

AUSLEY & McMULLEN

ORIGINAL

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

RECEIVED FPSC

NOV 16 PM 3:21

RECORDS AND REPORTING

November 16, 1998

HAND DELIVERED

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32388-0850

Re: Adoption of Numeric Conservation Goals by Tampa Electric Company
FPSC Docket No. 971007-EG

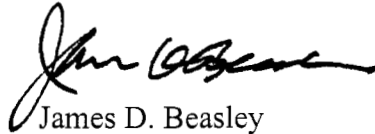
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Memorandum in Opposition to LEAF's Motion for Reconsideration.

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

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG Utrell _____
- LEG 1 cc: All Parties of Record (w/enc.)
- LIN 5 _____
- OPC _____
- RCH _____
- SEC 1 _____
- WAS _____
- OTH _____

JDB/pp
Enclosures

RECEIVED & FILED

FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

12828 NOV 16 98

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Adoption of Numeric)
Conservation Goals by Tampa)
Electric Company.)
_____)

DOCKET NO. 971007-EG
FILED: November 16, 1998

**TAMPA ELECTRIC COMPANY'S MEMORANDUM
IN OPPOSITION TO LEAF'S MOTION FOR RECONSIDERATION**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Rule 25-22.060, Fla. Admin. Code, submits this its Memorandum in Opposition to the Motion for Reconsideration filed by the Legal Environmental Assistance Foundation, Inc. ("LEAF") on November 9, 1998, and says:

1. The function of a Motion for Reconsideration is to identify a point of fact or law that the Commission overlooked in rendering a decision.¹ LEAF's Motion for Reconsideration of Order No. PSC-98-1435-PCO-EG ("the Order") does not do this. Instead, LEAF simply vents its disagreement with the outcome of the decision embodied in the Order and attempts to reargue the basis for the relief sought in LEAF's Motion to Establish Procedure. In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered.²

2. The Order properly interprets all of the arguments presented and sets forth a well reasoned basis for the relief it grants. LEAF'S effort to reargue the merits of its prior Motion should be denied.

¹ See, Stewart Bonded Warehouse, Inc. v. Bevis, 294 So.2d 315 (Fla. 1974); Diamond Cab Company v. King, 146 So.2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So.2d 161 (Fla. 1st DCA, 1981).

² See, Sherwood v. State, 111 So.2d 96 (Fla. 3rd DCA, 1959); State ex rel Jaytex Realty Company v. Green, 105 So.2d 817 (Fla. 1st DCA, 1958)

DOCUMENT NUMBER-DATE

12828 NOV 16 98

FPSC-RECORDS/REPORTING

WHEREFORE, Tampa Electric Company urges that LEAF's Motion for Reconsideration be denied.

DATED this 16th day of November, 1998.

Respectfully submitted,



LEE L. WILLIS
JAMES D. BEASLEY
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 copy of the foregoing Memorandum in Opposition to LEAF's Motion for Reconsideration, filed on behalf of Tampa Electric Company, has been furnished by hand delivery (*) or U. S. Mail on this 16th day of November, 1998.

Ms. Leslie Paugh*
Staff Counsel
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mr. Joseph A. McGlothlin
Ms. Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
117 South Gadsden Street
Tallahassee, FL 32301

Mr. John W. McWhirter, Jr.
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
Post Office Box 3350
Tampa, FL 33601-3350

Mr. Kenneth A. Hoffman
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
Post Office Box 551
Tallahassee, FL 32302-0551

Mr. Charles A. Guyton
Steel Hector & Davis
601 First Florida Bank Building
215 South Monroe Street
Tallahassee, FL 32301-1804

Mr. James A. McGee
Senior Counsel
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733-4042

Ms. Gail Kamaras
Ms. Debra Swim
Legal Environmental Assistance Foundation
1114 Thomasville Road, Suite E
Tallahassee, FL 32303-6290



ATTORNEY