

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Tampa
Electric Company.

DOCKET NO. 080317-EI

FILED: September 19, 2008

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
OBJECTION TO TAMPA ELECTRIC'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION AND RESPONSE TO
MOTION FOR TEMPORARY PROTECTIVE ORDER**

The Florida Industrial Power Users Group (FIPUG), pursuant to rule 28-106.204, Florida Administrative Code, through its undersigned counsel, files this Objection to Tampa Electric Company's (TECO) Request for Confidential Classification and Response to Motion for Temporary Protective Order. Such request and motion should be denied and TECO should be directed to immediately provide a non-redacted copy of the information. As grounds therefor, FIPUG states:

1. On September 15, 2008, TECO responded to Staff Interrogatory Nos. 1-2. The interrogatories seek information about the compensation packages for each officer of TECO Energy, Inc. and TECO for 2007-2009. The interrogatories further inquire as to how much of each officer's compensation was allocated to TECO (and therefore included in the test year expenses for which ratepayers are responsible).

2. As to TECO Energy (Interrogatory No. 1), TECO provide a chart in which seven of the ten officer names and positions are redacted.¹

3. In regard to TECO, TECO attached a chart in which only one officer's name and position is revealed and the other five officers' names and positions are

¹ TECO's redacted responses are attached hereto as Attachment 1.

redacted.

4. Because the bulk of the compensation of all these officers is allocated to the retail jurisdiction, parties have the right to inquire into the officers' duties and responsibilities in order to gauge the reasonableness of the amounts TECO requests. Without knowledge of even what position the dollar amounts correspond to, let alone the identity of the officer, the information TECO has provided is meaningless.

5. The Commission's analyses must start from the premise that, as the Florida Supreme Court has found, documents filed with the Commission are public records subject to disclosure under Chapter 119, Florida Statutes.² The Commission may not deny disclosure without a specific statutory exemption.³ No such exemption is applicable here.

6. TECO's entire justification for the redaction is that the names and titles of these officers are "not publicly disclosed in TECO Energy's annual proxy statement"⁴ and that the information is "private and has not been publicly disclosed."⁵ This "justification" is not contained in section 366.093(3), Florida Statutes.

7. Ironically, TECO attempts to rely on section 366.093(f), Florida Statutes, to support its request. Not only does this subsection *not* support TECO's claim to keep the information secret, it clearly provides that such information *must be made public*.

8. Section 366.093(3)(f) provides:

Proprietary confidential business information includes, but is not limited to:

...

(f) Employee personnel information *unrelated* to

² *Wait v. Florida Power & Light Co.*, 372 So.2d 420 (Fla. 1979).

³ *Id.*

⁴ TECO Motion at 1.

⁵ *Id.* at Exhibit A to Motion.

compensation, duties, qualifications, or responsibilities.⁶

Thus, the Commission statute setting out which information may be kept confidential *specifically* states that information that *does not relate* to compensation, job qualifications or duties may be kept confidential. In this instance, the information which TECO seeks to keep secret relates directly to “compensation, duties, qualifications, or responsibilities.”

9. The information TECO seeks to keep secret identifies the position in question and the person in that position. This information is directly covered by the statute on which TECO relies and is *not* exempt from disclosure. One wonders how depositions could be taken of utility officials who are not even identified, much less how duties and responsibilities could be reviewed when job titles are hidden.⁷ Ratepayers are entitled to know whose salaries they must pay.

10. The Commission addressed this very issue in Order No. PSC-93-1044-CFO-TL, issued in Docket No. 910163-TL.⁸ In that case, Southern Bell sought to keep confidential personnel information, including the identity of current and former employees who had filed grievances. Southern Bell argued that information concerning non-performance of duties was unrelated to the employees’ duties and responsibilities and therefore not subject to disclosure. Southern Bell further argued that disclosure of the grievance information would embarrass the employees. The Commission rejected Southern Bell’s arguments⁹ and required that the information be disclosed:

. . .[O]nce it is concluded that the information at issue is employee personnel information related to duties or

⁶ Emphasis supplied.

⁷ The fact that TECO may offer to enter into a protective agreement with FIPUG (or other parties) has no bearing on whether or not the information is entitled to be hidden from public disclosure.

⁸ The confidentiality provisions of Chapter 364 and Chapter 366 are the same.

⁹ The Commission kept the home addresses of the employees confidential.

responsibilities, it appears that the information is subject to public disclosure under Section 364.183(3)(f), Fla. Stat. Section 364.183(3)(f) provides that “proprietary confidential business information” includes “employee personnel information unrelated to compensation, duties, qualifications or responsibilities.” It follows that employee personnel information related to compensation, duties, qualifications or responsibilities is not “proprietary confidential business information” and, therefore, not exempt from public disclosure under Section 364.183(3)(f).

11. Similarly, in Order No. PSC-93-0978-CFO-TL, issued in Docket No. 920260-TL, the Commission rejected Southern Bell’s request to keep confidential the names, titles, business addresses and business telephone numbers of current employees who had been disciplined. The Commission found such information related to duties and responsibilities. The Commission stated:

[T]he titles of current employees who were disciplined by Southern Bell and information which identifies where these employees are located in the Southern Bell organization, *to a large extent identifies that employee’s duties and responsibilities.* Hence, it is employee personnel information related to duties or responsibilities. As such, this information is not “proprietary confidential business information” as defined by the legislature in section 364.183(3)(f) and is not exempt from public disclosure by that provision.¹⁰

12. The name and title of the officers of TECO and TECO Energy are similarly related to each employee’s duties and responsibilities and are not exempt from public disclosure.

13. The Florida Retail Federation supports FIPUG’s objection to TECO’s Request for Confidential Classification.

¹⁰ Emphasis supplied. See also, Order No. PSC-93-0979-CFO-TL; Order No. PSC-07-0579-CFO-WS. It should also be noted that none of the cases cited in footnote 2 of this order (in which compensation information was found to be confidential) involved the names or titles of the employees.

WHEREFORE, FIPUG requests that TECO's request for confidential classification and motion for temporary protective order be denied.

s/ Vicki Gordon Kaufman
Vicki Gordon Kaufman
Jon C. Moyle, Jr.
Anchors Smith Grimsley
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone;(850)681-3828
Facsimile: (850)681-8788
vkaufman@asglegal.com
jmoyle@asglegal.com

John W. McWhirter, Jr.
P.O. Box 3350
Tampa, Florida 33601-3350
Telephone: (813) 224-0866
Facsimile: (813) 221-1854
jmcwhirter@mac-law.com

Attorneys for Florida Industrial
Power Users Group

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail and U.S. Mail this 19th day of September, 2008, to the following:

Keino Young
Florida Public Service Commission
Office of the General Counsel
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

J.R. Kelly
Public Counsel
Patricia Christensen
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

Lee Willis
James Beasley
Ausley Law Firm
Post Office Box 391
Tallahassee, FL 32302

R. Scheffel Wright
Young Law Firm
225 S. Adams Street
Suite 200
Tallahassee, FL 32301

s/ Vicki Gordon Kaufman
Vicki Gordon Kaufman

**TAMPA ELECTRIC COMPANY
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INDEX TO STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1-2)**

<u>Number</u>	<u>Witness</u>	<u>Subject</u>	<u>Bates Stamped Page</u>
1	MERRILL	<p>For each officer of TECO Energy, Inc. for 2007, 2008 and 2009, please provide the name and title of the officer and the actual or projected compensation amounts for the following:</p> <ul style="list-style-type: none"> a. Base Salary b. Stock Awards c. Option Awards d. Non-Equity Incentive Plan Compensation e. All Other Compensation f. Total Compensation g. Amount of Total Compensation Allocated to Tampa Electric Company h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 	1
2	MERRILL	<p>For each officer of Tampa Electric Company for 2007, 2008 and 2009, please provide the name and title of the officer and the actual or projected compensation amounts for the following:</p> <ul style="list-style-type: none"> a. Base Salary b. Stock Awards c. Option Awards d. Non-Equity Incentive Plan Compensation e. All Other Compensation f. Total Compensation g. Amount of Total Compensation Allocated to Tampa Electric Company h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 	6

Dianne Merrill
 Director, Staffing & Development
 Tampa Electric Company
 702 N. Franklin Street
 Tampa, Florida 33602

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1. For each officer of TECO Energy, Inc. for 2007, 2008 and 2009, please provide the name and title of the officer and the actual or projected compensation amounts for the following:
 - a. Base Salary
 - b. Stock Awards
 - c. Option Awards
 - d. Non-Equity Incentive Plan Compensation
 - e. All Other Compensation
 - f. Total Compensation
 - g. Amount of Total Compensation Allocated to Tampa Electric Company
 - h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3

- A. See the attached tables for the name and title of the TECO Energy officer and the actual or projected compensation amounts for 2007, 2008 and 2009, where:
 - a. Base salary is the fixed portion of each officer's total compensation package;
 - b. Stock awards represent the dollar amounts expensed by the company for restricted stock awards and are not necessarily the amount of compensation received by the officers;
 - c. Option awards represent the dollar amounts expensed by the company for stock option awards and are not necessarily the amount of compensation received by the officers;
 - d. Non equity incentive plan compensation is the annual cash bonuses earned by the officers. Corporate and individual goals are established at the beginning of the year for each officer and results are measured at the end of that year;
 - e. All other compensation includes perquisites such as, premiums paid by the company in behalf of the officers for executive supplemental life insurance and the company's 401k retirement savings plan match;
 - f. Total Compensation is the sum of (a), (b), (c), (d) and (e);
 - g. Amount of Total Compensation Allocated to Tampa Electric Company represents Total Compensation allocations from TECO

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- Energy. It also includes Total Compensation at Tampa Electric Company less amounts chargeable to non-O&M projects; and,
- h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 Allocated to Tampa Electric Company is calculated by multiplying row (g) times the jurisdictional separation factor for Other O&M on MFR C-1, Pages 1, 2 or 3.

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Year: 2007	SHERRILL W. HUDSON Chairman of the Board & Chief Executive Officer	JOHN B. RAMIL President TECO Energy & Chief Operating Officer	GORDON L. GILLETTE Executive VP TECO Energy & Chief Financial Officer											
a. Base Salary	\$798,250	\$515,000	\$439,810	\$265,000	\$214,055	\$302,400	\$220,000	\$162,000	\$206,250	\$185,000				
b. Stock Awards	\$2,341,958	\$786,046	\$507,918	\$109,782	\$83,730	\$245,835	\$83,730	\$25,605	\$44,462	\$35,108				
c. Option Awards	\$84,217	\$126,641	\$76,412	\$16,377	\$12,378	\$37,499	\$12,378	\$13,522	\$22,889	\$18,599				
d. Non Equity Incentive Plan Compensation	\$950,360	\$469,227	\$339,515	\$141,150	\$91,147	\$175,081	\$95,218	\$49,273	\$69,399	\$65,893				
e. All Other Compensation	\$80,070	\$14,322	\$9,594	\$9,881	\$9,662	\$8,923	\$8,679	\$1,512	\$9,264	\$7,263				
f. Total Compensation	\$4,164,855	\$1,921,236	\$1,372,349	\$536,190	\$410,973	\$769,738	\$420,005	\$251,912	\$352,364	\$307,863				
g. Amount of Total Compensation Allocated to Tampa Electric Company	\$2,286,983	\$1,053,798	\$741,712	\$293,273	\$224,450	\$422,393	\$229,390	\$53,305	\$192,399	\$90,801				
h. Amount of Total Compensation included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 Allocated to Tampa Electric Company	\$2,231,464	\$1,028,216	\$723,706	\$286,163	\$219,002	\$412,139	\$224,309	\$52,011	\$187,723	\$88,596				

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Year: 2008 Projected	SHERILL W. HUDSON	JOHN B. RAMIL	GORDON L. GILLETTE													
	Chairman of the Board & Chief Executive Officer	President TECO Energy & Chief Operating Officer	Executive VP TECO Energy & Chief Financial Officer													
a. Base Salary	\$825,189	\$534,000	\$455,500	\$237,525	\$222,618	\$228,800	\$313,000	\$169,000	\$216,000	\$195,000						
b. Stock Awards	\$1,972,070	\$978,318	\$542,533	\$107,213	\$96,115	\$96,115	\$309,547	\$35,660	\$52,703	\$46,043						
c. Option Awards	\$111,983	\$42,152	\$24,216	\$5,318	\$3,951	\$3,951	\$12,916	\$4,022	\$6,768	\$5,686						
d. Non Equity Incentive Plan Compensation	\$660,951	\$373,800	\$273,300	\$115,010	\$77,916	\$80,080	\$140,850	\$42,250	\$54,500	\$48,750						
e. All Other Compensation	\$92,035	\$14,985	\$9,035	\$5,395	\$9,835	\$8,601	\$8,735	\$5,512	\$9,395	\$8,863						
f. Total Compensation	\$3,563,238	\$1,843,265	\$1,304,584	\$524,461	\$410,435	\$417,547	\$785,048	\$256,444	\$358,366	\$304,261						
g. Amount of Total Compensation Allocated to Tampa Electric Company	\$2,414,027	\$1,247,980	\$885,281	\$354,553	\$276,716	\$282,300	\$532,201	\$170,846	\$241,608	\$204,980						
h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 Allocated to Tampa Electric Company	\$2,358,996	\$1,219,532	\$865,101	\$346,471	\$270,408	\$275,865	\$520,070	\$166,951	\$236,100	\$200,306						

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Year: 2009 Projected	SHERILL W. HUDSON	JOHN B. RAMIL	GORDON L. GILLETTE																
	Chairman of the Board & Chief Executive Officer	President TECO Energy & Chief Operating Officer	Executive VP TECO Energy & Chief Financial Officer																
a. Base Salary	\$859,287	\$555,360	\$473,720	\$299,026	\$231,523	\$237,952	\$325,520	\$175,760	\$223,600	\$202,800									
b. Stock Awards	\$1,681,535	\$988,478	\$525,328	\$117,827	\$115,808	\$115,808	\$374,453	\$47,631	\$84,894	\$59,876									
c. Option Awards	\$0	\$6,564	\$3,624	\$806	\$603	\$603	\$2,052	\$603	\$1,006	\$806									
d. Non Equity Incentive Plan Compensation	\$687,389	\$388,752	\$284,232	\$119,610	\$81,033	\$83,283	\$146,484	\$43,940	\$67,080	\$50,700									
e. All Other Compensation	\$82,035	\$14,395	\$9,035	\$8,395	\$9,835	\$8,601	\$6,735	\$6,012	\$9,395	\$8,943									
f. Total Compensation	\$3,520,196	\$1,954,149	\$1,396,939	\$546,664	\$438,801	\$446,247	\$657,244	\$273,946	\$385,975	\$323,125									
g. Amount of Total Compensation Allocated to Tampa Electric Company	\$2,349,686	\$1,303,920	\$934,139	\$364,214	\$291,651	\$297,378	\$572,745	\$179,725	\$256,653	\$214,564									
h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 Allocated to Tampa Electric Company	\$2,280,484	\$1,265,518	\$905,626	\$353,488	\$283,062	\$288,621	\$555,878	\$174,432	\$248,997	\$206,245									

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2. For each officer of Tampa Electric Company for 2007, 2008 and 2009, please provide the name and title of the officer and the actual or projected compensation amounts for the following:
- a. Base Salary
 - b. Stock Awards
 - c. Option Awards
 - d. Non-Equity Incentive Plan Compensation
 - e. All Other Compensation
 - f. Total Compensation
 - g. Amount of Total Compensation Allocated to Tampa Electric Company
 - h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3
- A. See the attached tables for the name and title of the Tampa Electric officer and the actual or projected compensation amounts for 2007, 2008 and 2009, where:
- a. Base salary is the fixed portion of each officer's total compensation package;
 - b. Stock awards represent the dollar amounts expensed by the company for restricted stock awards and are not necessarily the amount of compensation received by the officers;
 - c. Option awards represent the dollar amounts expensed by the company for stock option awards and are not necessarily the amount of compensation received by the officers;
 - d. Non equity incentive plan compensation is the annual cash bonuses earned by the officers. Corporate and individual goals are established at the beginning of the year for each officer and results are measured at the end of that year;
 - e. All other compensation includes perquisites such as, premiums paid by the company in behalf of the officers for executive supplemental life insurance and the company's 401k retirement savings plan match;
 - f. Total Compensation is the sum of (a), (b), (c), (d) and (e);
 - g. Amount of Total Compensation Allocated to Tampa Electric Company represents Total Compensation allocations from TECO

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- Energy. It also includes Total Compensation at Tampa Electric Company less amounts chargeable to non-O&M projects; and,
- h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 Allocated to Tampa Electric Company is calculated by multiplying row (g) times the jurisdictional separation factor for Other O&M on MFR C-1, Pages 1, 2 or 3.

REDACTED

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Year: 2007	CHARLES R BLACK President Tampa Electric								
a. Base Salary	\$356,000	\$215,000	\$218,000	\$246,000	\$196,500	\$241,000			
b. Stock Awards	\$307,251	\$65,220	\$91,814	\$132,834	\$72,402	\$119,373			
c. Option Awards	\$48,335	\$17,102	\$15,028	\$20,793	\$14,451	\$18,968			
d. Non Equity Incentive Plan Compensation	\$250,898	\$99,247	\$95,292	\$112,266	\$69,643	\$111,038			
e. All Other Compensation	\$8,311	\$8,307	\$8,513	\$3,669	\$9,080	\$7,535			
f. Total Compensation	\$970,795	\$404,876	\$428,647	\$515,562	\$362,076	\$497,914			
g. Amount of Total Compensation Allocated to Tampa Electric Company	\$968,819	\$371,379	\$335,556	\$512,205	\$298,600	\$496,714			
h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 Allocated to Tampa Electric Company	\$837,619	\$322,667	\$205,348	\$421,775	\$291,350	\$473,441			

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Year: 2008 Projected		[REDACTED]					
CHARLES R BLACK		[REDACTED]					
President Tampa Electric		[REDACTED]					
a. Base Salary	\$370,240	\$222,525	\$225,630	\$254,610	\$203,378	\$249,435	
b. Stock Awards	\$306,431	\$94,448	\$94,448	\$125,386	\$72,706	\$122,895	
c. Option Awards	\$16,279	\$5,073	\$5,073	\$6,627	\$3,351	\$6,414	
d. Non Equity Incentive Plan Compensation	\$202,653	\$79,400	\$79,450	\$89,600	\$61,050	\$89,600	
e. All Other Compensation	\$8,311	\$8,307	\$8,513	\$3,669	\$9,080	\$7,535	
f. Total Compensation	\$903,914	\$408,753	\$413,114	\$479,892	\$350,164	\$475,879	
g. Amount of Total Compensation Allocated to Tampa Electric Company	\$901,938	\$406,017	\$298,032	\$476,535	\$298,915	\$474,679	
h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 Allocated to Tampa Electric Company	\$729,454	\$357,202	\$180,995	\$440,791	\$292,101	\$451,670	

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Year: 2009 Projected	CHARLES R BLACK President Tampa Electric					
a. Base Salary	\$383,198	\$231,426	\$234,665	\$264,794	\$211,513	\$259,412
b. Stock Awards	\$299,287	\$93,155	\$93,155	\$121,844	\$69,850	\$121,844
c. Option Awards	\$2,496	\$806	\$806	\$1,006	\$603	\$1,006
d. Non Equity Incentive Plan Compensation	\$210,759	\$81,596	\$82,628	\$93,184	\$63,492	\$93,184
e. All Other Compensation	\$8,311	\$8,307	\$8,513	\$3,669	\$9,060	\$7,595
f. Total Compensation	\$904,051	\$415,230	\$419,757	\$484,497	\$354,538	\$482,981
g. Amount of Total Compensation Allocated to Tampa Electric Company	\$902,075	\$379,382	\$300,162	\$481,140	\$301,329	\$481,781
h. Amount of Total Compensation Included in Adjusted Jurisdictional Other O&M Expenses on MFR Schedule C-1, Pages 1, 2 and 3 Allocated to Tampa Electric Company	\$719,313	\$327,347	\$177,450	\$410,431	\$292,454	\$455,003