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January 13, 2010

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

Re: Review of the Continuing Need and Cost Associated with Tampa Electric Company's Five Combustion Turbines and Big Bend Rail Facility;
FPSC Docket No. 090368-EI

Dear Ms. Cole:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Answer and Response to the Office of Public Counsel's Petition Protesting Portions of the Proposed Agency Action and Motion for Clarification.

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 _____
APA 1 JDB/pp
ECR 1 Enclosure
GCL 1 cc: All parties of record (w/enc.)
RAD 2
SSC _____
ADM _____
OPC _____
CLK _____

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the continuing need and)
Cost associated with Tampa Electric)
Company's 5 Combustion Turbines and)
Big Bend Rail Facility.)
_____)

DOCKET NO. 090368-EI

FILED: January 13, 2010

**TAMPA ELECTRIC COMPANY'S
ANSWER AND RESPONSE TO PETITION PROTESTING PORTIONS
OF THE PROPOSED AGENCY ACTION AND MOTION FOR CLARIFICATION**

Tampa Electric Company ("Tampa Electric" or "the company") answers and responds to the pleading filed of the Citizens of the State of Florida ("Office of Public Counsel" or "OPC") on January 12, 2010 and, says:

1. OPC's pleading, like the Protest and Complaint filed on behalf of the Florida Industrial Power Users Group ("FIPUG") on December 29, 2009, appears to be a premature attempt by OPC to redefine the issues to be addressed in the hearing that will be held in this proceeding in accordance with Order No. PSC-09-0842-PCO-EI (hereinafter "Order No. 09-0842"), issued in this docket on December 22, 2009. Because this matter has been set for hearing by the Commission on its own motion, no action is warranted at this time in response to OPC's pleading. The matters addressed in OPC's pleading may be taken up in due course in the hearing process the Commission has already ordered on its own motion.

2. OPC's pleading purports to be both a petition protesting Order No. 09-0842 and a motion for clarification of that order. To the extent OPC's pleading is intended to serve as a protest, it is inappropriate and deficient inasmuch as Order No. 09-0842 is not a proposed agency action ("PAA") order, which is the type of order that may be protested, in which event an evidentiary hearing may be held. In paragraph 7 of its pleading, OPC asserts that its "protest"

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has been timely filed in that it was filed by a protest deadline that is actually non-existent, because Order No. 09-0842 is not a PAA order. Since Order No. 09-0842 is not a PAA order, OPC's protest simply has no real legal effect.

3. The relief requested by OPC, like that contained in FIPUG's December 29, 2009 pleading, includes a request that the Commission conduct a formal evidentiary hearing, but such a hearing has already been ordered by the Commission. The fact that OPC has requested an evidentiary hearing serves as an implicit admission by OPC that no substantive action is warranted in advance of the requested hearing. OPC and all other substantially affected persons will be afforded a full opportunity for due process during the course of the forthcoming hearing.

4. As its basis for requesting clarification of the scope of the issues to be heard, OPC attempts to redefine the conditions for approval of the step increase approved in Docket No. 080317-EI based on OPC's own suggested interpretation of those conditions and to limit the scope of evidence that may be used to prove that the conditions have been met. Tampa Electric strongly disagrees with OPC's position on this point and believes the conditions relating to the approved step increase are clearly stated in the final order and order on reconsideration in Docket No. 080317-EI and in Order No. 090842, and that those conditions appropriately define the scope of the forthcoming hearing. The Commission is eminently qualified to decide what evidence is appropriate to prove that the conditions relating to the step increase have been met. This will be part of the natural process and outcome of the hearing the Commission itself has ordered.

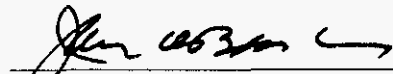
5. The tariffs implementing the approved step increase have been submitted, administratively approved, and placed into effect. All revenues collected there under are subject

to refund with interest for the protection of all customers. OPC and all other parties will be afforded full due process in the hearing the Commission has ordered.

WHEREFORE, Tampa Electric asserts that no action is necessitated by OPC's January 12, 2010 pleading inasmuch as all issues appropriately relating to the step increase implemented in Order No. 09-0842 will be addressed and resolved in the hearing called for in that order. Further, Tampa Electric states that the conditions set forth in the final order and order on reconsideration in the base rate proceeding in Docket No. 080317-EI and in Order No. 09-0842 are clearly stated, speak for themselves and require no clarification.

DATED this 13th day of January 2010.

Respectfully submitted,



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

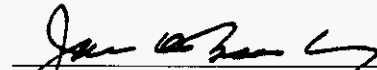
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer and Response to OPC's Petition Protesting Portions of the Proposed Agency Action and Motion for Clarification, filed on behalf of Tampa Electric Company, has been served by hand delivery (*) or U. S. Mail on this 13th day of January, 2010 to the following:

Mr. Keino Young*
Staff Attorney
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ATTORNEY