

# AUSLEY & MCMULLEN

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September 26, 2008

HAND DELIVERED

RECEIVED-FPSC  
08 SEP 26 PM 3:20  
COMMISSION  
CLERK

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

Re: Petition for Rate Increase by Tampa Electric Company  
FPSC Docket No. 080317-EI

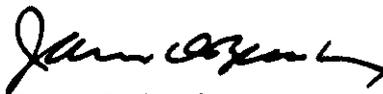
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Response and Objections to Citizens' Second Request for Production of Documents (Nos. 56-74).

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 JDB/pp  
ECR Enclosure  
GCL 2 cc: All Parties of Record (w/enc.)  
OPC  
RCP 1  
SSC 1  
SGA 2  
ADM  
CLK

DOCUMENT NUMBER-DATE

09101 SEP 26 08

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase )  
by Tampa Electric Company. )  
\_\_\_\_\_ )

DOCKET NO. 080317-EI

FILED: September 26, 2008

**TAMPA ELECTRIC COMPANY'S RESPONSE AND OBJECTIONS  
TO CITIZENS' SECOND REQUEST PRODUCTION OF DOCUMENTS (NOS. 56-74)**

Tampa Electric Company ("Tampa Electric" or the "company") submits the following Objections and Response to Citizens' Second Requests for the Production of Documents (Nos. 56-74).

**I. Introduction**

Citizens' Second Request for Production (Nos. 56-74) filed by Office of Public Counsel ("OPC") on August 27, 2008 is part of a series of discovery requests propounded by OPC. Tampa Electric has made an immediate and continuing effort to identify documents responsive to this request. Despite the objections stated below, the company plans to either: (1) provide scanned copies of documents responsive to this request to OPC at its offices on a diskette or (2) produce the confidential documents in the offices of Ausley & McMullen. We also note that in some instances it appears that information sought is duplicative of a prior request. The objections which follow are necessary because of the collectively expansive nature of the multiple requests served by Public Counsel and because the process of assembly and review is incomplete as of the date of this pleading.

**II. General Objections.**

Tampa Electric asserts the following general objections to Citizens' Second Request for Production of Documents (Nos. 56-74):

DOCUMENT NUMBER-DATE

09101 SEP 26 08

FPSC-COMMISSION CLERK

1. Tampa Electric objects to each and every individual discovery request, to the extent it calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. Tampa Electric in no way intends to waive any such privilege or protection. The nature of any such document(s) will be described in a privilege log filed/prepared by Tampa Electric.

2. Tampa Electric objects to each individual request to the extent it requires production of information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. Tampa Electric in no way intends to waive claims of confidentiality and will only produce such information subject to protective order and the Commission's rule on confidentiality. Tampa Electric will file a request for a protective order prior to providing copies of confidential documents to OPC and will also provide non-disclosure agreements for any of OPC's outside consultants that OPC intends to provide access to confidential documents. Documents that are confidential will be identified and separated for review. In some instances where responsive confidential documents are identified and such documents are sufficiently limited in volume the company will make such documents available for review in the offices of Ausley & McMullen at a date and time mutually agreeable to OPC and Tampa Electric.

3. Tampa Electric objects to any definitions or instructions accompanying the discovery request to the extent that they are inconsistent with and expand the scope of discovery specified in the Florida Rules of Civil Procedure that are incorporated into the Model Rules of Procedure or the Commission's rules on discovery. If some question arises as to Tampa

Electric's discovery obligations, Tampa Electric will comply with applicable rules and not with any of the definitions or instructions accompanying the discovery requests that are inconsistent with or exceed the requirements of those rules. Furthermore, Tampa Electric objects to any discovery request that calls for Tampa Electric to create data or information that it otherwise does not have because there is no such requirement under the applicable rules and law.

4. Tampa Electric objects to any definition or instruction in any discovery request that seeks production of documents from persons or entities who are not parties to this proceeding or that are not subject to discovery under applicable rules.

5. 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 the Florida Public Service Commission or other governmental record retention requirements. These documents are kept in numerous locations and frequently are moved from site to site as employees change jobs or as business is reorganized. Therefore, it is possible that not every relevant document may have been reviewed or considered in developing Tampa Electric's responses to the discovery requests. Rather, Tampa Electric will provide all the information that Tampa Electric obtained after a good faith, reasonable and diligent search conducted in connection with these discovery requests. To the extent that the discovery requests propose to require more, Tampa Electric objects to the requests individually and collectively on the grounds that compliance would impose an undue burden or expense on Tampa Electric.

6. Tampa Electric objects to each discovery request to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

7. Tampa Electric objects to each and every discovery request to the extent it is vague, ambiguous, overly broad, burdensome, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests.

8. Tampa Electric objects on grounds of relevancy to each discovery request seeking information relating to transactions or other business activity of Tampa Electric's non-regulated sister companies where Tampa Electric was not a party to the transaction or a participant in the business activity.

9. Tampa Electric expressly reserves and does not waive any objections it may have to the admissibility, authenticity or relevancy of the information provided in its responses to the subject discovery requests.

10. Tampa Electric objects to any attempt by the party seeking discovery to evade any numerical limitations set on interrogatories or requests for production of documents by asking multiple independent discovery requests within single individual discovery requests and subparts thereof. By making these general objections at this time, Tampa Electric does not waive or relinquish its right to assert additional general and specific objections to the subject discovery at the time Tampa Electric's response is due.

11. Tampa Electric objects to the time and place designated for production on to the extent that producing documents that may be responsive to the requests at the specified time and place would require the company to copy and ship an unreasonable volume of documents, which would be burdensome not only on Tampa Electric, but also on OPC as well. Where the volume of the documents requested so requires, the company will produce documents that may be responsive to the requests at Tampa Electric's headquarters in Tampa, Florida at a mutually

agreeable time and date after September 26, 2008. The company will copy and ship specific documents identified by OPC upon payment of reasonable copying and shipping charges. The company will initiate a dialog on the appropriate amount of charges for copying and shipping.

12. To the extent these requests seek documents produced by Tampa Electric in response to prior OPC requests, the company objects to the duplicative production of this information.

### **III. Specific Objections.**

In addition to the general objections set forth above, which are incorporated herein by reference, Tampa Electric asserts the following specific objections.

56. Please provide copies of the publications cited in the footnotes of Dr. Murry's testimony.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

57. With respect to page 18, lines 5-20, please provide a copy of the current Blue Chip Financial Forecasts.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

58. Please reference to page 25, lines 1-9 and Document No. 5, of Dr. Murry's testimony. Please provide copies of the source documents, work papers, and data in both hard

copy and electronic (Microsoft Excel) formats, with all data and formulas intact for the following:

- (1) provide copies of the data, source documents, and work papers used to develop the capital structure presented in Document No. 5;
- (2) show the details, assumptions, and magnitude of all adjustments that were made to the capitalization as of December 31, 2007 to arrive at the projected test-year capitalization; and
- (3) provide the monthly amounts of short-term debt used and projected to be used in developing the test-year capital structure; and
- (4) provide the monthly cash flow and capitalization amounts, including all actual and pro forma financings.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

59. With reference to page 26, lines 3-16 and Document No. 6, please provide copies of the data, source documents, and work papers used to develop the capital structure ratios for the regulated subsidiaries of the proxy group regulated subsidiary companies. Please provide copies of the source documents, work papers, and data in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

60. Please provide the data, including all work papers used in determining the debt cost rates, in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact. Please reference to pages 26-27 for the following:

- (1) all data, work papers, source documents, and calculations used in computing the short-term and long-term cost rates of 4.63% and 6.80%, respectively;
- (2) all details (issue date, debt amounts, underwriter, underwriting spread, SEC filings, etc.) associated with all actual and pro forma financings used in determining the Company's short-term and long-term debt cost rates; and
- (3) the methodology, computations, and associated work papers used to compute the debt cost rates for pro forma long-term financings, intercompany loans, and for short-term debt.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

61. Please provide copies of the reports listed on page 30, lines 1-25 and, Document No. 8; also provide copies of all studies performed comparing the business risk of Tampa Electric and the companies in the proxy group.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

62. With respect to page 39, lines 1-4, please provide copies of all studies that provide empirical evidence that the DCF will not provide "enough cushion so that the realized return will be sufficient to attract and maintain capital."

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

63. With respect to page 40, lines 5-14, please provide copies of:

- (1) all explicit statements (known to Dr. Murry) which have been made by regulators and analysts which explicitly recognize that the marginal cost nature of the DCF model results in an understatement of the equity cost rate; and
- (2) in conjunction with (1), provide the statements supporting the idea that flotation and market pressure adjustments are made to account for the DCF understatement of the equity cost rate.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

64. With respect to page 55, lines 1-5, please provide copies of all studies which indicate that the CAPM understates the equity cost rate for companies with betas less than 1.0.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

65. The data in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact. With respect to page 58, lines 8-12, please provide:

- (1) a copy of the Ibbotson study; and
- (2) the date used in the Ibbotson study.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

66. With respect to page 64, lines 1-3, please provide the data and work papers used in determining that the comparable companies have an expected return on equity of 12.2%.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

67. Please provide the data in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact. With respect to page 65, lines 6-25 and Document No. 24, please provide copies of the data, work papers, and source documents used:

- (1) copies of all data, source documents, and work papers used in the development of Document Nos. 1-24; and

- (2) electronic copies of Document Nos. 1-24 in electronic format (Microsoft Excel), with all data and formulas intact.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

68. Please provide:

- (1) copies of all data, source documents, and work papers used in the development of Document Nos. 1-24; and
- (2) electronic copies of Documents Nos. 1-24 in electronic format (Microsoft Excel), with all data and formulas intact.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

69. Please provide copies of all presentations made to rating agencies and/or investment firms by TECO Energy ("TECO") or Tampa Electric ("Tampa") between January 1, 2007 and the present.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

70. Please provide copies of all prospectuses for any security issuances by TECO and Tampa since January 1, 2007.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

71. Please provide copies of all studies performed by TECO or Tampa or by consultants or investment firms hired by TECO or Tampa to assess:

- (1) TECO or Tampa financial performance,
- (2) the performance of TECO or Tampa relative to other utilities, or
- (4) the adequacy of Tampa's return on equity or overall rate of return.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

72. Please provide copies of credit reports for TECO or Tampa the major credit rating agencies published since January 1, 2007.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

73. Please provide copies of all correspondence between TECO or Tampa and any of the three major bond rating agencies (S&P, Moody's, and Fitch) from January 1, 2006 to the

present. These include copies of letters, reports, presentations, emails, and notes from telephone conversations.

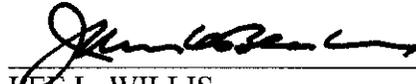
**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

74. Please provide copies of all associated work papers and source documents for Tampa's authorized and earned return on common equity for electric operations over the past ten years. Please provide copies of the source documents, work papers, and data in both hard copy and electronic (Microsoft Excel) formats, with all data and formulas intact.

**Objections and Response:** The company hereby incorporates its general objections by reference and will produce documents in response to this request consistent with its general objections.

DATED this 26th day of September 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lee L. Willis", is written over a horizontal line.

LEE L. WILLIS  
JAMES D. BEASLEY  
KENNETH R. HART  
J. JEFFRY WAHLEN  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, FL 32302  
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Objections and Responses to Citizens' Second Request for the Production of Documents (Nos. 56-74), filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 26th day of September 2008 to the following:

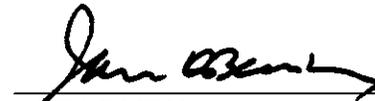
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\_\_\_\_\_  
ATTORNEY