

ORIGINAL
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased)
Power Cost Recovery Clause)
and Generating Performance)
Incentive Factor.)

DOCKET NO. 010001-EI

COMMISSION
CLERK

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**FLORIDA INDUSTRIAL POWER USERS GROUP OBJECTIONS TO TAMPA
ELECTRIC'S INTERROGATORIES 4, 7 & 14**

Florida Industrial Power Users Group's ("FIPUG") submits the following Objections, Motion for Protective Order and written response to Tampa Electric Company's Interrogatories and says:

Preliminary Nature of These Objections

The objections stated herein are preliminary in nature and should additional Grounds for objections be discovered as FIPUG attempts to respond to interrogatories in this proceeding, FIPUG reserves the right to supplement or revise or modify its objections. Should FIPUG determine that a further protective order is necessary with respect to any of the information requested, FIPUG reserves the right to file such a motion with the Commission.

GENERAL OBJECTIONS

FIPUG makes the following general objections to TAMPA ELECTRIC's interrogatories

1. FIPUG objects to the enumerated interrogatories insofar as they seek to impose obligations on FIPUG that exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

2. FIPUG objects to each interrogatory to the extent such interrogatory calls for

information which is exempt from discovery by virtue of the attorney /client privilege, work product privilege, or other applicable privilege.

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3. FIPUG objects to each interrogatory insofar as the interrogatory is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding.

4. FIPUG objects to each interrogatory to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes, or which is proprietary confidential business information.

5. Each industrial customer of TAMPA ELECTRIC intervening in this cause is proceeding to research its records in response to TAMPA ELECTRIC's discovery requests and to the extent the company locates information responsive to those requests which is not subject to the foregoing general objections, the same will be provided to TAMPA ELECTRIC on a timely basis,

Motion for Protective Order

7. FIPUG's objections to TAMPA ELECTRIC's discovery requests are submitted pursuant to the authority contained in *Slatnick v. Leadership Housing Systems of Florida, Inc.*, 368 So. 2d 278 (Fla. 3rd DCA 1979). To the extent that a Motion for Protective Order is required, FIPUG's objections are to be construed as a request for a Protective Order.

Objections to Specific Request

8. FIPUG objects to sub parts a., b, and c. of interrogatory No 4 on the ground that TECo is seeking information from its FIPUG customers that TECo itself provided to the customers, presumably TECo is only asking for the information through the discovery process because the information is normally confidential customer information. TECo's FIPUG customers object to being burdened with the requirement to regurgitate TECo produced information, but waive their rights to confidentiality with respect to the information sought in interrogatory No 4 parts a, b, & c.

9. FIPUG objects to the form and substance of TECo's interrogatory No 7. TECo uses the misleading term "discount" as it relates to a regulated utility service. The definition provided by Tampa Electric misleadingly infers that Tampa Electric knowingly charges rates to its customers that are discriminatory in violation of Florida law. The definition is further misleading in that it implies that the present price charged to General Service Large Demand customers is reasonable nearly ten years after it was set. FIPUG firms pay Tampa Electric for electricity based on Tampa Electric's numerous customer classifications which were approved in its last general rate case and which were based upon cost of service studies performed by Tampa Electric. The IS rate design was proffered by Tampa Electric in its last general rate case as being cost justified based upon the cost and quality of service provided as well as the other statutory requirements for rate design. No other electric price differential, such as, the difference between residential and small commercial or industrial and street lighting is referred to as a "discount." The term used in this interrogatory is designed to cast Tampa Electric customers that have intervened in this proceeding in an unfavorable light. A more logical comparison for the term "discount" would be a comparison to customers of other utilities in a similar rate class with whom Tampa Electric's customers must compete. That information is not available to FIPUG. All of the information requested is already in the possession of Tampa Electric and can be provided more expeditiously and accurately at less cost by Tampa Electric. If Tampa Electric has information from its operations that rate classifications are presently resulting in discriminatory "discounts" to some classes of customers, Tampa Electric is required by law to file a general rate case so that the appropriate level of revenue may be determined for the utility to earn a fair return on its investment and then allocate the revenue to the customer classes based upon the cost to serve each class and other statutory rate design principles. The interrogatory further requires

each FIPUG customer of TECo to disclose the amount of electric energy it consumed during the period in question. The disclosure of this information will provide industrial competitors of FIPUG industries with valuable trade secrets even though it doesn't provide TECo with any new information. The interrogatory is designed to be burdensome to TECo's customers which had the temerity to intervene in regulatory proceedings that affect TECo revenue.

10, FIPUG objects to interrogatory No 14 on the grounds that industrial companies in the Tampa Electric service area are presently obligated to purchase power only from Tampa Electric or produce it internally for their own use. These companies determine the prices charged by Tampa Electric by examining their monthly bills. Industrial customers concerned about these prices intervene in the regulatory proceedings that establish the prices they are obligated to pay. To the extent this question is designed to elicit privileged attorney client work product it is objectionable and the companies respectfully decline to respond. To the extent the question deals with determining the cost of permissible self-generation the information comprises internal company data that is a trade secret in addition the information is not relevant to this proceeding nor calculated to lead to relevant evidence. To the extent the question seeks to identify the price IS customers will pay for buy through power before electing to curtail or cease operations the question seeks to determine customer trade secrets and is therefore objectionable.

WHEREFORE, FIPUG submits the foregoing as its Objections to Tampa Electric's interrogatories 4, 7, & 14.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Industrial Power Users Group Objections to Tampa Electric's Interrogatories 4, 7 & 14 has been furnished by (*) hand delivery, or U.S. Mail this 25th day of June 2001, to the following parties of record:

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