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August 8, 2001

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket No.: 010001-EI

Dear Ms. Bayo:

On behalf of Florida Industrial Power Users Group (FIPUG), enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Florida Industrial Power Users Group's Response to Tampa Electric Company's Motion to Compel.

Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me. Thank you for your assistance.

Sincerely,

Vicki Gordon Kaufman

Vicki Gordon Kaufman

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MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, DECKER, KAUFMAN, ARNOLD & STEEN, P.A.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 010001-EI
Filed: August 8, 2001

**FIPUG'S RESPONSE TO TAMPA ELECTRIC COMPANY'S
MOTION TO COMPEL**

The Florida Industrial Power Users Group ("FIPUG") responds as follows to the Motion to Compel and Request for Expedited Motion Hearing filed by Tampa Electric Company ("TECo"). Such motion should be denied in its entirety. As grounds therefor, FIPUG states:

1. FIPUG admits that it objected to all requests for production for the reasons stated in the objections.
2. As to allegations concerning Interrogatories 1 and 2, Steven F. Davis as chairman of FIPUG responded to generic questions on behalf of the group obviating the necessity for the named companies to respond to any questions other than the ones directed specifically to their operations.
3. To the extent Interrogatory #3 pertains to customers of other utilities, the information sought is objectionable because it is irrelevant, is not designed to lead to relevant information concerning the price paid by TECo for purchased power, and seeks to discover information concerning sales to other utilities which those utilities may have received authority to keep confidential. The information is also objectionable as an attempt to discover proprietary trade secrets from utility customers of other utilities.
4. With respect to Interrogatory # 4, on information and belief, PCS Phosphates, Inc. and an affiliated company of Air Products and Chemicals Inc. in addition to the companies previously named generate electricity in Florida and have contributed to FIPUG operating costs. TECo can

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determine its purchases from these companies, if any. As to these companies, the question is objectionable because it is irrelevant and not designed to lead to relevant information.

5. The FIPUG attorney and the representatives responding to TECo's Interrogatory # 6 did not understand the full breadth of TECo's inquiry until it was explained in the motion to compel. Most FIPUG companies are national and multinational concerns. If the question wants to know if a FIPUG company served by another utility is generating electricity in one country or even multiple locations in the same country or the state of Florida and concurrently buying electricity at the same location or other locations throughout the world, it is so patently irrelevant and burdensome that FIPUG couldn't conceive that this was the information sought. With this new understanding, FIPUG objects for the reasons stated above.

6. FIPUG disagrees with TECo's characterization of its answers to Interrogatory # 8, and stands by the response as written.

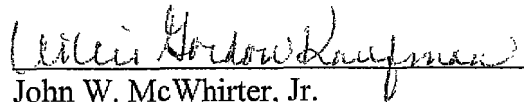
7. As to Interrogatory # 10, all FIPUG interruptible customers, the ones named in Interrogatories #1 and 2 have developed procedures for determining whether to let TECo buy power for them rather than being interrupted.

8. As to Interrogatory # 11, FIPUG is not "cute" nor does it try to be. It presumes that the Commission's orders speak for themselves and that tariff modifications are generally made upon the request of utilities seeking a modification. FIPUG will not officially speculate on the Commission's unstated rationale for its action. If TECo is probing FIPUG to say that the interruptible schedules were closed to new business because they were not "cost effective", FIPUG will not make that statement because there has never been such a conclusion based upon competent substantial evidence. The cost-effectiveness issue was raised in TECo's last general rate case, (Docket 920324-EI). FIPUG sought to address the issue, but the matter was postponed until the next general rate case

when it can be addressed. In that case, TECo asked the Commission to reduce the rates charged under these rate schedules. In Docket 990037-EI, TECo sought to close the IS-3 rate in favor of an industrial load management rate that would bring in additional revenue without the need to subject its general revenues to Commission review. The Commission granted TECo's request to close the schedule to new customers. The case was settled without addressing the cost effectiveness issue.

9. As to Interrogatory #13, FIPUG stands on its previous response. FIPUG is an ad hoc association of consumers who participate in activities that adversely affect their interests. By electing to participate in a matter that adversely affects its interest, a consumer should not be subjected to burdensome discovery in every docket that other companies see fit to pursue. FIPUG companies who are captive utility customers, and other consumers, frequently prefer to pursue consumer causes with some degree of anonymity to avoid being singled out for retribution. This interrogatory is a classic example of an attempt to embroil consumers of other utilities into burdensome invasions of their privacy and trade secrets because they had the temerity to become fellow travelers in other causes that affected them. As to the tangential contention that TECo's own information is secret while it seeks to compel its customers to conduct extensive explorations of their worldwide activities, TECo is standing on thin ice. It is a privileged and protected public utility with captive customers. TECo should not be allowed to conceal information injurious to its customers under the shibboleth that to do so will hurt TECo competitively when it uses the power plants retail customers are paying for to make off system sales. Customers don't have government protection from competition. The circumstances are not equal.

WHEREFORE, TECo's Motion to Compel should be denied.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Industrial Power Users Group's Response to Tampa Electric Company's Motion to Compel has been furnished by (*) hand delivery, or U.S. Mail this 8th day of August 2001, to the following:

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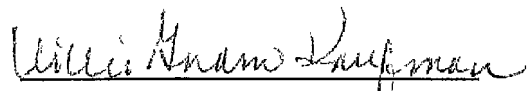
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