

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

123 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

July 25, 2012

HAND DELIVERED

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

claim of confidentiality  
 notice of intent  
 request for confidentiality  
 filed by OPC

For DN 04990-12, which  
is in locked storage. You must be  
authorized to view this DN.-CLK

RECEIVED-FPSC  
12 JUL 25 PM 4:13  
COMMISSION  
CLERK

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 pertaining to a Gypsum Slurry Supply and Processing Agreement between Tampa Electric  
Company and National Gypsum Company.

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  
AFD 3 IDB/pp  
APA Enclosure  
ECO  
ENG  
GCL  
IDM cc: Charles Murphy (w/enc.)  
TEL Patti Christensen (w/enc.)  
CLK

DOCUMENT NUMBER-DATE

04989 JUL 25 12

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: July 25, 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)**

Gypsum Slurry Supply and Processing Agreement (28 pages), dated as of January 1, 2000, by and between Tampa Electric Company and National Gypsum Company. 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

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

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.

DATED this 25<sup>th</sup> day of July, 2012.

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 25<sup>th</sup> day of July, 2012 to the following:

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

  
\_\_\_\_\_  
ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF  
TAMPA ELECTRIC – NATIONAL GYPSUM AGREEMENT**

<b><u>Page Nos.</u></b>	<b><u>Description</u></b>	<b><u>Rationale</u></b>
1-21	All information contained in the Agreement	(1)

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- (1) The Agreement between Tampa Electric and National Gypsum is entitled to confidential protection given the proprietary competitive nature of this negotiated business arrangement. Disclosing the individual terms and conditions of this Agreement would harm Tampa Electric in its future negotiations with other potential gypsum purchasers. It would be used by those potential purchasers as a minimum demand with respect to terms and conditions in the National Gypsum Agreement that the other potential purchasers consider favorable to their position. Armed with this information the potential purchasers would drive a harder bargain than they might otherwise agree to if they did not know the terms and conditions of the National Gypsum Agreement.

Disclosure of these terms and conditions would also provide other producers of gypsum by-product information with which to attempt to negotiate an agreement with National Gypsum that is more favorable to National Gypsum than its current Agreement with Tampa Electric, thus threatening Tampa Electric's ability to continue placing gypsum by-product with its principal purchaser. This could exacerbate Tampa Electric's gypsum placement challenges.

Under Section 366.093, Florida Statutes, proprietary confidential business information is entitled to confidential treatment and to be exempt from the public records law. Proprietary confidential business information is defined in the statute to include, among other things, to include:

(d) Information concerning bids or other 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.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Given the sensitive competitively negotiated nature of the Tampa Electric/National Gypsum Agreement, it is precisely the type of information Section 366.093, Florida Statutes, is designed to protect from public disclosure.

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

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

Inasmuch as Tampa Electric is seeking confidential protection of the entire Agreement, a public version would be completely redacted and, thus, is omitted for practical reasons.

## **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:

This Agreement needs to be protected for at least two years beyond the end of the term of the Agreement. The Agreement culminates in 2020 with two five-year potential extensions, which would mean the Agreement needs to be protected from public disclosure potentially through 2032. Tampa Electric requests that it be treated confidentially for that period of time. Alternatively, to avoid future requests for renewal of confidential treatment, Tampa Electric requests that the Agreement be returned to the undersigned upon closure of this docket.