



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power ) DOCKET NO. 990001-EI  
Cost Recovery Clause and Generating ) FILED: July 28, 1999  
Performance Incentive Factor. )  
\_\_\_\_\_ )

**TAMPA ELECTRIC COMPANY'S OBJECTIONS,  
MOTION FOR PROTECTIVE ORDER AND WRITTEN RESPONSE  
TO FLORIDA PUBLIC SERVICE COMMISSION STAFF'S  
FIRST SET OF INTERROGATORIES (NOS. 21-34) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-4)**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Rule 28-106.206, Florida Administrative Code, submits the following Objections, Motion for Protective Order and Written Response to Staff's First Set of Interrogatories (Nos. 21-34) and Staff's First Request for Production of Documents (Nos. 1-4), propounded on July 13, 1999, and as grounds therefor, says:

These objections are preliminary in nature and are made at this time for purposes of complying with the customary ten (10) day notice requirement in Commission proceedings. Should additional grounds for objection be discovered as Tampa Electric reviews its answers to interrogatories and documents, the company reserves the right to supplement, or revise or modify its objections prior to the time it serves answers to interrogatories or produces any documents. Should Tampa Electric determine that a protective order is necessary with respect to any of the information requested by the Staff, Tampa Electric reserves the right to file a motion with the Commission seeking such an order at the time it serves its written responses to the Staff.

The actual due date for Tampa Electric's responses to Staff's interrogatories and requests for production of documents is August 17, 1999. The customary short response time for

DOCUMENT NUMBER-DATE

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objections requires the company's response to be somewhat broad and protective. Tampa Electric intends to be cooperative and reasonably responsive to appropriate discovery requests. Many of the Commission Staff's requests appear to be broader than the subject matter of this proceeding.

Notwithstanding the bases for the objections posed herein, Tampa Electric will strive to respond to all relevant discovery requests from the Commission's Staff which reasonably relate to the subject matter of this docket and which do not require the disclosure of privileged information. The company will do so in an effort to avoid unnecessary litigation costs for the parties to this proceeding, and to facilitate the timely resolution of this docket in accordance with the current schedule. In certain circumstances, for example, where a particular request is clearly overbroad, susceptible of differing interpretation, unclear or otherwise subject to objection, Tampa Electric will state its particular objection to the request, then identify and offer to produce those documents which the company believes are relevant and fully within the reasonable scope of what the Commission's Staff seeks by way of such request.

The company will continue to work with the Staff to refine the Staff's requests to interrogatory answers and documents which are reasonably related to this proceeding.

### **GENERAL OBJECTIONS**

Tampa Electric makes the following general objections to Staff's First Set of Interrogatories and First Request for Production of Documents (collectively referred to as discovery requests):

1. Tampa Electric objects to each and every discovery request to the extent such request calls for information which is exempt from discovery by virtue of the attorney/client privilege, work product privilege, or other applicable privilege.

2. Tampa Electric objects to each and every discovery request insofar as the request is vague, ambiguous, overly broad, imprecise or utilizes terms that are subject to multiple interpretations but are not properly defined or explained. Any response produced by Tampa Electric to Staff's discovery requests will be provided subject to, and without waiver of, the foregoing objections.

3. Tampa Electric objects to each and every discovery request insofar as the request is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Tampa Electric will attempt to note each instance where this objection applies.

4. Tampa Electric objects to each request insofar as it seeks to impose obligations on Tampa Electric which exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

5. Tampa Electric objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available to Staff through normal procedures.

6. Tampa Electric objects to each and every discovery request to the extent that responding to the request would be unduly burdensome, expensive, oppressive, or excessively time consuming.

7. Tampa Electric objects to each discovery request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida

Statutes. To the extent that Staff's discovery requests call for the production of information which is not subject to the trade secrets privilege, but nevertheless is proprietary confidential business information, Tampa Electric will make such information available to Staff pursuant to an appropriate non-disclosure agreement, subject to any other general or specific objections contained herein.

8. Tampa Electric is a large corporation with employees located in many different locations. In the course of its business, Tampa Electric creates numerous documents that are not subject to Florida Public Service Commission or other governmental records retention requirements. These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document may be provided in response to these discovery requests. Rather these responses provide all of the information obtained by Tampa Electric after a reasonable and diligent search conducted in connection with this discovery request. This includes all files that are reasonably expected to contain the requested information. To the extent that the discovery requests purpose to require more, Tampa Electric objects on the grounds that compliance would impose an undue burden or expense on the company.

#### **Motion for Protective Order**

9. Tampa Electric's objections to Staffs discovery requests are submitted pursuant to the authority contained in Slatnick v. Leadership Housing Systems of Florida, Inc., 368 So.2d 79 (Fla. 3<sup>rd</sup> DCA 1979). To the extent that a Motion for Protective Order is required, Tampa Electric's objections are to be construed as a request for a Protective Order.

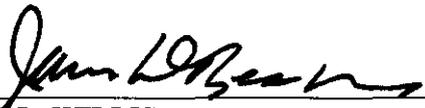
**Responses and Objections to Specific Requests**

10. Tampa Electric objects to Interrogatory No. 28 and Document Requests Nos. 3 and 4 on the ground that responding to them would be unduly burdensome and expensive. The subject interrogatory and requests would require Tampa Electric to spend countless hours going back to 1957 which is well beyond the document retention requirements of Title 18, Subchapter (c), Part 125.3 of the Code of Federal Regulations, which provisions are incorporated by reference in this Commission's Rule 25-6.015, Florida Administrative Code. In addition, the requested documents are not relevant to the subject matter of this proceeding.

11. Tampa Electric objects to the Commission Staff's Document Request No. 1 in that it calls for the production of documents protected under the attorney/client privilege. Tampa Electric has identified a single document responsive to Document Request No. 1 consisting of an internal investigative report. Such document was prepared by and under the direction and supervision of Tampa Electric's legal counsel and the company asserts its attorney/client privilege with respect to such report.

DATED this 28<sup>th</sup> day of July 1999.

Respectfully submitted,

  
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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Objections, Motion for Protective Order and Written Response, filed on behalf of Tampa Electric Company, has been furnished by U.S. Mail or hand delivery (\*) on this 28<sup>th</sup> day of July, 1999 to the following:

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