

# AUSLEY & McMULLEN

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November 26, 2012

HAND DELIVERED

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

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07840-12

Re: Tampa Electric Company's Petition to Determine Need  
for Polk 2-5 Combined Cycle Conversion  
FPSC Docket No. 120234-EI

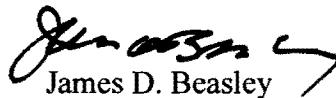
Dear Ms. Cole:

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 its answers to the Florida Public Service Commission Staff's Fourth Set of Interrogatories No. 98 and Fourth Request for Production of Documents Nos. 28, 29 and 30.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,

  
James D. Beasley

JDB/pp  
Enclosure

COM	_____
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DOCUMENT NUMBER 041  
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Tampa Electric Company's Petition )  
to Determine Need for Polk 2-5 Combined )  
Cycle Conversion. )  
\_\_\_\_\_ )

DOCKET NO. 120234-EI

FILED: November 26, 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)**

Tampa Electric Company's answers to the Florida Public Service Commission Staff's Fourth Set of Interrogatories (No. 98), (Bates stamp pages 35-36) and Fourth Request for Production of Documents (No. 28) (Bates stamp page 2) and Production of Documents (Nos. 29 and 30) (contained on separate Confidential CD). 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 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**

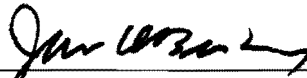
6. Tampa Electric requests that the Confidential Information be treated by the Commission as confidential proprietary business information for at least the 18 month period prescribed in Rule 25-22.006(9)(a), Florida Administrative Code. If, and to the extent that the company is in need of confidential 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 26<sup>th</sup> day of November, 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 26<sup>th</sup> day of November, 2012 to the following:

Ms. Pauline Robinson, Attorney\*  
Office of the General Counsel  
Florida Public Service Commission  
Room 390M – Gerald L. Gunter Bldg.  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Mr. Robert Scheffel Wright  
Mr. John T. LaVia, III  
Gardner, Bist, Wiener, Wadsworth,  
Bowden, Bush, Dee, LaVia & Wright, P.A.  
1300 Thomaswood Drive  
Tallahassee, FL 32308

Counsel  
c/o DeSoto County Generating Company,  
LLC  
1700 Broadway, 35th Floor  
New York, New York 10019

  
\_\_\_\_\_  
ATTORNEY

**JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF  
HIGHLIGHTED PORTIONS OF TAMPA ELECTRIC'S RESPONSES  
TO STAFF'S FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS AND  
STAFF'S FOURTH SET OF INTERROGATORIES (FILED NOVEMBER 26, 2012)**

<u>POD/Interrogatory</u> <u>No.</u>	<u>Bates Page</u> <u>Nos.</u>	<u>Detailed Description</u>	<u>Rationale</u>
POD 28	2	All Highlighted Information	(1)(2)(3)(4)
POD 29	CD	Entire CD	(1)(2)(3)(4)
POD 30	CD	Entire CD	(1)(2)(3)(4)
IRR 98	35-36	All Highlighted Information	(5)

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- 1) The information contained on the listed pages contains the proprietary work product of Tampa Electric's consultants, Wood Mackenzie or "WM". The disclosure of this information could allow duplication of the consultant's work without compensation for the consultant's efforts to develop expertise, gather and update information and develop methods of analysis. This information is in the nature of a trade secret owned by WM. It is also in the nature of information relating to competitive interests, the disclosure of which would impair WM's competitive business interests by diminishing the demand for WM's proprietary work product. As such, the information in question is entitled to confidential treatment pursuant to Section 366.093 (3)(a) and (e), Florida Statutes.
  - 2) The information contained on the listed pages contains the proprietary work product of Tampa Electric's consultants, Argus. The disclosure of this information could allow duplication of the consultant's work without compensation for the consultant's efforts to develop expertise, gather and update information and develop methods of analysis. This information is in the nature of a trade secret owned by Argus. It is also in the nature of information relating to competitive interests, the disclosure of which would impair Argus' competitive business interests by diminishing the demand for Argus' proprietary work product. As such, the information in question is entitled to confidential treatment pursuant to Section 366.093 (3)(a) and (e), Florida Statutes.
  - 3) The information contained on the listed pages contains the proprietary work product of Tampa Electric's consultants, JD Energy, Inc. or "JDC". The disclosure of this information could allow duplication of the consultant's work without compensation for the consultant's efforts to develop expertise, gather and update information and develop methods of analysis. This information is in the nature of a trade secret owned by JDC. It is also in the nature of information relating to competitive interests, the disclosure of which would impair JDC's competitive business interests by diminishing the demand for

JDC's proprietary work product. As such, the information in question is entitled to confidential treatment pursuant to Section 366.093 (3)(a) and (e), Florida Statutes.

- 4) The information contained on the listed pages reveals Tampa Electric's strategic planning for fuel supply maintenance and detailed information about the company's inventory and in transit levels. Knowledge of these details would allow suppliers and potential suppliers a negotiation advantage in the event that the company needed to purchase coal during a fuel supply emergency, such as a miner's strike or elevated terror alert level. The disclosure of this information would therefore be harmful to competitive interests, and as such, the information is entitled to confidential treatment pursuant to Section 366.093(d) and (e), Florida Statutes.
  - 5) The information discloses, in great detail, Tampa Electric Company's transportation rates, by contract on a projected basis going out a number of years into the future. Public disclosure of this information would provide in minute detail the company's projected rates for all of the detail components of the company's projected fuel and fuel transportation costs. As such, this information is entitled to confidential protection pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. These types of rates on a commodity and segmented transportation basis have been recognized by the Commission on numerous occasions to constitute proprietary confidential business information the disclosure of which would be harmful to Tampa Electric's ability to contract for goods and services on favorable terms and, likewise, harmful to the competitive interests of Tampa Electric. This is the specific type of information described in Section 366.093(3)(d) and (e) as being entitled to confidential protection and exemption from the Public Records Law.
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**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 November 26, 2012



## **REQUESTED DURATION OF CONFIDENTIAL CLASSIFICATION**

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

n/a