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May 17, 1996

HAND DELIVERY

IN REPLY REFER TO:

Tallahassee

ORIGINAL  
FILE COPY

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Prudency Review to Determine Regulatory  
Treatment of Tampa Electric Company's  
Polk Unit; FPSC Docket No. 960409-EI

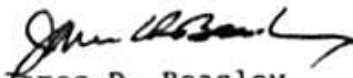
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Response to Staff's Motion to Compel Discovery.

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 4  
APP \_\_\_\_\_  
CIE \_\_\_\_\_  
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Enclosures  
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cc: All Parties of Record (w/encls.)

RECEIVED & FILED  
  
MAY 17 1996  
DIVISION OF RECORDS

DOCUMENT NUMBER-DATE  
05524 MAY 17 96  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Prudency Review to Determine ) DOCKET NO. 960409-EI  
Regulatory Treatment of Tampa Electric )  
Company's Polk Unit. ) FILED: May 17, 1996  
\_\_\_\_\_ )

**TAMPA ELECTRIC COMPANY'S RESPONSE  
TO STAFF'S MOTION TO COMPEL DISCOVERY**

Tampa Electric Company ("Tampa Electric" or "the company") responds as follows to the Motion to Compel Discovery served by the Staff of the Florida Public Service Commission on May 10, 1996, and says:

1. Staff's Motion to Compel Discovery pertains to Staff's First Request for Production of Documents Nos. 6 and 7, having to do with the use of a seven year tax life for Polk Unit One and documents pertaining to possible legislative changes to Section 29 of the Internal Revenue Code, respectively. As Tampa Electric stated in its May 2, 1996 written response and objections regarding these two requests, the company believes that public disclosure of these documents would be harmful to the company's interests, both with respect to its ability to use a seven year tax life for Polk Unit One and also to the company's potential for obtaining favorable changes in Section 29 of the IRS Code. However, after further discussions with Staff, Tampa Electric has agreed to produce for Staff's review non-privileged documents which fall within the scope of Requests Nos. 6 and 7.

2. Tampa Electric adheres to the company's Notice of Intent to Request Confidential Classification, filed in this docket on May

DOCUMENT NUMBER-DATE

05524 MAY 17 96

FPSC-RECORDS/REPORTING

2, 1996. Once it is determined which, if any, of the requested documents Staff may desire copies of, Tampa Electric will submit a formal and timely request for confidential classification, if necessary, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.005, Florida Administrative Code, to the extent that any copies to be furnished to the Staff contain information which is in need of confidential protection.

**Privileged Documents**


3. Tampa Electric is completing an inventory of documents it will withhold from the above-referenced production of documents because such documents constitute privileged attorney/client communications and are entitled to the lawyer/client privilege set forth in the Florida Evidence Code, Section 90.502, Florida Statutes. These documents are beyond the scope of discovery permissible under Florida R. Civ. P. Rule 1.280(b)(1). Additionally, such documents contain opinions of legal experts Tampa Electric does not expect to call as witnesses in this proceeding. Tampa Electric will file the inventory of privileged documents as a supplement to this response on Monday, May 20, 1996.

4. Tampa Electric will produce for Staff's review the non-privileged documents which fall within the scope of Requests Nos. 6 and 7 in the offices of the undersigned at a date and time mutually agreeable to Staff and the company. Tampa Electric will work with Staff to schedule such review as soon as possible.

WHEREFORE, Tampa Electric submits the foregoing as its Response to Staff's Motion to Compel Discovery.

DATED this 17<sup>th</sup> day of May, 1996.

Respectfully submitted,

  
\_\_\_\_\_  
LEE L. WILLIS  
JAMES D. BEASLEY  
Macfarlane Ausley Ferguson & McMullen  
Post Office Box 391  
Tallahassee, FL 32302  
(904) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Response to Staff's Motion to Compel Discovery, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 17<sup>th</sup> day of May, 1996 to the following:

Mr. Robert V. Elias\*  
Staff Counsel  
Division of Legal Services  
Florida Public Service  
Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Mr. Joseph A. McGlothlin  
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Mr. Jack Shreve  
Mr. John Roger Howe  
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c/o The Florida Legislature  
111 West Madison Street - #812  
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ATTORNEY