

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

REDACTED

March 23, 2012

HAND DELIVERED

RECEIVED-FPSC  
MAR 23 AM 11:37  
COMMISSION  
CLERK

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 01739-12, 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 Second Data Requests Nos. 1-16.

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

Thank you for your assistance in connection with this matter.

Sincerely,

James D. Beasley

JDB/pp  
Enclosure

COM \_\_\_\_\_  
APA \_\_\_\_\_  
ECR 5  
GCL 1  
RAD \_\_\_\_\_  
SRC \_\_\_\_\_  
ADM \_\_\_\_\_  
OPC \_\_\_\_\_  
CLK 1  
cc: Charles Murphy (w/enc.)

DOCUMENT NUMBER-DATE

01738 MAR 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: March 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)**

Tampa Electric's Responses to Staff's Second Data Request (Nos. 6 and 7), 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

01738 MAR 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 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 23<sup>rd</sup> day of March, 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 23<sup>rd</sup> day of March, 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>
91	6	All highlighted information	(1)
92	7	All highlighted information	(1) (2)

- 
- (1) The highlighted information discloses the names of entities or types of entities to whom Tampa Electric sells gypsum by-product. Commercial grade gypsum currently is an abundant by-product of the operation of power plant scrubbers. Disclosure of Tampa Electric's buyers could result in other entities undercutting Tampa Electric's price and taking these sales opportunities away from Tampa Electric, which would ultimately harm Tampa Electric's retail customers. This is precisely the type of harm sought to be prevented by Section 366.093, Florida Statutes, and the Commission's implementing rule.
  
  - (2) The highlighted information details Tampa Electric strategies for marketing commercial grade gypsum by-product from the scrubbers serving Big Bend Unites 1 – 4. Disclosure of this information would be useful to those with whom Tampa Electric competes for the sale of gypsum by-product and detrimental to Tampa Electric's efforts to market this by-product. This would ultimately have an adverse economic impact on Tampa Electric's retail customers. This is precisely the type of harm sought to be prevented by Section 366.093, Florida Statutes, and the Commission's implementing rule.

**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 SECOND DATA REQUEST  
REQUEST NO. 6  
BATES STAMPED PAGE: 91  
FILED: MARCH 23, 2012**

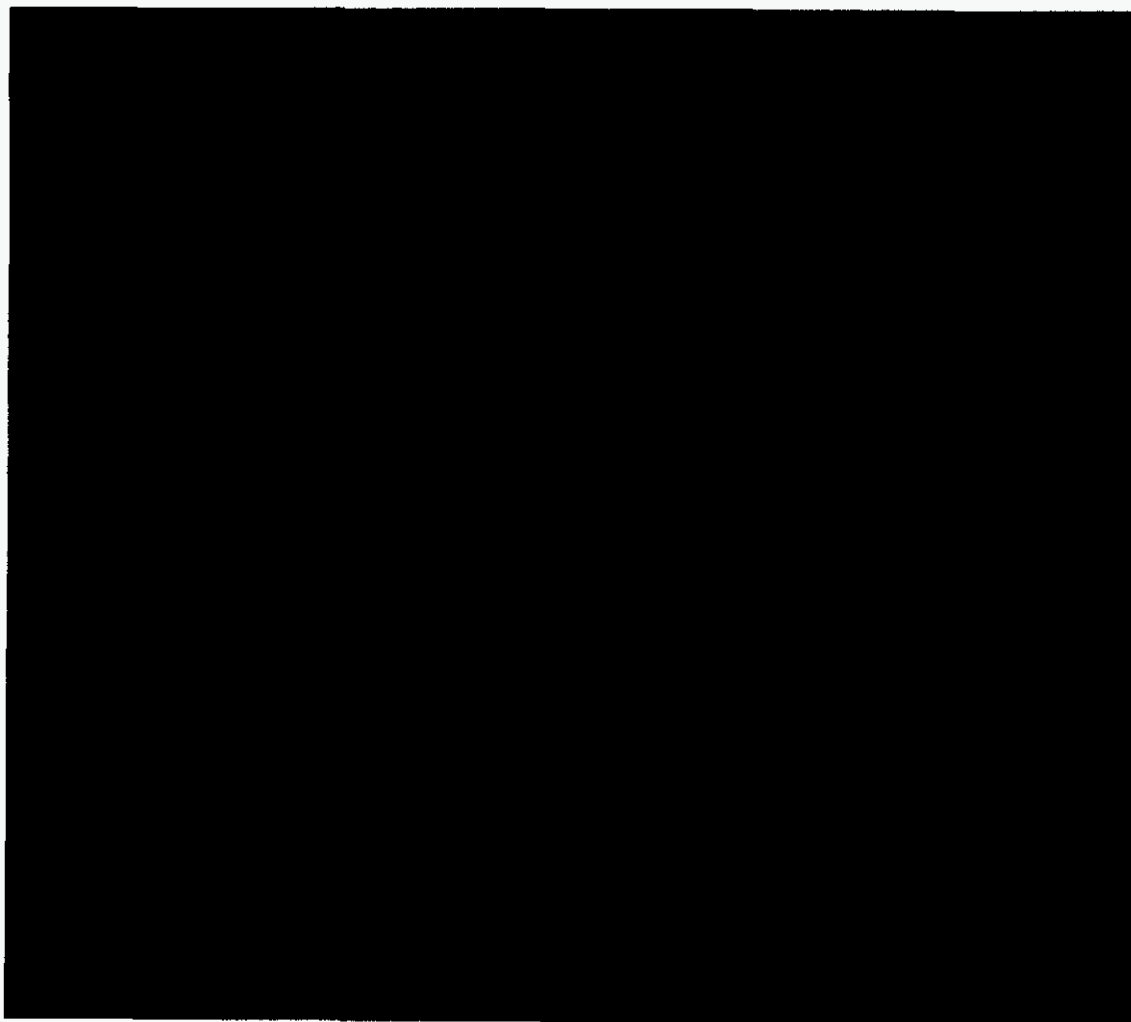
6. Please list all of the buyers to whom TECO is selling gypsum.
- A. In 2011, Tampa Electric sold gypsum to the following companies: National Gypsum,





TAMPA ELECTRIC COMPANY  
DOCKET NO. 110262-EI  
STAFF'S SECOND DATA REQUEST  
REQUEST NO. 7  
BATES STAMPED PAGE: 92  
FILED: MARCH 23, 2012

7. Has TECO been aggressively marketing its gypsum? If yes, please list all of the activities in which TECO is involved that support your answer. If no, please explain why not.
- A. Yes, Tampa Electric is aggressively marketing its gypsum. The company is an industry leader in the beneficial reuse of coal combustion products ("CCP") and recycled approximately 86 percent of the total CCPs produced in 2010. When you include the CCPs temporarily stored in inventory, more than 99 percent of the company's 2010 CCPs will ultimately be reclaimed for beneficial use compared to an industry average of 43 percent. The company's efforts on CCP sales were also recognized as "commendable" in the *Review of Coal Combustion Residual Storage and Disposal Process* of the Florida Electric Industry produced by the Florida Public Service Commission Office of Auditing and Performance Analysis issued in December 2011.



**REDACTED**

**TAMPA ELECTRIC COMPANY  
DOCKET NO. 110262-EI  
STAFF'S SECOND DATA REQUEST  
REQUEST NO. 6  
BATES STAMPED PAGE: 91  
FILED: MARCH 23, 2012**

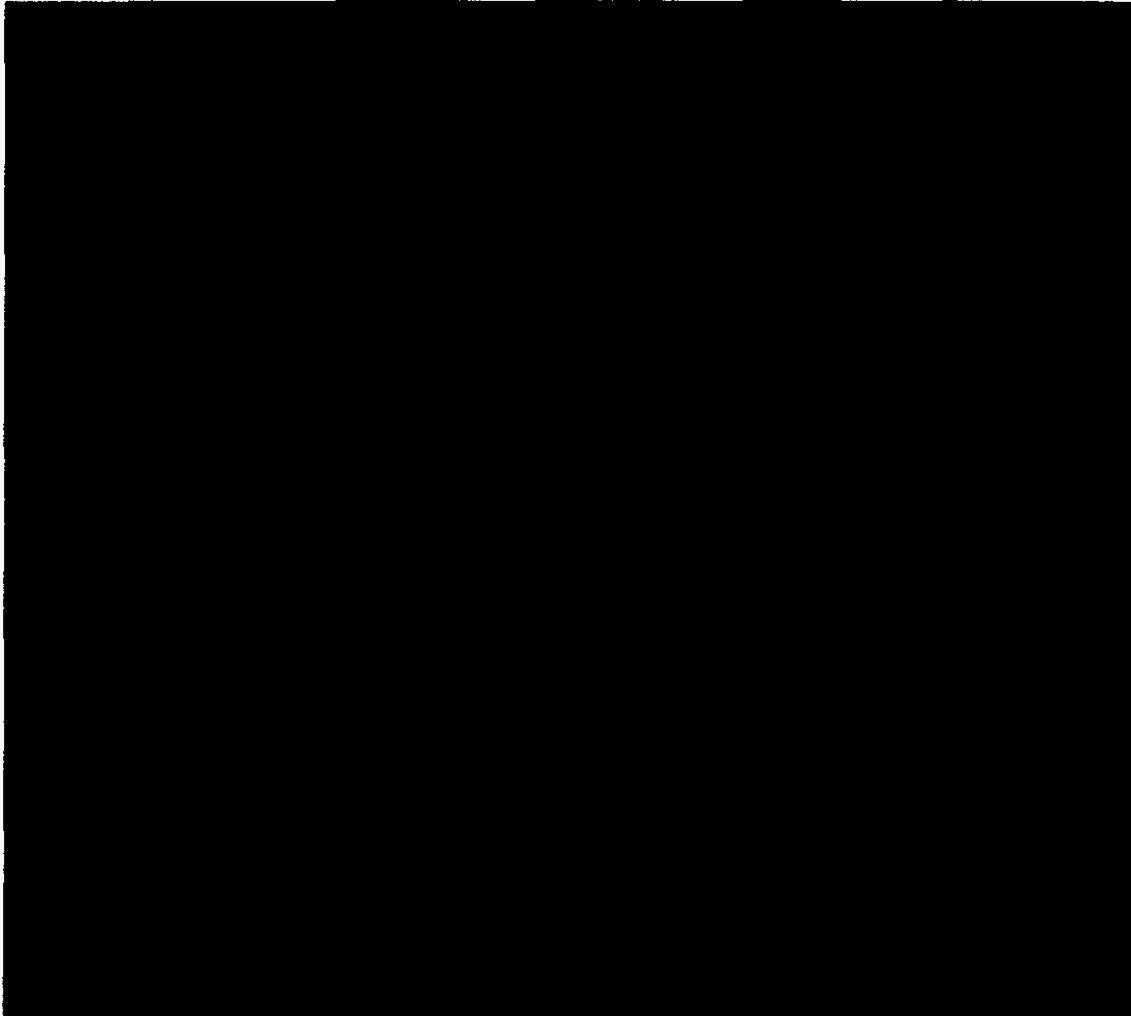
6. Please list all of the buyers to whom TECO is selling gypsum.
- A. In 2011, Tampa Electric sold gypsum to the following companies: National Gypsum,



**REDACTED**

**TAMPA ELECTRIC COMPANY  
DOCKET NO. 110262-EI  
STAFF'S SECOND DATA REQUEST  
REQUEST NO. 7  
BATES STAMPED PAGE: 92  
FILED: MARCH 23, 2012**

7. Has TECO been aggressively marketing its gypsum? If yes, please list all of the activities in which TECO is involved that support your answer. If no, please explain why not.
- A. Yes, Tampa Electric is aggressively marketing its gypsum. The company is an industry leader in the beneficial reuse of coal combustion products ("CCP") and recycled approximately 86 percent of the total CCPs produced in 2010. When you include the CCPs temporarily stored in inventory, more than 99 percent of the company's 2010 CCPs will ultimately be reclaimed for beneficial use compared to an industry average of 43 percent. The company's efforts on CCP sales were also recognized as "commendable" in the Review of Coal Combustion Residual Storage and Disposal Process of the Florida Electric Industry produced by the Florida Public Service Commission Office of Auditing and Performance Analysis issued in December 2011.



## **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.