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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Review of Tampa Electric Company's waterborne transportation contract with TECO Transport and associated benchmark ) Docket No. 031033-EI ) Filed: May 6, 2004

COMMISSION CLERK

RESIDENTIAL ELECTRIC CUSTOMERS' OBJECTION TO TAMPA ELECTRIC COMPANY'S NOTICE OF INTENT TO SEEK CONFIDENTIAL CLASSIFICATION AND MOTION FOR TEMPORARY PROTECTIVE ORDER

Catherine L. Claypool, Helen Fisher, William Page, Edward A. Wilson, Sue E. Strohm, Mary Jane Williamson, Betty J. Wise, Carlos Lissabet, and Lesly A. Diaz (the "Residential Electric Customers"), by and through their undersigned attorney, pursuant to Rules 25-22.006(3)(B) and 28-106.204, Florida Administrative Code, hereby file their Objection to Tampa Electric Company's Notice of Intent To Seek Confidential Classification And Motion For Temporary Protective Order, filed May 3, 2004. In support of this motion, the Residential Electric Customers state as follows:

1. On May 3, 2004 Tampa Electric Company ("Tampa Electric") filed its "Tampa Electric Company's Notice of Intent To Seek Confidential Classification And Motion For Temporary Protective Order," by which it seeks to have certain portions of the prefiled rebuttal testimony of its witnesses Wehle, Dibner, Guletsky and Murrell excluded from public inspection pursuant to the Public Records Law, Section 119.07(1), Florida Statutes, on the basis that public disclosure of the text and data for which protection is sought "would be very detrimental to the competitive and economic interests of Tampa Electric, its transportation affiliate and others with

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whom Tampa Electric transacts business.” The protection from public disclosure is sought pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.

2. The information sought by Tampa Electric for exclusion from the Public Records Law is either highlighted in yellow or printed on yellow paper stock and stamped “CONFIDENTIAL” within the prefiled testimony or exhibits of the several witnesses.

3. It should be noted at the outset, and as this Commission is well aware, that the policy of the State of Florida is that all public records be open to review by members of the public unless there are specific statutory exemptions from such examination.

4. The Residential Electric Customers believe that certain of the information sought to be precluded from public examination by Tampa Electric’s instant motion, like other information previously withheld, is merely embarrassing to Tampa Electric and does not meet the strict statutory exemptions from disclosure to the public, generally, and, especially to Tampa Electric’s customers, who are required to pay the highest PSC-regulated electric rates in the state.

5. A specific example of the type “confidential” information the Residential Electric Customers believe would be embarrassing, but not truly confidential within the meaning of the statutory exemptions, is found in the rebuttal testimony of Tampa Electric’s witness Joann T. Wehle. For example, at page 55 of this testimony, beginning at line 5, the redacted version reveals the following question and redaction related to what JEA, formerly the Jacksonville Electric Authority, and Tampa Electric are each paying Tampa Electric’s affiliate company, TECO Transport, for the waterborne transportation of coal or pet coke:

Q. At page 27 of his testimony, Mr. Majoros states that because JEA paid \$9.00 per ton for transportation and Mr. Dibner’s proposed rate for similar movements is

\$XX.XX per ton, Tampa Electric is paying too much. Dr. Hochstein makes a similar allegation. Do you agree with them?

6. It seems clear from Ms. Wehle's text that the redacted \$XX.XX per ton figure is greater than the \$9.00 per ton being paid by JEA for "similar movements" because Mr. Majoros testifies that "Tampa Electric is paying too much," but we cannot know that this is the relationship without having public access to what Tampa Electric is actually paying its affiliate and that information is redacted and held from public consideration because it is claimed to be "confidential."

7. Presumably Tampa Electric will claim that public knowledge of what it is paying its affiliate for coal transportation will (a) adversely impact the competitive advantage it, and, thus, its customers, have in obtaining these services from the affiliate, or (2) that public disclosure of the amounts being charged to Tampa Electric's customers will somehow disadvantage TECO Transport in its dealings with others. However, if, in fact, the redacted number of \$XX.XX per ton being paid by Tampa Electric's customers is greater than the \$9 per ton being paid by JEA's customers, how can we expect that Tampa Electric or TECO Transport will be economically disadvantaged? Is it reasonable to assume that JEA will clamor to pay the same, but higher, rate charged to Tampa Electric, if, in fact, it is already getting the better deal? Not likely. Nor is it likely that TECO Transport's other customers will seek to pay higher rates if they, too, are receiving preferential rates as compared to what Tampa Electric's customers are currently forced to bear by order of this Commission. The more likely result, if Tampa Electric is, in fact, paying more to its affiliate than the affiliate is charging JEA and its other customers, would be embarrassment to Tampa Electric, and perhaps, this Commission, because of the likely

inability of either to explain the rate differential. Would Tampa Electric and TECO Transport be financially disadvantaged if the utility's customers wanted to pay transportation rates that were no higher than other customers, if any, getting preferential rates? Perhaps, but is that risk a reasonable basis for hiding the various rates from the public? The Residential Electric Customers do not think it is.

8. The public knows what JEA is paying for coal transportation and coal because it is a municipally-owned electric utility not subject to the potential Public Records Law exemptions Tampa Electric and other investor-owned electric utilities may seek to exploit. While some may be tempted to argue that the public disclosure JEA must suffer with respect to its coal transportation and coal prices would necessarily make it pay more for these services and products, which, in turn, would necessarily result in higher rates, they would be wrong. Tampa Electric's monthly residential rates of \$99.01 for one thousand KWH consumption are fully 45 percent higher than JEA's \$68.15 charge for the same level of consumption! (See the attached Commission residential electric service comparison table for Commission-regulated investor-owned utilities, effective April 15, 2004, and the JEA Electric Rate Comparison Information, Quarterly survey – April 2004.)

9. While not a specific subject of this motion, the Residential Electric Customers would observe to this Commission that the most clearly comparable utility coal supply system to that used by Tampa Electric is, of course, that of Progress Energy – Florida, which also transports coal from the Lower Mississippi across the Gulf of Mexico to Crystal River. While Progress Energy's coal transportation rates are not necessarily "market-based" and, thus, fair and reasonable, it might be instructive for this Commission to compare the transportation rates of

these two utilities head-to-head, especially since Progress Energy’s monthly rates for 1,000 KWH at \$89.11 are almost \$10 per month less than Tampa Electric’s. (There are clear limits to the “benefits” of such a comparison given that Tampa Electric has the highest monthly rates of Commission-regulated electric utilities, while Progress Energy has the second highest. By contrast, Tampa Electric’s residential rates are 24 percent higher than the least-cost, Commission- regulated generating utility, which is Gulf Power Company at \$80.08, and fully 79 percent higher than the overall least-cost Commission regulated electric utility, the Fernandina Beach Division of Florida Public Utilities Company, which has monthly rates of \$55.33.) Unfortunately, using the same “logic” as Tampa Electric, Progress Energy’s coal and coal transportation rates are also not available for public inspection because of its claimed exemptions from the Public Records Law. On the surface, it appears ridiculous that the Commission cannot publicly measure the relative performance efficiencies of these two roughly comparable utilities.

10. The Residential Electric Customers reject, and object to, the claim that the information sought by Tampa Electric to be exempted from disclosure under the Public Records Law meets the requirements of the specific statutory exemptions available and requests that the Commission deny Tampa Electric the requested protection for the above-cited testimony of Ms. Wehle, as well as the additional materials sought to be excluded by Tampa Electric’s motion:

Wehle rebuttal testimony

Page 55, redactions at lines 7, 19 and 20.

Pages 94 and 95, all redacted data.

Page 97, all redacted data and text.

Page 101, all redacted data.

Dibner rebuttal testimony

Page 21, redactions at line 9.

Page 29, redaction at line 9.

Pages 46 and 47, all redacted data.

Murrell rebuttal testimony

Page 24, redactions at lines 12-16.

Page 36, redactions at lines 15 and 16.

Page 54, all redacted data.

11. The Residential Electric Customers would also urge this Commission to reexamine all of the materials previously granted “confidential” status to Tampa Electric in this docket to ascertain whether they fully comply with the narrow statutory exemptions, and to remove all exemptions that are not fully supported, so as to allow the most complete public examination of the record evidence in this case.

WHEREFORE, the Residential Electric Customers request that the Florida Public Service Commission deny confidential protection to the portions of Tampa Electric’s testimony cited in Paragraph 10 above.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of this petition has been served by U.S. Mail or email this 6th day of May, 2004 on the following:

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TOTAL COST FOR 1,000 KILOWATT HOURS - RESIDENTIAL ELECTRIC SERVICE

Effective April 15, 2004 - December 31, 2004

	<b>Florida Power &amp; Light Company</b>	<b>Progress Energy Florida, Inc.</b>	<b>Tampa Electric Company</b>	<b>Gulf Power Company</b>	<b>Florida Public Utilities Co.</b>	
					<b>Marianna</b>	<b>Fernandina Beach</b>
Base Rate	\$40.22	\$41.18	\$51.92	\$49.30	\$23.73	\$23.73
Fuel Cost Recovery	\$37.50	\$34.58	\$39.39	\$24.72	\$40.56	\$29.68
Energy Conservation Cost Recovery	\$1.45	\$1.74	\$1.11	\$0.76	\$0.54	\$0.54
Environmental Cost Recovery	\$0.13	\$0.61	\$1.44	\$1.36	N/A	N/A
Capacity Cost Recovery	\$6.25	\$8.77	\$2.67	\$1.94	N/A	N/A
Gross Receipts Tax	\$0.88	\$2.23	\$2.48	\$2.00	\$1.66	\$1.38
Total Monthly Bill	<b><u>\$86.43</u></b>	<b><u>\$89.11</u></b>	<b><u>\$99.01</u></b>	<b><u>\$80.08</u></b>	<b><u>\$66.49</u></b>	<b><u>\$55.33</u></b>





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## Electric Rate Comparison Information

Quarterly survey - April 2004 (per 1,000 KWH)

- ▶ Electric
  - Service Areas
  - Rates
    - Quarterly Rates
    - Net Metering Policy
  - Sign Up for Service
  - Energy Audit
  - Solar Incentive
  - Network Meter Reading
  - Workshops
  - SurgeGuard

Water Sewer

View your account, pay bills and use the online energy audit

User Guide

Feedback

Not Registered?

Log-In Problems?

COMPANY	LOCATION	KWH1000
San Diego Gas & Electric Co.*	San Diego, CA	144.49
PECO Energy Co.*	Philadelphia, PA	135.58
Southern California Edison*	Southern California	131.74
Public Service Co. of N.H.*	New Hampshire (Portions of)	123.62
City of Ft. Meade**	Ft. Meade, FL	113.36
Public Service Electric & Gas Co.*	Newark, NJ (Other portions of NJ)	109.67
Pascoag Fire District**	Pascoag, RI	108.99
City Electric System** Key West	Key West, FL	108.20
City of Green Cove Springs**	Green Cove Springs, FL	107.12
Sacramento Mun. Util. Dist.**	Sacramento, CA	104.92
Department of Water & Power**	Los Angeles, CA	104.69
City of Tallahassee**	Tallahassee, FL	104.18
City of Vero Beach**	Vero Beach, FL	103.28
Golden Valley Electric Assoc.**	Fairbanks, AK	101.19
City of Bartow**	Bartow, FL	97.22
City of Ocala**	Ocala, FL	96.07
Ft. Pierce Utilities**	Ft. Pierce, FL	94.95
City of Lakeland**	Lakeland, FL	94.91
Dept. of Electric Utilities**	Jacksonville Beach, FL	94.87
Texas Utilities Elec. Co.*	Dallas, TX	94.72
City of Clewiston**	Clewiston, FL	94.49
City of Dover (McKee Run G S)**	Dover, DE	93.39
Progress Energy Florida*	St. Petersburg, FL	92.38
Entergy Gulf States, Inc.*	Baton Rouge, LA (& other parts of LA)	89.28
City of High Point**	High Point, NC	89.16
We-Energies*	Milwaukee, WI	88.33
Florida Power & Light Co.*	Miami, FL (& other portions of FL)	87.91
Kissimmee Utilities**	Kissimmee, FL	87.42

# JEA - Quarterly Electric Rates

South Carolina Electric & Gas *	Columbia, SC	86.97
Gainesville Regional Util.**	Gainesville, FL	86.20
Commonwealth Edison Co *	Chicago & Northern IL	84.05
Okefenoke REA***	N.E. FL & S.E. GA	82.89
Progress Energy Carolinas*	Raleigh, NC	81.60
Albany Water, Gas & Light Comm.	Albany, GA	81.58
Gulf Power Co *	Northwest Florida	80.74
Orlando Utilities Commission**	Orlando, FL	80.70
Clay Electric Cooperative***	Clay County, FL	79.20
Seattle City Light**	Seattle, WA	75.23
Alabama Power Co *	Alabama (Portions of)	74.51
Baltimore Gas & Elec Co *	Baltimore, MD	74.37
Santee Cooper	South Carolina (Portions of)****	74.19
Utah Power*	Salt Lake City, UT	74.11
City Public Service**	San Antonio, TX	73.59
Memphis Light Gas & Water Div.**	Memphis, TN	71.19
Monongahela Power Company*	Northern West Virginia	70.77
<b>JEA**</b>	<b>Jacksonville, FL</b>	<b>68.15</b>
Pacific Power*	Oregon	67.86
Omaha Public Power District****	Southeast Nebraska	67.30
Georgia Power Co *	Atlanta, GA (Other port. of GA)	65.19
Elec. Power Board of Chatt **	Tennessee (Portions of)	59.26
AmerenUE*	St. Louis, MO	57.05
American Electric Power Co.*	Roanoke, VA	56.72
Dalton Utilities**	Dalton, GA	43.24

(Provided by JEA)

Includes base rate, fuel adjustment charge, and applicable franchise fees.

\* Investor-owned Systems

\*\* Municipal Systems

\*\*\* Rural Electric Coop. Systems

\*\*\*\* Federal, State & District Systems

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