

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for Rate Increase  
by Tampa Electric Company.  
\_\_\_\_\_ /

DOCKET NO. 080317-EI

FILED: December 3, 2008

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
SECOND SET OF INTERROGATORIES (NOS. 8-9) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NO. 1-7)**

The Florida Industrial Power Users Group (FIPUG) submits the following Objections to Tampa Electric Company's (TECO) Second Set of Interrogatories (Nos. 8-9) and First Request for Production of Documents (Nos. 1-7).

**I. General Objections.**

FIPUG asserts the following general objections to TECO's Second Set of Interrogatories (Nos. 8-9) and First Request for Production of Documents (No. 1-7):

1. FIPUG objects to each and every individual discovery request, to the extent it calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. FIPUG in no way intends to waive any such privilege or protection.

2. FIPUG objects to each individual request to the extent it requires production of information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. FIPUG in no way intends to waive claims of confidentiality.

3. FIPUG objects to any definitions or instructions accompanying the discovery requests to the extent that they are inconsistent with and expand the scope of discovery specified in the Florida Rules of Civil Procedure that are incorporated into the Model Rules of Procedure or the Commission's rules on discovery. If some question arises as to FIPUG's discovery obligations, FIPUG will comply with applicable rules and not with any of the definitions or instructions accompanying the discovery requests that are inconsistent with or exceed the requirements of those rules. Furthermore, FIPUG objects to any discovery request that calls for FIPUG to create data or information that it otherwise does not have because there is no such requirement under the applicable rules and law.

4. FIPUG objects to any definition or instruction in any discovery request that seeks interrogatory answers containing information from persons or entities who are not parties to this proceeding or that are not subject to discovery under applicable rules.

5. It is possible that not every relevant document may have been reviewed or considered in developing FIPUG's responses to the discovery requests. Rather, FIPUG will provide all the information that FIPUG obtained after a good faith, reasonable and diligent search conducted in connection with these discovery requests. To the extent that the discovery requests propose to require more, FIPUG objects to the requests individually and collectively on the grounds that compliance would impose an undue burden or expense on FIPUG.

6. FIPUG objects to each discovery request to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

7. FIPUG objects to each and every discovery request to the extent it is vague, ambiguous, overly broad, burdensome, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests.

8. FIPUG expressly reserves and does not waive any objections it may have to the admissibility, authenticity or relevancy of the information provided in its responses to the subject discovery requests.

## **II. Specific Objections — Second Set of Interrogatories (Nos. 8-9)**

In addition to the general objections set forth above, which are hereby asserted and incorporated by reference as to each individual request, FIPUG asserts the following specific objections:

9. With respect to any testimony filed by FIPUG in this proceeding addressing jurisdiction separation, class cost of service or rate design issues, identify all proceedings by name and docket number where the FIPUG witness has proposed or opined on the subject of “gradualism”.

**Objection:** In addition to its general objections, FIPUG objects to this request on the grounds that it is burdensome and overbroad. Mr. Pollock, FIPUG’s witness on cost of service and rate design, has worked on these issues and appeared in hundreds of proceedings spanning the last thirty (30) years. A response to TECO’s request would require a search of 30 years of testimony filings. Attached as Appendix A to Mr. Pollock’s testimony, filed on November 26, 2008 in this docket, is a list of his appearances since 1995. Most of the testimony on the list is publically available to TECO for its review.

## **II. Specific Objections — First Request for Production of Documents (Nos. 1-7)**

3. With respect to any testimony filed by FIPUG in this proceeding addressing jurisdiction separation, class cost of service or rate design issues, provide a copy of all documents referenced in that testimony not otherwise provided as a separate exhibit to the testimony.

**Objection:** In addition to its general objections, FIPUG objects to this request on the grounds that the documents referenced are either documents that TECO has provided in discovery, documents that are publicly available to TECO and referenced in Mr. Pollock's testimony filed on November 26, 2008, or publicly available documents which FIPUG will identify and which TECO may access in the public domain.

5. With respect to any testimony filed by FIPUG in this proceeding addressing jurisdiction separation or class cost of service issues, provide a copy of all documents reviewed by the witness in reaching any conclusions that witness proposes regarding the Commission adopting a particular cost of service methodology or rejecting the Company's proposed cost of service methodology in this proceeding.

**Objection:** In addition to its general objections, FIPUG objects to this request on the grounds that it is burdensome and overbroad in seeking all documents reviewed. Mr. Pollock relied on his over 30 years of experience in Florida and other jurisdictions in the area of cost of service and rate design. The documents he reviewed include, among others: TECO's testimony in this case related to cost of service issues as well as discovery responses provided by TECO on that topic. In addition, Mr. Pollock has considered literally thousands of documents, treatises, textbooks and other sources of information over the course of his 30 + year professional career. These materials have all in some way

shaped his professional knowledge and judgment. Identifying all of those sources of information clearly is not possible within the time frame for discovery in this proceeding.

6. With respect to any testimony filed by FIPUG in this proceeding addressing rate design issues, provide a copy of all documents reviewed by the witness in reaching any conclusions that witness proposes regarding the Commission adopting a particular rate design or rejecting the Company's proposed rate design in this proceeding.

**Objection:** In addition to its general objections, FIPUG objects to this request on the grounds that it is burdensome and overbroad in seeking all documents reviewed. Mr. Pollock relied on his over 30 years of experience in Florida and other jurisdictions in the area of cost of service and rate design. The documents he reviewed include, among others: TECO's testimony in this case related to cost of service issues as well as discovery responses provided by TECO on that topic. In addition, Mr. Pollock has considered literally thousands of documents, treatises, textbooks and other sources of information over the course of his 30 + year professional career. These materials have all in some way shaped his professional knowledge and judgment. Identifying all of those sources of information clearly is not possible within the time frame for discovery in this proceeding.

7. With respect to any testimony filed by FIPUG in this proceeding addressing jurisdiction separation, class cost of service or rate design issues, provide a copy of any testimony given by the FIPUG witness in prior cases (before the Florida Public Service Commission, or any other United States state regulatory commission, as part of a proceeding dealing with electric utility matters) on behalf of any party, that addresses the issues of:

- a) Appropriate energy allocation of cost in class cost of service studies;

- b) Appropriate determination of classes in class cost of service studies;
- c) Appropriate allocation of cost to classes for large customers (e.g. industrial customer classes, classes for large demand customers);
- d) Appropriate allocation of cost to interruptible classes in class cost of service studies;
- e) Rate design for classes for large customers (e.g. industrial rates, large demand rates);
- f) Rate design for interruptible customers; and
- g) “Gradualism” as a word or concept when applied to electric rate design, however the witness defines it.

**Objection:** In addition to its general objections, FIPUG objects to this request on the grounds that it is burdensome and overbroad. Mr. Pollock, FIPUG’s witness on cost of service and rate design, has worked on these issues and appeared in hundreds of proceedings spanning the last thirty (30) years. A response to TECO’s request would require a search of 30 years of testimony filings. Attached as Appendix A to Mr. Pollock’s testimony, filed on November 26, 2008 in this docket, is a list of his appearances since 1995. Most of the testimony on the list is publically available to TECO for its review.

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](mailto:vkaufman@asglegal.com)  
[jmoyle@asglegal.com](mailto:jmoyle@asglegal.com)

John W. McWhirter, Jr.  
P.O. Box 3350  
Tampa, Florida 33601-3350  
Telephone: (813) 505-8055  
Facsimile: (813) 221-1854  
[jmcwhirter@mac-law.com](mailto: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 FIPUG Objections to TECO's Second Set of Interrogatories (Nos. 8-9) and First Request for Production of Documents (Nos. 1-7) has been furnished by electronic mail and U.S. Mail this 3<sup>rd</sup> day of December, 2008 to the following:

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

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

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

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

Mike Twomey  
P. O. Box 5256  
Tallahassee, FL 32314-5256

Cecilia Bradley  
Office of the Attorney General  
400 S. Monroe St # PL-01  
Tallahassee, Florida 32399-6536

s/Vicki Gordon Kaufman  
Vicki Gordon Kaufman