

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

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April 23, 2012

HAND DELIVERED

RECEIVED-FPSC  
APR 23 PM 4 23  
COMMISSION  
CLERK

\_\_\_\_\_ class. of confidentiality  
\_\_\_\_\_ notice of intent  
 request for confidentiality  
\_\_\_\_\_ filed by OPC

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

For DN 02543-12, which  
is in locked storage. You must be  
authorized to view this DN.-CLK

Re: Petition for approval of new environmental program for cost recovery through  
Environmental Cost Recovery Clause by Tampa Electric Company;  
Docket No. 110262-EI

Dear Ms. Cole:

Enclosed for filing in the above docket are the original and seven (7) copies of Tampa  
Electric Company's Request for Confidential Classification and Motion for Temporary Protective  
order regarding portions of its answers to the Florida Public Service Commission Staff's Third Data  
Requests Nos. 1-14.

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

COM \_\_\_\_\_  
APA \_\_\_\_\_ JDB/jh  
ECR 5 Enclosure  
GCL \_\_\_\_\_  
RAD \_\_\_\_\_  
SRC \_\_\_\_\_ cc: Charles Murphy (w/encls.)  
ADM \_\_\_\_\_ Vicki Kaufman (w/encls.)  
OPC \_\_\_\_\_ Patti Christensen (w/ encls.)  
CLK \_\_\_\_\_

DOCUMENT NUMBER DATE

02542 APR 23 2012

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of new )  
environmental program for cost recovery )  
through Environmental Cost Recovery Clause )  
by Tampa Electric Company. )  
\_\_\_\_\_ )

DOCKET NO. 110262-EI

FILED: April 23, 2012

**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)**

Portions of Tampa Electric's Responses to Staff's Second Data Request 7(a) being filed this date in the above docket. 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

02542 APR 23 2012

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**

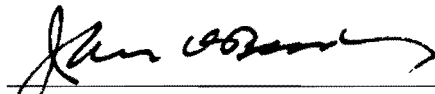
6. Tampa Electric requests that the Confidential Information be treated by the Commission as confidential proprietary business information for at least the 18 month period prescribed in Rule 25-22.006(9)(a), Florida Administrative Code. If, and to the extent that the company is in need of confidential 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 23<sup>rd</sup> day of April, 2012.

Respectfully submitted,



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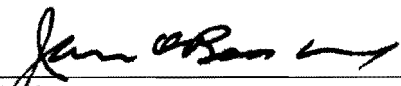
JAMES D. BEASLEY  
J. JEFFRY WAHLEN  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, Florida 32302  
(850) 224-9115

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 23<sup>rd</sup> day of April, 2012 to the following:

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

  
\_\_\_\_\_  
ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF  
HIGHLIGHTED PORTIONS OF TAMPA ELECTRIC'S RESPONSES  
TO STAFF'S SECOND DATA REQUESTS (FILED MARCH 23, 2012)**

<u>Bates Stamp</u> <u>Page No.</u>	<u>Data Request</u> <u>No.</u>	<u>Detailed Description</u>	<u>Rationale</u>
16	7	The highlighted values in the column "Tipping Fee (\$/ton)"	(1)
16	7	The highlighted values in the column entitled "Total Cost"	(2)

- 
- (1) The highlighted information discloses competitively negotiated tipping fees charged by landfills with which Tampa Electric has contractual relations. Discussions of these tipping fees would harm the competitive interests of these service providers and this would adversely affect Tampa Electric's future reliance on those providers as well as Tampa Electric's ability to negotiate future contracts with these and other landfills. Disclosing what Tampa Electric has agreed to pay these landfills would arm other potential landfill service providers with information that would help them negotiate a higher price from Tampa Electric than might otherwise be the case. This is precisely the type of competitive harm sought to be prevented by Section 366.093, Florida Statutes, and the Commission's implementing rule.
- (2) The values shown in the column entitled "Total Cost" can be used in connection with the values shown in the column entitled "Transportation Cost" to derive or back into the confidential tipping fees described in rationale (1).

**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 \_\_\_\_\_

REDACTED

TAMPA ELECTRIC COMPANY  
DOCKET NO. 110262-EI  
STAFF'S THIRD DATA REQUEST  
REQUEST NO. 7  
PAGE 1 OF 1  
FILED: APRIL 23, 2012

7. Regarding the third-party landfills disposal option:
- (a) Please identify the landfills that TECO has used before to dispose of gypsum produced at the BB Station, and the tipping fees was charged.
  - (b) Please identify the distance between each of the landfills discussed in (a) and the BB Station, and the transport costs incurred by TECO.
  - (c) Please identify all landfills known to the Company within a 300 mile radius of the BB station, in which TECO could dispose of the gypsum produced at the BB Station, and the tipping fees TECO would be charged.
  - (d) Please identify the distance between the BB Station and each of the landfills discussed in (c), and the transport costs TECO would incur.
- A. a. Tampa Electric does not routinely dispose of gypsum produced by the FGD systems at Big Bend Station. Both on-specification and off-specification gypsum are stored onsite in the existing management area. A small amount of residual gypsum "scale" is intermittently produced during the cleaning of the scrubber towers at the plant and this material may be shipped offsite for disposal at any of the facilities identified below. Also provided are the current disposal fees for these facilities, as well as the transportation costs charged by the contracted waste hauler.

Company/Landfill	Distance (mi.)	Tipping Fee (\$/ton)	Transportation Cost (\$/ton)	Total Cost
Waste Management Inc./Okeechobee	138		\$20.63	
Omni Waste Svcs. / Oak Hammock	117		\$18.98	
Republic Services Inc./Cedar Trail	45		\$9.00	
Southeast Landfill (Gypsum Scale only)	14		\$9.69	

- b. See Response to Staff's Third Data Request, No. 7(a), above.
- c. There are 36 known Class 1 landfills (per FDEP website) within 300 miles of Big Bend Station. Of these, the four landfills identified above are properly permitted and will accept special wastes such as gypsum from Big Bend Station for disposal. The remaining facilities on the list are either transfer stations or county landfills which accept only municipal solid wastes. Landfills located at a greater distance than those identified above would result in greater transportation costs and therefore be cost prohibitive as a disposal option.
- d. See Response to Staff's Third Data Request, No. 7(a), above.



- 7. Regarding the third-party landfills disposal option:
  - (a) Please identify the landfills that TECO has used before to dispose of gypsum produced at the BB Station, and the tipping fees was charged.
  - (b) Please identify the distance between each of the landfills discussed in (a) and the BB Station, and the transport costs incurred by TECO.
  - (c) Please identify all landfills known to the Company within a 300 mile radius of the BB station, in which TECO could dispose of the gypsum produced at the BB Station, and the tipping fees TECO would be charged.
  - (d) Please identify the distance between the BB Station and each of the landfills discussed in (c), and the transport costs TECO would incur.

A. a. Tampa Electric does not routinely dispose of gypsum produced by the FGD systems at Big Bend Station. Both on-specification and off-specification gypsum are stored onsite in the existing management area. A small amount of residual gypsum "scale" is intermittently produced during the cleaning of the scrubber towers at the plant and this material may be shipped offsite for disposal at any of the facilities identified below. Also provided are the current disposal fees for these facilities, as well as the transportation costs charged by the contracted waste hauler.

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- b. See Response to Staff's Third Data Request, No. 7(a), above.
- c. There are 36 known Class 1 landfills (per FDEP website) within 300 miles of Big Bend Station. Of these, the four landfills identified above are properly permitted and will accept special wastes such as gypsum from Big Bend Station for disposal. The remaining facilities on the list are either transfer stations or county landfills which accept only municipal solid wastes. Landfills located at a greater distance than those identified above would result in greater transportation costs and therefore be cost prohibitive as a disposal option.
- d. See Response to Staff's Third Data Request, No. 7(a), above.

## **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:

Tampa Electric needs to have the confidential information protected from public disclosure for a minimum of four years from the date of the order resolving this request. Tampa Electric will continue to aggressively market its gypsum by-product for at least that period of time and public disclosure at any time in the interim will have exactly the same type of harm to Tampa Electric and its retail customers then that public disclosure now would have. Tampa Electric likely will seek an extension of the duration of confidentiality at the end of the requested four year period if the need remains.