for Polk Power Station by blending such fuel at Big Bend for shipment to Polk.



29. How did CSXT determine the amount of the capital contribution offered to establish rail delivery infrastructure at Tampa Electric's Big Bend Station in CSXT's Bids A and B?

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

CSXT determined the amount of the capital contribution offered to establish rail delivery and receipt infrastructure at Big Bend Station, as provided in CSXT's Bids A and B, by means of "bottom-up" engineering estimates of the specifications and cost of necessary facilities, which estimates themselves included a 20 percent contingency, and by then also adding an additional 20 percent contingency allowance onto the previously mentioned engineering estimates.

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30. Did CSXT propose to provide a volume discount for coal transportation to Tampa Electric in its Bids A and B? If so, please describe in detail how the discount would be calculated and provide a sample calculation.

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

Bid B does not provide a volume discount.

In Bid A, after 1,000,000 tons has shipped from CSXT rail direct origins per Tariff CSXT 8200, Tampa Electric will receive a \$2.00 per net ton rate reduction on the effective base rates for all CSXT originated tons shipped exceeding 1,000,000 tons.

If TECO transported 5.5 million tons per year from CSXT served rail origins, at year end, in addition to the costs avoided in the FOB river dock price versus the FOB rail price and the savings in the CSXT base rate versus water transport, CSXT would refund 4.5 million tons times \$2.00 or \$9.0 million dollars to TECO.

31. Identify all of CSXT's coal customers for destinations in Florida including shipper's name, tonnage lifted in 2001, 2002 and 2003, shipper contact and phone number.

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

<u>CONSIGNEE</u>	<u>DESTINATION</u>	<u>TELEPHONE</u>	<u>2001 TONS*</u>	<u>2002 TONS*</u>	<u>2003 TONS*</u>
Cedar Bay Generating	Cedar Bay	(904) 751-4000	925,730	903,421	934,419
CEMEX	Brocco	(713) 650-6200	70,777	87,972	45,236
Central Power & Lime	Brooksville	(352) 799-7881	456,461	460,946	453,156
Gainesville Utilities	Hague	(352) 334-3400	512,143	744,265	436,684
Lakeland Electric	Park	(863) 834-6300	871,584	821,439	653,205
Florida Rock Ind.	Halle	(904) 355-1781	68,029	52,265	76,221
Grand Eagle	Falmetto		0	54	0
Gulf Power	Boykin	(850) 444-6111	148,318	125,138	177,606
Indiantown Cogeneration	Indiantown	(772) 597-6500	952,894	821,849	937,418
International Paper	Cantonment	(901) 419-4467	57,800	0	0
JEA	Power Park	(904) 665-6000	1,568,685	1,983,196	1,063,143
Jefferson Smurfit	Fernandina Beach	(877) 772-2999	251,331	254,598	238,358
Orlando Utilities	Taft	(407) 423-9100	2,586,218	2,306,013	2,273,697
Progress Fuels	Red Level Junction	(800) 700-8744	3,583,405	3,726,755	3,696,389
Rinker Materials	Leheigh	(407) 293-9777	65,242	77,386	88,493
Royal Oak Enterprises	Ocala	(352) 732-0005	10,912	7,603	8,301
Seminole Electric	Bostwick	(813) 963-0994	3,383,302	3,696,326	3,393,803
Tampa Electric	Sutton	(813) 228-1509	382,224	17,280	0
Tarmac Americas	Tarmac	(800) 458-4250	142,760	72,664	87,509

\*Tons include coal, synfuel and petroleum coke

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32. Does CSXT expect to use 75-car train shipments in providing coal transportation services to Tampa Electric?

**CSXT'S RESPONSE**

No.

33. Under CSXT's Bid A and B under what conditions does CSXT have discretion to use a 75-car train to haul coal to Tampa Electric's Big Bend Station?

**CSXT'S RESPONSE**

TECO, at its convenience, consistent with the particular coal mine in question, controls the shipment size order and rate to apply. CSXT has operational discretion if necessary under unusual circumstances to provide a 75-car train in contrast to the quantity ordered. However, the rate to apply will be consistent with the shipment size ordered by TECO.

34. Under CSXT's Bids A and B, what additional charge per ton would be applicable for tonnage shipped in 75-car trains?

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

If TECO for its convenience elects to schedule 75 car trains, then the rate would be \$0.25 per ton more than the 90 car rate provided in Attachment A to the Bid package.

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35. Provide an estimate of the portion of the shipment of coal by CSXT to Tampa Electric that would be by 75-car trains under CSXT's Bids A and B.

CSXT'S RESPONSE

CSXT estimates that the percentage of coal shipped by CSXT to Tampa Electric by 75-car trains under either Bid A or Bid B would be zero.

36. What amount does CSXT estimate would be added as a surcharge to Tampa Electric under the 75-car train shipment provisions in CSXT's Bids A and B to Tampa Electric in each year 2004 - 2008?

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSX provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

CSXT estimates the volume of coal to be ordered by TECO for shipment via 75-car train will be zero. The differential in rates between a 90 car train and a 75 car train, if requested by TECO for its convenience is as stated in the proposal, \$0.25 per ton.

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37. What amount does CSXT estimate would be added as a surcharge to Tampa Electric under the demurrage provisions of CSXT's Bids A and B in each year 2004-2008?

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

With regard to potential demurrage charges at points of origin, CSXT's estimate is that zero dollars would be added as a surcharge to TECO under the demurrage provisions of Bids A and B in each year from 2004 through 2008, assuming that TECO were to accept any of CSXT's bids.

With regard to potential demurrage charges at points of delivery or destination, CSXT's estimate is that zero dollars would be added as a charge to TECO under the demurrage provisions of Bids A and B in each year from 2004 through 2008, assuming that TECO were to accept any of CSXT's bids.

CSXT's Bids A and B were designed to avoid demurrage charges to TECO.

CONFIDENTIAL

38. Provide CSXT's estimate of revenues it expected to receive from Tampa Electric in each year 2004 - 2008 pursuant to its Bid Proposals A and B.

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

If TECO had elected to accept CSXT's Bid A or Bid B, CSXT would have expected its revenues to be as provided for in CSXT's bids. The exact amount is subject to actual origins and actual inflation. Thus, CSXT's expected revenues would have been as follows for the indicated tonnages:

Revenue (000)	2004	2005	2006	2007	2008
Bid B @ 1 Million Tons per year	\$ 3,000	\$ 12,000	\$ 12,240	\$ 12,485	12,734
Bid B @ 2 Million Tons per year	\$ 4,430	\$ 24,000	\$ 24,480	\$ 24,970	25,469
Bid A @ 2 Million Tons per year	\$ 3,000	\$ 24,000	\$ 24,480	\$ 24,970	\$ 25,469
Bid A @ 5.5 Million Tons per year	\$ 25,580	\$ 88,460	\$ 90,229	\$ 92,034	\$ 93,874

CONFIDENTIAL



39. Describe how CSXT expected the revenues it expected to receive from Tampa Electric in each year 2004 - 2008 pursuant to its Bid Proposals A and B to affect its return on equity. State your response for each year separately.

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of relevant, admissible evidence, and that it would require CSXT to create new information. Without waiving these objections, CSXT answers as follows.

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

CONFIDENTIAL

CSXT has not calculated the impact, if any, that the revenues it would have received from TECO, assuming that TECO had accepted one of CSXT's bids, would have had on CSXT's return on equity in any year. Generally, CSXT expected that the transportation contracts that CSXT offered TECO would produce revenues in excess of marginal costs, which would have increased CSXT's return on equity, if one were to be calculated. CSXT further expects that any such impact would have been very slight, in view of the small magnitude of the revenues involved

in any of the contracts proposed to TECO relative to the facts that CSXT's annual revenues are approximately \$7 billion and that CSXT's market capitalization shareholders' equity is also approximately \$7 billion.

CONFIDENTIAL

40. Provide CSXT's estimate of costs it expected to incur in each year 2004 - 2008 in providing service to Tampa Electric under its Bid Proposals A and B.

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of relevant, admissible evidence. CSXT's costs are not at issue in this proceeding.

Moreover, based on the variations in TECO sources and volumes, it would be unduly burdensome to complete a response for all potential combinations of sources and volumes of coal. Accordingly, CSXT will not answer this interrogatory.

41. Describe coal transportation service provided by CSXT or any of its affiliates to Duke Power.

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

CSXT and its affiliates provide coal transportation service by rail to Duke Power both pursuant to negotiated contracts and pursuant to published tariffs. CSXT transports predominantly Appalachian coals, including coal supplied by TECO Coal, to Duke Power.

CONFIDENTIAL

42. Has CSXT or any of its affiliated companies within the last year raised its rates for transportation of coal to Duke Power?

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSXT provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

The only instances within the past year in which CSXT or any of its affiliates have raised rates for coal transportation service to Duke Power have occurred when, pursuant to negotiated contracts and published tariffs, the applicable rates have been increased pursuant to certain indexing provisions contained in the operative rate documents (i.e., contracts or tariffs). These increases are standard and relate to adjusting rates up or down in relation to changes in publicly available inflation indices.

CONFIDENTIAL

43. Describe in detail the circumstances surrounding CSXT's increase in rates charged to Duke Power for provisions of rail transportation to Duke Power.

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the ground that it seeks confidential, proprietary business information. Subject to this objection, CSX provides the following confidential answer subject to a non-disclosure agreement executed by CSXT and TECO.

CSXT understands this interrogatory to refer to a change in the rates paid by Duke Power beginning in January 2002, when Duke began receiving service pursuant to tariffs published and filed with the Surface Transportation Board. The rates pursuant

to those tariffs were higher than those previously paid by Duke pursuant to a negotiated contract; the change came about as follows.

Duke and CSXT previously had in place a negotiated contract for coal transportation service; that contract was due to expire by its own terms at the end of 2002. Duke Power, exercising its rights pursuant to that contract, terminated the contract early, at the end of 2001, and demanded that CSXT provide service pursuant to tariffs that CSXT would file with the Surface Transportation Board ("STB"). CSXT and Duke entered into negotiations toward new contract rates, with Duke seeking a decrease and CSXT seeking an increase.

Those negotiations did not produce a new contract, and CSXT filed new tariffs with the STB. Those tariffs, which contain rates higher than those in the now-terminated Duke-CSXT contract, became effective on January 1, 2002, and Duke demanded a rate case proceeding before the STB in which it challenged those rates. By an order issued on or about February 4, 2004, the STB found that the rates in CSXT's tariffs were not unreasonable, which finding had the basic legal effect of upholding CSXT's rates. Duke is presently pursuing reconsideration of this decision.

CONFIDENTIAL

44. Provide each charge or rate component charged to Duke Power for coal transportation service under the contract or tariff currently in effect and for the contract or tariff that was previously in effect. Show the percentage change for each charge or rate component.

**CSXT'S RESPONSE**

CSXT objects to this interrogatory on the ground that it is not reasonably calculated to lead to the discovery of relevant, admissible evidence, and on the ground that it seeks confidential, proprietary business information. Moreover, the confidentiality rights applicable to the rates other than those rates published in CSXT's tariffs are shared by CSXT and CSXT's customers and may not be waived without the consent of both parties. Accordingly, CSXT will not answer this interrogatory.

45. Provide CSXT's rates per ton for coal transportation service provided to Duke Power from each origination point to each destination point.

**CSXT'S RESPONSE**

See response to answer 44. CSXT will not answer this interrogatory.

46. How does the availability of waterborne coal transportation affect the prices offered by CSXT for coal transportation service?

**CSXT'S RESPONSE**

Where waterborne coal transportation options exist, CSXT takes that fact into account in its negotiations with potential coal shippers. Depending on the particular options available to such shippers, this sometimes results in said shippers obtaining lower rates for rail transportation than where such waterborne options do not exist.

47. Provide an organizational chart of CSXT and all of its subsidiaries.

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the grounds that it seeks confidential, proprietary business information, that it is overly burdensome, and that it is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Without waiving these objections, CSXT will provide the requested organizational chart subject to a non-disclosure agreement executed by CSXT and TECO.

48. Does CSXT haul phosphate from central Florida to locations in the United States?

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of relevant, admissible evidence. Without waiving this objection, CSXT answers as follows.

Yes.

49. Describe the name of each shipper, tons hauled by shipper, the origin and destination of each shipment and the rates charged to each shipper for use of any cars used to ship phosphate from Florida to destinations in the United States.

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the grounds that it seeks confidential, proprietary business information and that it is not reasonably calculated to lead to the discovery of relevant, admissible evidence. The volumes and rates for phosphate shipments by rail are not at issue in this proceeding. Accordingly, CSXT will not answer this interrogatory.



50. Has CSXT proposed to credit any backhaul revenues from the use of its equipment in return trips from Florida to locations from which CSXT offered to provide coal transportation service by rail to Tampa Electric under its Bids A and B?

**CSXT'S RESPONSE**

No, because there is no such thing as a "backhaul" of phosphate using coal trains from Florida; phosphate is simply not backhauled from Florida to Western Kentucky. CSXT's bids were based on assumptions that CSXT would provide 100 percent dedicated unit train service, with 100 percent empty return.

51. Does a market exist for the provision of coal transportation service to Tampa Electric from the mine 1 rate districts described in Attachment A to CSXT's bid describing its proposed "Rail Direct Transportation charge" proposed in its Rail Bid A?

**CSXT'S RESPONSE**

Subject to an appropriate definition of "market" with regard to the provision of coal transportation services to a single buyer, any market for such coal transportation services is necessarily driven by TECO's buying practices. Because TECO has specified purchases only on a Freight On Board ("FOB") river basis and because TECO does not solicit coal from rail tipples, no such market exists at the present time. Such a market would

exist if TECO were to solicit coal supply and coal transportation bids from all potential sources of coal that would meet the technical requirements of TECO's Big Bend and Polk Power Stations.

52. Describe CSXT's ability to compete in the coal transportation market for services provided to Tampa Electric.

**CSXT'S RESPONSE**

Until TECO abandons its imprudent practice of buying coal only on a "FOB river" basis, CSXT's ability to compete to provide coal transportation services to TECO is and will be severely limited. It is common practice in the utility industry for a utility that needs coal to solicit from all potential sources of coal that will meet the technical specifications of the utility's coal-fired power plants and from all potential transportation modes and providers. As demonstrated by the fact that CSXT and its affiliates transport approximately 33 percent of all coal that is mined in the Eastern, United States, CSX has the ability to compete to provide coal transportation service where there is truly a fair, level-playing-field market for such services. Additionally, CSXT transports over 50% of the coal that is used in Florida and roughly two-thirds of the coal for Florida Progress to Crystal River, a facility with similar logistical options to TECO's Big Bend station.

53. Can CSXT provide coal transportation service to Tampa Electric's Big Bend Station?

CSXT'S RESPONSE

Yes, pursuant to CSXT's bids, CSXT can provide coal transportation service to TECO's Big Bend Station. CSXT also transported coal to TECO's Gannon Station for more than 20 years until Tampa Electric elected to discontinue using rail service. In the last 9 years of Gannon operations, CSXT transported over 6.6MM tons to the Gannon plant. As a matter of fact in 2002, CSXT transported tons to Gannon utilizing a truck transfer operation after TECO had removed the rail infrastructure at Gannon in direct competition with barge shipments.

54. What rate of return on equity does CSXT earn on its coal transportation service?

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the grounds that it seeks confidential, proprietary business information and that it is not reasonably calculated to lead to the discovery of admissible evidence relevant to issues in this docket. Without waiving this objection, CSXT provides the following answer subject to a non-disclosure agreement executed by CSXT and TECO.

CSX Transportation is an integrated railroad transportation network, and as such, CSX Transportation does not calculate a

return on equity for or from specific elements or components of its business, nor does CSX Transportation maintain its records in such a way as to permit the calculation of a return on equity for specific elements of its business.

55. What is the fair and reasonable rate of return on equity CSXT should expect to earn on its coal transportation services?

CSXT'S RESPONSE

CSXT has objected to this interrogatory on the grounds that it seeks confidential, proprietary business information and that it is not reasonably calculated to lead to the discovery of admissible evidence relevant to issues in this docket. Moreover, this interrogatory is irrelevant and impossible to answer. Without waiving these objections, CSXT provides the following answer subject to a non-disclosure agreement executed by CSXT and TECO.

CSX Transportation is an integrated railroad transportation network, and as such, CSX Transportation does not expect a particular return on equity, nor does CSXT calculate a return on equity, for or from specific elements or components of its business, such as coal transportation.

56. Has CSXT made any internal calculation of profits or rates of return expected or targeted for its coal transportation service? If so, then provide the expected or targeted returns for each year and describe the assumptions underlying each calculation.

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the grounds that it seeks confidential, proprietary business information and that it is not reasonably calculated to lead to the discovery of admissible evidence relevant to issues in this docket. CSXT's expected revenues, profits, or returns are not relevant to any issue in this docket. Accordingly, CSXT will not answer this interrogatory.

57. Describe CSXT's objectives in this proceeding.

CSXT'S RESPONSE

See CSX Transportation's Petition to Intervene, a copy of which is attached. As set forth in its Petition to Intervene, CSXT's objectives in this proceeding are to protect its interests in having the Public Service Commission determine fair, just, and reasonable fuel cost recovery charges to be charged by TECO and in having the Commission take such other action to protect the interests of CSXT and of all of TECO's customers as the Commission may deem appropriate. These objectives include having the Commission ensure that TECO pays the lowest possible delivered cost for coal that is consistent with the technical specifications and requirements of TECO's coal-fired power plants, and having the Commission ensure that the benefits of such a lowest-cost solution are appropriately credited to TECO's customers, including CSXT.

58. Does CSXT compete with TECO Transport in any bulk commodity market? Describe each market in which CSXT and TECO Transport compete.

CSXT'S RESPONSE

Answering this interrogatory as posed, CSXT states that CSX Transportation and TECO Transport do not compete in any bulk commodity market.

Interpreting the interrogatory as attempting to ask whether CSXT and TECO Transport compete in any bulk commodity transportation market, CSXT answers as follows.

CSXT has attempted to compete with TECO Transport to provide coal transportation service to TECO. However, until TECO abandons its imprudent practice of buying coal only on a "FOB river" basis, CSXT's ability to compete to provide coal transportation services to TECO is and will be severely limited. It is common practice in the utility industry for a utility that needs coal to solicit from all potential sources of coal that will meet the technical specifications of the utility's coal-fired power plants and from all potential transportation modes and providers. Because TECO does not follow this standard practice, and despite CSXT's long-standing efforts and offers to provide cost-effective coal transportation service to TECO, any competition between CSXT and TECO Transport is severely limited by TECO's persistence in avoiding rail-accessible coals and rail

transportation options for coals that will meet the technical requirements of TECO's coal-fired power plants, and accordingly, it is doubtful whether it can fairly be said that CSXT and TECO Transport compete in any meaningful way for the provision of coal transportation service to TECO.

From time to time, CSXT and TECO Transport compete to provide transportation service for specific moves of phosphate materials and products, but for the most part, CSXT is part of the total transportation chain for joint moves that include both CSXT and TECO Transport. CSXT believes that CSXT and TECO Transport also compete, from time to time and to a limited degree, to provide transportation services for other materials and products, including but not limited to coal ash, aggregates, sand, and citrus pumice.

59. By agreement of the parties, TECO has withdrawn this interrogatory.

60. By agreement of the parties, TECO has withdrawn this interrogatory.



61. Is CSXT or any of its affiliates or any other entity controlled by CSXT a client of Ron Sachs and Associates?

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the basis that it is not reasonably calculated to lead to the discovery of relevant, admissible evidence in this proceeding. Without waiving this objection, CSXT answers this interrogatory as follows.

No.

62. State CSXT's business relationship with Ron Sachs and Associates.

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the basis that it is not reasonably calculated to lead to the discovery of relevant, admissible evidence in this proceeding. Without waiving this objection, CSXT answers this interrogatory as follows.

CSXT has no business relationship with Ron Sachs and Associates.

63. Has CSXT or any of its affiliated companies or other entities it controls contributed to the Consumer Federation of the Southeast?

**CSXT'S RESPONSE**

CSXT has objected to this interrogatory on the basis that it is not reasonably calculated to lead to the discovery of relevant, admissible evidence in this proceeding. Without waiving this objection, CSXT answers this interrogatory as follows.

No.

64. Please provide a listing of all regulatory proceedings and court cases in which CSXT's witness in this proceeding, Dr. Sansom, has testified, including the date, regulatory body or court the client for whom he testified and a brief description of the subject matter of his testimony.

**CSXT'S RESPONSE**

Please see Attachment A.

65. Please provide a listing of all regulatory proceedings and court cases in which CSXT's witness in this proceeding, John B. Stamberg has testified, including the date, regulatory body or court the client for whom he testified and a brief description of the subject matter of his testimony.

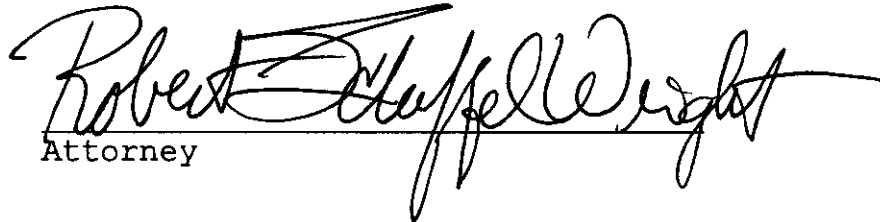
**CSXT'S RESPONSE**

Mr. Stamberg has not testified in any regulatory proceedings or court cases.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one copy of the foregoing has been filed with the Clerk's Office, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399 and that a true and correct copy of the foregoing has been served by U.S. Mail or hand delivery (\*) this 12th day of March, 2004, on the following:

Wm. Cochran Keating, Esq.\*      VIA OFFICE OF THE COMMISSION CLERK  
Jennifer Rodan, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL    32399-0850

  
Attorney

## Expert Testimony

Sansom's expert testimony most often addresses coal contracts, coal markets, coal transportation and the prudence of coal procurements. Sansom has testified in the following cases:

<u>Client (State)</u>	<u>Other Party (State)</u>	<u>Year</u>	<u>Court or Regulatory Body</u>
Black Butte (WY)	Commonwealth Edison (IL)	1985	WY Federal Court
Carbon County (WY)	NIPSCO (IN)	1985	IN Federal Court
Gulf & Western (VA)	Coal Resources (VA)	1981- 1986	OH Federal Court
Big Horn (WY) and Black Butte (WY)	Commonwealth Edison (IL)	1986	WY Federal Court
Amax (WY)	Dairyland (WI)	1986	WI Federal Court
Wisconsin PSC (WI)	Mapco (KY)	1987	Arbitration
U.S. Fuels (UT)	Nevada Power (NV)	1987	UT Federal Court
Decker (MT)	LCRA (TX)	1988	TX Federal Court
Texas Utilities (TX)	Santa Fe Pacific (IL)	1989	NM Federal Court
Quintette (CAN)	Japanese Steel Industry	1989	Arbitration
Coastal Coal (UT)	Sierra Pacific Power (NV)	1990	Arbitration
Minnesota Power (MN)	Peabody Coal Company	1990	Arbitration
NE Oklahoma Electric (OK)	GRDA	1991	OK State Court
AEPCO	Berkley	1992	Arbitration
Northwestern Res/HL&P	International Screening	1992	TX State Court
Commonwealth Edison	Peabody Coal Company	1993	Arbitration
First Boston/Touche Ross Jacobs Group	KSC Recovery	1993	CO Federal Court
Central Power & Light	Colowyo	1994	Arbitration
Lauhoff Grain	Babcock & Wilcox	1994	Arbitration
Northwestern Res/HL&P	TCA Bldg Inc.	1994	TX Federal Court
Evergreen Coal	UMWA Employee Benefits Plans	1994	U.S. District Court
Virginia Power	Birchwood/SEI	1994	Arbitration
Louisville G&E	Various Plaintiffs	1995	State Court Kentucky
Island Creek Corp <u>et al</u> Defendants	Holland <u>et al</u> Plaintiffs	1995	U.S. District Court District of Columbia
Westmoreland Res, Inc.	Wisconsin P&L/Dairyland	1996	Arbitration
CMS Energy	Luzon Power	1998	Arbitration
Otter Tail Power/Minnkota Pwr Coop/NW Pub Svc	Knife River Coal Company	1998	Arbitration
Cedar Bay Generating	Florida Power & Light	1999	FL State Court
Seminole Electric Coop, Inc.	Mt. Vernon Transfer Terminal	2000	Arbitration
CMS Energy	Adams Affiliates, Inc. & Cottonwood Partnership	2001	Arbitration
Government of Turkey	PSE&G Global	2004	Arbitration
Peabody Coal Co/Indianapolis P&L	John Wasson	2004	IN Federal Court

Sansom's testimony on the prudence of coal procurements as well as coal markets and transportation were the focus of his testimony in the following proceedings:

<u>Client</u>	<u>Other Party</u>	<u>Year</u>	<u>Regulatory Body</u>
DE Public Advocate	Delmarva P&L	1981	DE PSC
KY Municipals	Kentucky Utilities	1985-1986	FERC
Wisconsin PSC	Wisconsin PSC Staff	1986	WI PUC
Oxy Chemical	Florida Power	1988	FL PSC
Georgia Power	Georgia PSU Staff	1988	GA PSC

In addition, in 1998 Sansom testified in a Florida power plant Siting Board proceeding involving the burning of Orimulsion at Florida Power & Light's Manatee plant. He presented testimony before FERC in 1996 on Order 888A: Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services. He also testified in the following Surface Transportation Board cases:

<u>STB</u> <u>Docket No.</u>	<u>On Behalf of</u>	<u>Other Party</u>	<u>Date</u>
41191	West Texas Utilities	Burlington Northern Railroad	8/10/95
32760	Union Pacific (Control/Merger)	Southern Pacific Rail	Rebuttal 4/29/96
41242	Assn of American Railroads (Competitive Forces on Rail Rates in 1980's and 1990's)		10/15/96
41989	CSX Transportation	Potomac Electric Power	5/05/97
41295	Conrail, CSX and Norfolk Southern	Pennsylvania Power & Light	Rebuttal 8/11/97 6/11/97
33388	CSX and Norfolk Southern (Acquisition)	Conrail	6/1997
42012	Union Pacific	Sierra Pacific Power/Idaho Power	5/26/98
Ex Parte 627	Assn of American Railroads (Market Dominance Determinations: Product and Geographic Competition)		Comment 5/29/98 Reply 6/29/98
42069	Norfolk Southern	Duke Energy Corporation	2003
42072	Norfolk Southern	Carolina Power & Light	2003

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION  
CLERK

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In Re: Review of Tampa Electric )  
Company's 2004-2008 Waterborne )  
Transportation Contract with TECo )  
Transport and Associated Benchmark )

DOCKET NO. 031033-EI  
FILED: DECEMBER 16, 2003

12/16/03

CSX TRANSPORTATION'S PETITION TO INTERVENE

CSX Transportation ("CSX"), pursuant to Chapter 120, Florida Statutes,<sup>1</sup> and Rules 25-22.039 and 28-106.201, Florida Administrative Code ("F.A.C."), hereby petitions to intervene in the above-styled docket. In summary, CSX is a substantial customer of Tampa Electric Company ("TECO") and petitions to intervene in order to protect its interests in having the Commission determine fair, just, and reasonable fuel cost recovery charges to be charged by TECO and in having the Commission take such other action to protect the interests of CSX and of all of TECO's customers as the Commission may deem appropriate. In further support of its Petition to Intervene, CSX states as follows.

1. The name and address of the Petitioner are:

CSX Transportation  
Attention: Mr. Gil Feltel, Esquire  
500 Water Street, J150  
Jacksonville, Florida 32202  
(904) 359-1958.

<sup>1</sup> All references herein to the Florida Statutes are to the 2003 edition thereof.

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*Man*  
FPSC-BUREAU OF RECORDS

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright, Attorney at Law  
John T. LaVia, III, Attorney at Law  
Landers & Parsons, P.A.  
310 West College Avenue (ZIP 32301)  
Post Office Box 271  
Tallahassee, Florida 32302  
(850) 681-0311 Telephone  
(850) 224-5595 Facsimile.

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850.

4. This proceeding is designed to address issues relating to TECO's practices for procuring coal transportation services, its practices in contracting for such services, and how much of the costs of such services TECO may be allowed to recover from its captive customers.

#### **CSX TRANSPORTATION'S SUBSTANTIAL INTERESTS**

5. CSX Transportation was previously granted intervention, over TECO's objections, in the Commission's 2003 Fuel and Purchased Power Cost Recovery Clause proceedings, Docket No. 030001-EI (hereinafter, the "Fuel Docket"), in which the issues to be addressed herein originated. CSX Transportation has the same substantial interests in the outcome of this proceeding. PSC Order No. 03-1258-PCO-EI, November 7, 2003. (Having been granted intervention in the original proceeding, CSX believes that it should automatically be considered an intervenor in this spin-off



docket, but is filing this petition to intervene as a cautionary measure.) CSX owns and operates a significant number of railroad facilities in Florida and provides rail transportation to several Florida electric utilities and other Florida industrial customers. CSX is a significant customer of TECO, having several different accounts, served under different rate schedules, at several different points of delivery located within TECO's service area. In round numbers, CSX purchases approximately \$1 Million of electric service from TECO annually.

6. CSX's substantial interests are of sufficient immediacy to entitle it to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). As a substantial retail electric customer of TECO, CSX is subject to the rate impacts that will result from whatever decisions the Commission makes in this proceeding. To the extent that TECO's rates may -- and will, if TECO's claimed coal transportation costs paid to its affiliate, TECo Transport, are approved for

recovery through retail rates -- be set at levels that are unfair, unjust, and unreasonable, CSX's interests will be immediately and adversely affected. (As noted below, CSX alleges that the rates that TECO proposes to charge are unfair, unjust, and unreasonable in that they include costs to be paid to TECO's affiliate, TECo Transport, that are unreasonably and imprudently high for the transport of coal to TECO's Big Bend electric generating station.) It is facially obvious that this docket, like the Fuel Docket in which the issues relating to TECO's coal transportation costs initially arose, is designed to protect TECO's captive customers against practices and charges that are unfair, unjust, and unreasonable.

#### DISPUTED ISSUES OF MATERIAL FACT

7. Disputed issues of material fact include, but are not limited to, the following, as set forth in the numbered in the Order Deferring Issues to Separate Proceeding, Order No. PSC-03-1359-PCO-EI, issued in the Fuel Docket on December 1, 2003:

- Issue 17E: Is Tampa Electric's June 27, 2003, request for proposals sufficient to determine the current market price for coal transportation?
- Issue 17F: Are Tampa Electric's projected coal transportation costs for 2004 through 2008 under the winning bid to its June 27, 2003, request for proposals for coal transportation reasonable for cost recovery purposes?
- Issue 17G: Should the Commission modify or eliminate the waterborne coal transportation benchmark that was established for Tampa Electric by Order No. PSC-93-0443-FOF-EI, issued March 23, 1993, in Docket No. 930001-EI?

CSX reserves all rights to raise additional issues of fact, law, and policy in accordance with the procedural requirements established for this spin-off proceeding.

#### ADDITIONAL ISSUES OF LAW AND FACT

8. Additionally, CSX believes that the following issues, which include issues of law and mixed issues of law and fact, should also be considered and decided in this proceeding:

Issue: What, if any, action should the Commission take with respect to TECO's procurement practices affecting and relating to the transportation of coal to TECO's coal-fired electrical power plants?

Issue: Does the Commission have the statutory power to require TECO to conduct an open, impartial competitive procurement or bidding process for the purpose of procuring the most cost-effective coal transportation services?

Issue: If the answer to the preceding issue is affirmative, should the Commission require TECO to conduct an open, impartial competitive procurement or bidding process for the purpose of procuring the most cost-effective coal transportation services?

Issue: Does the Commission have the statutory power to require TECO to conduct an open, impartial competitive procurement or bidding process for the purpose of obtaining competitive market data that the Commission may then use to evaluate whether TECO has procured the most cost-effective coal transportation services?

Issue: If the answer to the preceding issue is affirmative, should the Commission require TECO to conduct an open, impartial competitive procurement or bidding process for the purpose of obtaining competitive market data that the Commission may then use to evaluate whether TECO has procured the most cost-effective coal transportation services?

Issue: Does the Commission have the statutory power to require TECO to use any particular source, or combination of sources, for coal transportation services, if the Commission determines that the use of such source or sources is the most cost-effective means for TECO to obtain needed coal transportation services, or that the use of such source or sources is otherwise in the best interests of TECO's captive customers, or both?

Issue: If the answer to the preceding issue is affirmative, should the Commission require TECO to use the particular source, or the combination of particular sources, for coal transportation services, that the Commission determines to be the most cost-effective means for TECO to obtain needed coal transportation services, or that the use of such source or sources is otherwise in the best interests of TECO's captive customers, or both?

**ULTIMATE FACTS THAT ENTITLE CSX TRANSPORTATION TO RELIEF**

9. The ultimate facts that entitle CSX to relief are as follows.

- a. CSX is a retail customer of TECO.
- b. TECO turned down offers for coal transportation services from CSX that would have saved TECO's retail customers, including CSX, millions of dollars over the period 2004 through 2008.
- c. TECO's decision to turn down CSX's offers and to contract instead with its affiliate, TECo Transport, was imprudent and unreasonable and will, if implemented, result in TECO's fuel cost recovery charges being unfair, unjust, and unreasonable.
- d. TECO's June 27, 2003, request for proposals was not

sufficient to determine the current market price for coal transportation.

- e. The "waterborne coal transportation benchmark" that was established for Tampa Electric by Order No. PSC-93-0443-FOF-EI, issued March 23, 1993, in Docket No. 930001-EI, is no longer appropriate for use to determine TECO's allowable coal transportation costs for cost recovery purposes because (i) it is outdated and (ii) its use is directly invalidated by the availability of direct market cost data for alternative costs of transporting coal to TECO's coal-fired electrical power plants.
- f. TECO's projected coal transportation costs for 2004 through 2008 under the purported winning bid to TECO's June 27, 2003, request for proposals for coal transportation are not reasonable for cost recovery purposes. In fact, these projected costs are unreasonable and imprudent.

**STATUTES AND RULES THAT ENTITLE CSX TRANSPORTATION TO RELIEF**

10. The applicable statutes and rules that entitle CSX Transportation to relief include, but are not limited to, Sections 120.569, 120.57(1), 366.04(1), 366.05(1), 366.06(1)&(2), and 366.07, Florida Statutes, and Rule 25-22.039 and Chapter 28-106, Florida Administrative Code.

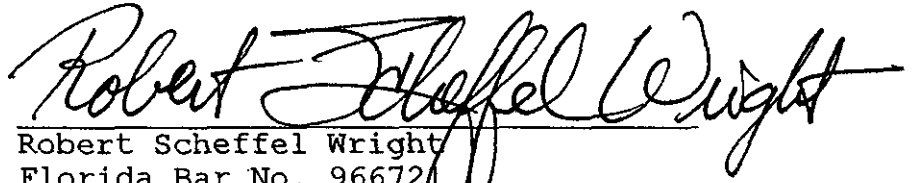
11. Statement Explaining How the Facts Alleged By CSX Relate to the Above-Cited Rules and Statutes In Compliance With Section 120.54(5)(b)4.f, Florida Statutes. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. As a substantial retail customer of TECO, CSX's substantial interests are subject to determination in and will be affected through the Commission's decisions in this docket, and accordingly, CSX is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over TECO's rates, and TECO's practices affecting rates, and the Commission's statutory mandate to ensure that TECO's rates are fair, just, and reasonable. The facts alleged here by CSX demonstrate (a) that the Commission's decisions herein will have a significant impact on TECO's fuel cost recovery rates and charges, and (b) accordingly, that these statutes provide the basis for the relief requested by CSX herein.

#### RELIEF REQUESTED

WHEREFORE, CSX Transportation respectfully requests the Florida Public Service Commission to enter its order GRANTING this Petition to Intervene and authorizing CSX Transportation to intervene in this proceeding with full party status, and requiring that all parties to this proceeding serve copies of all

pleadings, notices, and other documents on CSX Transportation's representatives indicated in paragraphs 1 and 2 above.

Respectfully submitted this 16th day of December, 2003.



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CERTIFICATE OF SERVICE

DOCKET NO. 031033

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Mail or hand delivery (\*) this 16<sup>th</sup> day of December, 2003 on the following:

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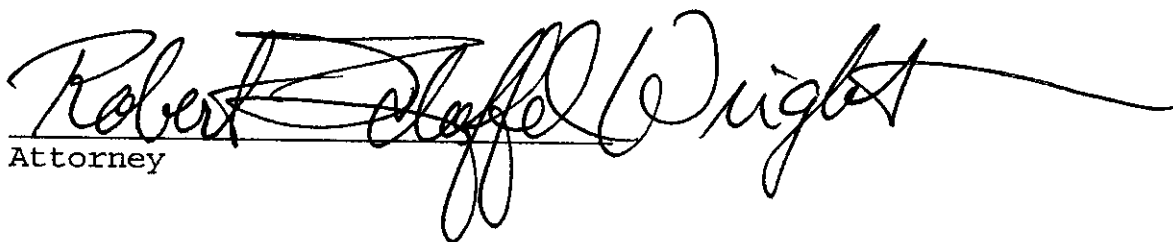
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