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April 22, 1996

HAND DELIVERY

Tallahassee

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Prudency Review to Determine Regulatory  
Treatment of Tampa Electric Company's  
Polk Unit; FPSC Docket No. 960409-EI

Dear Ms. Bayo:

Enclosed for filing in the above docket on behalf of Tampa Electric Company are the original and fifteen (15) copies of each of the following:

1. Tampa Electric Company's Objections and Motion for Protective Order Relative to Staff's First Set of Interrogatories to Tampa Electric Company (Nos. 1-39).
2. Tampa Electric Company's Objections to Staff's First Request for Production of Documents to Tampa Electric Company (Nos. 1-9) and Motion for Protective Order.
3. Tampa Electric Company's Objections, Motion for Protective Order and Written Response to Public Counsel's First Request for Production of Documents to Tampa Electric (Nos. 1-24).

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*  
James D. Beasley

DOCUMENT NUMBER-DATE  
04616 APR 22 96  
1-39  
FPSC-RECORDS/REPORTING

DOCUMENT NUMBER-DATE  
04618 APR 22 96  
FPSC-RECORDS/REPORTING

DOCUMENT NUMBER-DATE  
04617 APR 22 96  
FPSC-RECORDS/REPORTING

JDB/pp  
cc: All Parties of Record (w/encls.)

ACK \_\_\_\_\_  
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APC \_\_\_\_\_  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL  
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In re: Prudency Review to Determine )  
Regulatory Treatment of Tampa Electric )  
Company's Polk Unit )

DOCKET NO. 960409-EI

FILED: April 22, 1996

**TAMPA ELECTRIC COMPANY'S OBJECTIONS,  
MOTION FOR PROTECTIVE ORDER  
AND WRITTEN RESPONSE TO PUBLIC COUNSEL'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS  
TO TAMPA ELECTRIC (NOS. 1-24)**

Tampa Electric Company ("Tampa Electric" or the "company") pursuant to Rules 25-22.034 and 25-22.035, Florida Administrative Code and Rules 1.280 and 1.350, Florida Rules of Civil Procedure hereby submits the following Objections, Motion for Protective Order and Written Response to Public Counsel's First Request for Production of Documents to Tampa Electric Company (Nos. 1-24).

The objections stated herein are preliminary in nature and are made at this time for the purpose of complying with the ten (10) day notice requirement discussed at the April 9, 1996 Issue Identification meeting in this docket. Should additional grounds for objection be discovered as Tampa Electric reviews its documents, the company reserves the right to supplement, revise, or modify its objections prior to the time it produces any documents. Should Tampa Electric determine that a Protective Order is necessary with respect to any of the material requested by Public Counsel, Tampa Electric reserves the right to file a motion with the Commission seeking such an order at the time it serves its written response on Public Counsel.

DOCUMENT NUMBER-DATE

04618 APR 22 96

FPSC-RECORDS/REPORTING

This document shall also serve as Tampa Electric's written response to Public Counsel's First Request for Production of Documents. The actual due date for the Company's written response, given the twenty (20) day response time informally agreed to at the April 9, 1996 meeting, is April 30, 1996. Tampa Electric reserves the right to supplement and modify its written response by April 30, 1996, to the extent the company determines the same may be warranted during the company's further review of the nature of the documents requested and whether and the extent that which such documents exist.

The short response time for objections requires the company's response to be somewhat broad and protective. Tampa Electric intends to be cooperative and reasonably responsive to appropriate discovery requests. Many of Public Counsel's requests appear to be geared more for a full revenue requirement proceeding than a proceeding as narrowly scoped as this docket.

Notwithstanding the bases for the objections posed herein, Tampa Electric will strive to produce for inspection and copying all relevant documents which reasonably relate to the subject matter of this docket, as is more particularly described in the company's following responses to the individual document requests made by Public Counsel. The company will do so in an effort to avoid unnecessary litigation costs for all parties to this proceeding, and to facilitate the timely resolution of this docket in accordance with the current schedule. In certain instances, for example, where a particular request is clearly overbroad,

susceptible of differing interpretations, unclear or otherwise subject to objection, Tampa Electric will state its particular objection to the request, then identify and offer to produce those documents which the company believes are relevant and fully within the reasonable scope of what Public Counsel seeks by way of such request.

The company will continue to work with Public Counsel to refine these requests to documents which are reasonably related to this proceeding.

#### General Objections

Tampa Electric makes the following General Objections to Public Counsel's First Request for Production of Documents.

1. Tampa Electric objects to the definition of "Tampa Electric Company, TECO, the utility, or company" in Definition No. 1 to the extent that such definition seeks to impose an obligation on Tampa Electric to respond on behalf of subsidiaries, affiliates or other persons who are not parties to this case on the grounds that such definition is overly broad, unduly burdensome, oppressive and not permitted by applicable discovery rules. Notwithstanding its objection, Tampa Electric will produce relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

2. Tampa Electric objects to each and every request contained in Public Counsel's First Request for Production of

Documents to the extent that such requests call for information which is exempt from discovery by virtue of the attorney/client privilege, work product privilege, or other applicable privilege.

3. Tampa Electric objects to each and every numbered request insofar as the request is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained. Any documents produced by Tampa Electric in response to Public Counsel's First Request for Production of Documents will be provided subject to, and without waiver, of the foregoing objections.

4. Tampa Electric objects to each and every numbered requests in Public Counsel's First Request for Production of Documents insofar as the request is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Tampa Electric will attempt to note each instance where this objection applies.

5. Tampa Electric objects to Public Counsel's definitions for specific document requests insofar as they seek to impose obligations on Tampa Electric which exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

6. Tampa Electric objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available to Public Counsel through normal procedures.

7. Tampa Electric objects to each and every numbered document request and definition insofar as it is unduly burdensome, expensive, oppressive, or excessively time consuming as written.

8. Tampa Electric objects to each and every numbered request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Fla. Stat. To the extent that Public Counsel's numbered requests for production of documents request for proprietary confidential business information which is not subject to the "trade secrets" privilege, Tampa Electric will make such information available to Public Counsel pursuant to an appropriate Protective Agreement, subject to any other general or specific objections contained herein.

9. Tampa Electric is a large corporation with employees located in many different locations. In the course of its business, Tampa Electric creates numerous documents that are not subject to Florida Public Service Commission or other governmental records retention requirements. These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document may be provided in response to these discovery requests. Rather these responses provide all of the information obtained by Tampa Electric after a reasonable and diligent search conducted in connection with this discovery request. This includes all files that are reasonably expected to contain the requested information. To the extent that

the discovery requests purport to require more, Tampa Electric objects on the grounds that compliance would impose an undue burden or expense on the company.

#### Motion For Protective Order

Tampa Electric's objections to Public Counsel's First Request for Production of Documents are submitted pursuant to the authority contained in Slatnick v. Leadership Housing Systems of Florida, Inc., 368 So.2d 79 (Fla. 3rd DCA 1979). To the extent that a Motion for Protective Order is required, Tampa Electric's objections are to be construed as a request for a Protective Order.

#### Responses And Objections To Specific Requests

Subject to, and without waiver of, the foregoing general objections, Tampa Electric enters the following specific objections and responses to Public Counsel's First Request for Production of Documents:

**Request No. 1:** Tampa Electric objects to this Request on the grounds that it calls for a costly, time consuming, overbroad and overburdensome search, accumulation and production of documents, most of which would be unlikely to lead to the discovery of admissible evidence relative to the subject matter of this proceeding. Notwithstanding its objection, Tampa Electric will produce relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation



of the Polk Power Station.

**Request No. 2:** Tampa Electric objects to Request No. 2 on the same grounds as stated with respect to Request No. 1. Additionally, Tampa Electric's Chart of Accounts is on file with the Public Service Commission and Public Counsel now has access to such information. Notwithstanding its objection, Tampa Electric will produce relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 3:** Tampa Electric objects to Request No. 3 on the same grounds as stated with respect to Request No. 1. Notwithstanding its objection, Tampa Electric will produce relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 4:** Tampa Electric objects to Request No. 4 on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of confidential proprietary business information, the disclosure of which could adversely affect Tampa Electric's ability and the ability of its parent company and affiliates to contract for goods and services on reasonable terms. Notwithstanding its objection, Tampa Electric will produce under an appropriate protective order relevant documents in its possession which are called for in this request and are



reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 5:** Tampa Electric objects to Request No. 5 on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of confidential proprietary business information specifically protected under Section 366.093, Fla. Stat. (internal audit reports). Notwithstanding its objection, Tampa Electric will produce under an appropriate protective order relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 6:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of confidential proprietary business information the disclosure of which could adversely affect Tampa Electric, its parent company and its affiliates. Notwithstanding its objection, Tampa Electric will produce under an appropriate protective order relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 7:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of

confidential proprietary business information, the disclosure of which could adversely affect Tampa Electric's ability and the ability of its parent company and affiliates to contract for goods and services on reasonable terms. Notwithstanding its objection, Tampa Electric will produce under an appropriate protective order relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 8:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of confidential proprietary business information, the disclosure of which could adversely affect Tampa Electric's ability and the ability of its parent company and affiliates to contract for goods and services on reasonable terms. Notwithstanding its objection, Tampa Electric will produce under an appropriate protective order relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 9:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of confidential proprietary business information, the disclosure of which could adversely affect Tampa Electric's ability and

the ability of its parent company and affiliates to contract for goods and services on reasonable terms. Notwithstanding its objection, Tampa Electric will produce under an appropriate protective order relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 10:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of confidential proprietary business information, the disclosure of which could adversely affect Tampa Electric's ability and the ability of its parent company and affiliates to contract for goods and services on reasonable terms. Notwithstanding its objection, Tampa Electric will produce under an appropriate protective order relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 12:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. Notwithstanding its objection, Tampa Electric will produce relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 13:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. Notwithstanding its objection, Tampa Electric will produce relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 14:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. However, Tampa Electric will produce all documents in its possession fitting the description of this request to the extent they relate to the Polk Power Station.

**Request No. 15:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of confidential proprietary business information, the disclosure of which could adversely affect Tampa Electric, its parent company and its affiliates. Notwithstanding its objection, Tampa Electric will produce under an appropriate protective order relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 16:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. Notwithstanding its objection, the company will produce documents describing its "key employee" incentive compensation

plan and its success sharing incentive compensation plan and individual performance goals specifically related to the Polk Power Station.

**Request No. 17:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of confidential proprietary business information, the disclosure of which could adversely affect Tampa Electric's ability and that of its parent company and affiliates to contract for goods and services on reasonable terms.

**Request No. 18:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. In addition, this information is available from the SEC and can be obtained by Public Counsel from that agency. Moreover, some of this information was recently provided by Tampa Electric to Public Counsel. Notwithstanding, Tampa Electric's objections, the documents described in this request relative to Tampa Electric and TECO Energy, Inc. which Public Counsel does not now have will be furnished.

**Request No. 19:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. Notwithstanding its objection, Tampa Electric will produce relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 20:** Tampa Electric objects to this request on the

same grounds as stated with respect to Request No. 1. Notwithstanding its objections, Tampa Electric will provide a list of recurring standard journal entries and a list of year end entries for the Polk Power Station.

**Request No. 21:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. Tampa Electric will provide information relating to Polk Power Station transactions in response to other document requests.

**Request No. 22:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. Notwithstanding its objection, Tampa Electric will produce relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 23:** Tampa Electric objects to this request on the same grounds as stated with respect to Request No. 1. In addition, this request calls for the production of confidential proprietary business information, the disclosure of which could adversely affect Tampa Electric's ability and that of its parent company and affiliates to contract for goods and services on reasonable terms. Notwithstanding its objection, Tampa Electric will produce under an appropriate protective order relevant documents in its possession which are called for in this request and are reasonably related to the planning, construction and operation of the Polk Power Station.

**Request No. 24:** Tampa Electric objects to this request on the ground that it is unclear what is meant by the terms Managers Committee Meetings or Executive Committee Meetings. Unless the particular committee in question is made clear, Tampa Electric cannot reasonably comply with the stated request. Tampa Electric agrees to produce for inspection and copying the documents agreed to above on or after May 3, 1996 in the offices of Tampa Electric, 702 North Franklin Street, Tampa, Florida 33602 or at such other time or place as the parties may mutually agree.

DATED this 22<sup>nd</sup> day of April, 1996.

Respectfully submitted,



IZE L. WILLIS  
JAMES D. BEASLEY  
Macfarlane Ausley Ferguson & McMullen  
Post Office Box 391  
Tallahassee, FL 32302  
(904) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Objections, Motion for Protective Order and Written Response to Public Counsel's First Request for Production of Documents to Tampa Electric (Nos. 1-24), filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 22<sup>nd</sup> day of April, 1996 to the following:

Mr. Robert V. Elias\*  
Staff Counsel  
Division of Legal Services  
Florida Public Service  
Commission  
2540 Shumard Oak Boulevard  
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