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October 11, 2012

HAND DELIVERED

Ms. Ann Cole, Director
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED-FPSC
12 OCT 11 AM 11:24
COMMISSION
CLERK

Re: Edward McDonald v. Tampa Electric Company
FPSC Docket No. 110305-EI

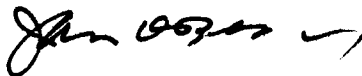
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Response to Petitioner's Motion for Reconsideration and Motion for Stay.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,



James D. Beasley

JDB/pp
Enclosure

COM	_____	cc: Mr. Edward McDonald	(w/enc.)
AFD	_____	Ms. Pauline Robinson	(w/enc.)
APA	_____		
ECO	<u>2</u>		
ENG	_____		
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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

EDWARD MCDONALD,)
)
Petitioner,)
)
v.)
)
TAMPA ELECTRIC COMPANY,)
)
Respondent.)
_____)

DOCKET NO. 110305-EI

FILED: October 11, 2012

**TAMPA ELECTRIC COMPANY'S RESPONSE TO PETITIONER'S
MOTION FOR RECONSIDERATION AND MOTION FOR STAY**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Rule 25-22.060, Florida Administrative Code, submits this its response to the motion for reconsideration ("Motion") filed by Petitioner, Edward McDonald ("Petitioner") October 8, 2012, and Petitioner's motion to stay the Commission's orders disposing of this matter. As best as can be deciphered, Petitioner's Motion appears to be more in the nature of a demand for further opportunities to make the same arguments Petitioner has presented over and over again throughout the course of this complaint proceeding. As such, Petitioner's Motion exceeds the allowed purpose of a motion for reconsideration and should be denied.

The sole permissible purpose of a motion for reconsideration is to bring to the attention of the trier of fact some factual or legal point it overlooked or failed to consider when it rendered its decision in the first instance (Diamond Cab Company of Miami v. King, 146 So.2d 889 (Fla. 1962)). As the court observed in Diamond Cab Company:

It [A motion for reconsideration] is not intended as a procedure for re-arguing the whole case merely because the losing party disagrees with the judgment order.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

In State ex. Rel. Jaytex Realty Company v. Green, 105 So.2d, 817 (Fla. 1958), the Court stated:

The sole and only purpose of a petition for rehearing is to call to the attention of the court some fact, precedent or rule of law which the court has overlooked in rendering its decision.

* * *

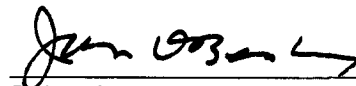
It is not a compliment to the intelligence, the competency or the industry of the court for it to be told in each case which it decides that it has 'overlooked and failed to consider' from three to twenty matters which, had they been given proper weight, would have necessitated a different decision.

Petitioner's Motion fails to bring to the attention of the Commission any factual or legal point it overlooked in dismissing Petitioner's complaint proceeding with prejudice. Neither has Petitioner stated any legitimate ground for staying the Commission's order granting Tampa Electric's motion to dismiss the complaint with prejudice or the consummating order issued on September 24, 2012. In view of the patent deficiencies in Petitioner's motions, oral argument would be a waste of the Commission's valuable time and should be denied.

WHEREFORE, Tampa Electric urges the Commission to deny Petitioner's Motion for Reconsideration, Motion for Stay and request for oral argument.

DATED this 11th day of October 2012.

Respectfully submitted,



JAMES D. BEASLEY
J. JEFFRY WAHLEN
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(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to Petitioner's Motion for Reconsideration and Motion for Stay, filed on behalf of Tampa Electric Company, has been furnished by hand delivery (*) or U. S. Mail on this 11th day of October 2012 to the following:

Ms. Pauline Robinson*
Staff Counsel
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mr. Edward McDonald
7203 N. 41st Street
Tampa, FL 33604



ATTORNEY