

## Dorothy Menasco

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**From:** Jim Beasley [jbeasley@ausley.com]  
**Sent:** Monday, April 19, 2010 4:27 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Beth Keating; Alvin Taylor; James Brew; Jeff Stone; Russell Badders; Wade Litchfield; Vicki Kaufman; Charles Beck; John McWhirter; Randy Miller; John Burnett; Paul Lewis; Katherine Fleming; Lee Eng Tan; Susan Ritenour  
**Subject:** Dkt. 100002-EG; TECO's Objections to OPC's 1st PODs  
**Attachments:** Dkt. 100092 Obj OPC 1st POD.pdf



Dkt. 100092  
OPC 1st POD.f

Electronic filing

a. Person responsible for this electronic filing:

James D. Beasley  
Ausley & McMullen  
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123 S. Calhoun Street  
Tallahassee, FL 32301  
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b. Docket No. 100002-EG

In re: Energy Conservation Cost Recovery Clause

c. The document is being filed on behalf of Tampa Electric Company

d. There is a total of 5 pages, including cover letter

e. The document attached for electronic filing is Tampa Electric Company's Objections to Office of Public Counsel's First Request for Production of Documents (Nos. 1-3)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy Conservation Cost )  
Recovery Clause )  
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DOCKET NO. 100002-EG  
FILED: April 19, 2010

**TAMPA ELECTRIC COMPANY'S  
OBJECTIONS TO OFFICE OF PUBLIC COUNSEL'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-3)**

Pursuant to Fla. Admin. Code R. 28-106.2006, Rule 1.350 of the Florida Rules of Civil Procedure, and the Order Establishing Procedure in this matter, Tampa Electric Company ("Tampa Electric" or "the company") hereby serves its objections to the Office of Public Counsel's ("OPC") First Request for Production of Documents (Nos. 1-3) and states as follows:

**GENERAL OBJECTIONS**

Tampa Electric generally objects to the time and place of production requirements in OPC's First Request to Produce Documents and will make all responsive documents available for inspection and copying at the offices of Ausley & McMullen, 123 South Calhoun Street, Tallahassee, Florida 32301, at a mutually convenient time, or will produce the documents in some other manner or at some other place that is mutually convenient to both Tampa Electric and OPC for purposes of inspection, copying, or handling of the responsive documents.

With respect to the "Definitions" and "Instructions" in OPC's First Request for Production of Documents, Tampa Electric objects to any definitions or instructions that are inconsistent with Tampa Electric's discovery obligations under applicable rules. If some question arises as to Tampa Electric's discovery obligations, Tampa Electric will comply with applicable rules and not with any of OPC's definitions or instructions that are inconsistent with those rules. Tampa Electric objects to any definition or request that seeks to encompass persons

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

or entities other than Tampa Electric who are not parties to this action and that are otherwise not subject to discovery. Furthermore, Tampa Electric objects to any request that calls for Tampa Electric to create documents that it otherwise does not have because there is no such requirement under the applicable rules and law.

Additionally, Tampa Electric generally objects to OPC's request to the extent that they call for documents 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. Tampa Electric will provide a privilege log in accordance with the applicable law or as may be agreed to by the parties to the extent, if at all, that any document request calls for the production of privileged or protected documents.

Further, in certain circumstances, Tampa Electric may determine upon investigation and analysis that documents responsive to certain requests to which objections are not otherwise asserted are confidential and proprietary and should be produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to provide such information in response to such a request, Tampa Electric is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement, protective order, or the procedures otherwise provided by law or in the Order Establishing Procedure. Tampa Electric hereby asserts its right to require such protection of any and all information that may qualify for protection under the Florida Rules of Civil Procedure, the Order Establishing Procedure, and all other applicable statutes, rules, and legal principles.

Tampa Electric generally objects to OPC's First Request for Production of Documents to the extent that it calls for the production of "all" documents of any nature, including, every copy of every document responsive to the request. Tampa Electric will make a good faith, reasonably

diligent attempt to identify and obtain responsive documents when no objection has been asserted to the production of such documents, but it is not practicable or even possible to identify, obtain, and produce "all" documents. In addition, Tampa Electric reserves the right to supplement any of its responses to OPC's requests for production if Tampa Electric cannot produce documents immediately due to their magnitude and the work required to aggregate them, or if Tampa Electric later discovers additional responsive documents in the course of this proceeding.

Tampa Electric also objects to any Interrogatory or Request for Production that purports to require Tampa Electric or its experts to prepare studies, analyses, or to do work for OPC that has not been done for Tampa Electric, presumably at Tampa Electric's cost.

Additionally, Tampa Electric objects to OPC's First Request for Production because that request calls, in part, for Tampa Electric to produce documents in an undefined searchable electronic format irrespective of whether or not Tampa Electric has the documents in question in a searchable electronic format. If Tampa Electric has any responsive documents in a searchable electronic format, Tampa Electric will provide those documents to OPC in those forms. Otherwise, Tampa Electric will produce documents to OPC in hard-copy format.

Finally, Tampa Electric objects to any attempt by OPC to evade the numerical limitations set on document requests in the Order Establishing Procedure by asking multiple independent questions within single individual questions and subparts.

By making these general objections at this time, Tampa Electric does not waive or relinquish its right to assert additional general and specific objections to OPC's discovery at the time Tampa Electric's response is due under the Florida Rules of Civil Procedure and the Order Establishing Procedure. Tampa Electric provides these general objections at this time to comply

with the intent of the Order Establishing Procedure to reduce the delay in identifying and resolving any potential discovery disputes.

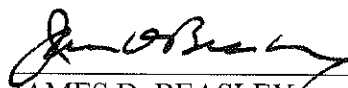
### SPECIFIC OBJECTIONS

**Requests 1-3:** Tampa Electric objects to Requests 1, 2 and 3, in part, as irrelevant, overbroad, and not likely to lead to the discovery of admissible evidence. Specifically, Tampa Electric objects to OPC's request for documents and information originating since January 1, 1998, since such documents and information have no relevance to or bearing on this proceeding. Subject to and without waiving these objections or any of Tampa Electric's general objections, Tampa Electric will produce any such policies and procedures that are currently in effect, and/or any such documents that the company is using in the normal course of its business.

**Request 3:** To the extent that Tampa Electric has the legal right and/or permission to provide any such information that may be the property of a third-party owner, Tampa Electric will provide such documents, subject to the additional objections stated above.

DATED this 19<sup>th</sup> day of April 2010.

Respectfully submitted,



JAMES D. BEASLEY  
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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Objections to OPC's First Request for Production of Documents (Nos. 1-3) has been furnished by electronic and U. S.

Mail on this 19<sup>th</sup> day of April 2010 to the following:

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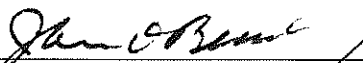
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ATTORNEY