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to Miami

Mr. Steve C. Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

Re: Annual Hearings on Load Forecasts, Generating
Expansion Plans and Cogeneration Prices
for Peninsular Florida
FPSC Docket No. 900004-EU

Dear Mr. Tribble:

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

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
encls.

cc: All Parties of Record (w/enc.)

DOCUMENT NO.
669-90

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 1989 Hearings on Load)
Forecasts, Generation Expansion)
Plans and Cogeneration Prices)
for Peninsular Florida.)

DOCKET NO. 900004-EU
Submitted for Filing 1/22/90

**TAMPA ELECTRIC COMPANY'S RESPONSE TO
FICA'S MOTION FOR RECONSIDERATION
AND REQUEST FOR ORAL ARGUMENT**

Tampa Electric Company ("Tampa Electric" or "the company") submits this its Response to the Motion for Reconsideration and Request for Oral Argument submitted on behalf of the Florida Industrial Cogeneration Association ("FICA"):

1. In its lengthy Motion for Reconsideration FICA attempts to reargue the various positions it has urged both in this proceeding and extensively in the hearings recently concluded in the cogeneration rule docket (Docket No. 891049-EU). This is inappropriate and should be rejected.

2. Reconsideration is a procedure designed to allow a party to call to the Commission's attention material matters which the Commission overlooked or failed to consider in rendering the decision addressed in the motion. This Commission has already carefully considered the arguments set forth in FICA's Motion for Reconsideration. Rather than confining itself to the limited purpose of a Motion for Reconsideration, FICA misuses the process as a drum to beat for higher payments to QFs.

3. Rather than addressing the issue of whether there is a reasoned basis for the Commission's decision in Order No. 22341, FICA's motion lists all of the reasons why FICA disagrees with that decision. This is patently

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inappropriate. Tampa Electric would urge that the Commission consider the rationale applied by the Supreme Court of Florida in denying rehearing in United Gas Pipeline Company v. Bevis, 336 So.2d 560 (Fla. 1976). In that case Justice England, concurring in the denial of rehearing, stated:

I would deny rehearing in this case in the face of the multi-page, argumentative rehearing petitions which have been filed, for the reasons set forth in Texas Co. v. Davidson, 76 Fla. 475, 478, 80 So. 558, 559 (1918). See also Florida Appellate Rule 3.14(b), which states that a petition for rehearing shall be 'without argument'.

Counsel for Monsanto (7 page petition) Air Products (14 page petition), and the Public Service Commission (4 page petition) have essentially reargued the entire case, prompting counsel for United Gas Pipe Line and Florida Gas Transmission to file brief-like replies of 15 and 18 pages, respectively. This expenditure of counsels' time, and the clients' money, is completely unjustified. This case had been argued, briefed and fully considered by the Court when the decision was initially rendered. It is not the office of rehearing to invite a complete re-analysis of all that has gone before. See, State ex rel. Jaytex Realty Co. v. Green, 105 So.2d 817, 818-19 (1st DCA Fla. 1958).

Likewise, this case had been argued, briefed, and fully considered by the Commission when the decision was initially rendered. FICA's inappropriate attempt to retry the case should be rejected.

4. FICA's Request for Oral Argument should also be rejected as an inappropriate attempt by FICA to filibuster in support of the arguments set forth in FICA's Motion for Reconsideration.

5. On its merits, FICA's Motion for Reconsideration raises three points. First, FICA contends that the Commission should have designated coal-fired units as the avoided units rather than combined cycle units.

Aside from being nothing more than reargument, this point is erroneous. FICA urges a "go left to get right" approach to designating the avoided unit. If studies show that a combined cycle unit should be designated the avoided unit, FICA urges that something else be designated in its place. In reality, greater benefits to QFs are all FICA wants, whatever it takes. Designation of the avoided unit was carefully considered by the Commission and FICA's efforts to reverse that designation should be rejected.

6. FICA goes on to present many of the same arguments, nearly verbatim, which appeared in FICA's Posthearing Brief. These arguments, including the gas-fired versus coal-fired unit and the FEECA arguments, beginning on page 10, were carefully considered and rejected by the Commission in this proceeding.

7. FICA's discussion of utility-by-utility subscription limits, beginning on page 14, is more appropriately addressed in the pending proceeding in which the Commission is considering revisions to its cogeneration rules. (Docket No. 891049-EU) Commission approval of the Staff's recommended approach in that docket will obviate the concerns expressed by FICA in its Motion for Reconsideration in this docket. FICA actively participated in the hearings in Docket No. 891049-EU.

8. FICA's arguments concerning capacity payments to as-available QFs, beginning on page 18 of its Motion for Reconsideration, is also a point raised by FICA in the pending cogeneration rule docket. In that rule docket a number of FICA members testified that they would not be willing to enter into firm capacity and energy contracts with Florida utilities for the precise reason that their industrial production schedules and the peaks

and valleys of their business cycles prevent them from making any long-term commitments to supply power to a utility.

9. The Commission should keep in mind that most QFs produce electric energy as a secondary function with their primary activity being manufacturing, processing or waste disposal. Thus, their motivation and ability to produce electricity is more likely to be governed by business cycles or by the seasonality of production rather than by the consistent meeting of the needs of utility Customers.

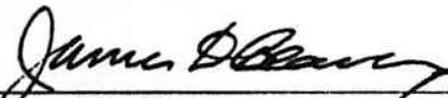
10. By its very definition, "as-available" energy is energy which can only be utilized as it becomes available; it is not available to be relied upon in lieu of capacity. With respect to as-available energy, electric utilities have no control over the availability of the QF to reliably meet peak generation requirements. An as-available QF has no requirement to provide power when it is required to meet a utility's system needs. In fact, the QF may be in a situation where its primary business activities dictate power generation during the hours or seasons when Tampa Electric does not require the capacity.

11. The value to the utility and its Customers in purchasing as-available energy from a QF is only equivalent to the reduction in its own energy costs on a hour-by-hour basis. To assume otherwise would result in QF payments which exceed the actual value of avoided costs. Finally, a QF desiring to earn capacity payments can do so simply by entering into a contractual commitment to provide firm capacity and energy. Enforceable commitments are the essence of reliable capacity. Unless the QF is willing to do this, it should not expect to receive capacity payments.

WHEREFORE, Tampa Electric Company urges that the Motion for Reconsideration and Request for Oral Argument submitted on behalf of the Florida Industrial Cogeneration Association be denied.

DATED this 22nd day of January, 1990.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail on this 22nd day of January, 1990, to the following:

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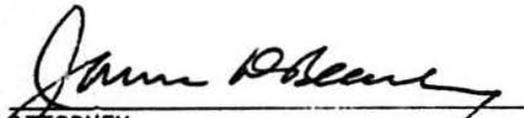
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