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**ORIGINAL
FILE COPY**

May 27, 1997

VIA HAND DELIVERY

Blanca S. Bayo, Director
Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Drive
Gerald L. Gunter Building
Tallahassee, Florida 32399-0850

Re: FMPA/Lakeland - Docket No. **970171-EU**

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of the Florida Industrial Power Users Group's Notice of Intent to Object to Tampa Electric Company's Request for Confidential Classification and Response to Tampa Electric Company's Motion for Protective Order in the above docket.

Please acknowledge receipt of the above on the extra copies enclosed herein and return them to me. Thank you for your assistance.

ACK _____
AFA 2 Sincerely,

APP _____
CAF _____
CMU _____
CTR _____
Vicki Gordon Kaufman

EAG _____ VGK/pw
LEG 1 Enclosures

LIN 5

OPC _____ RECEIVED & FILED

RCH _____
SEC 1
WAS _____
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FPSC-BUREAU OF RECORDS

Notice of intent to object
DOCUMENT NUMBER-DATE
05241 MAY 27 5
FPSC-RECORDS/REPORTING

Resp to motion
DOCUMENT NUMBER-DATE
05242 MAY 27 5
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE COPY

In re: Determination of appropriate cost)
allocation and regulatory treatment of)
total revenues associated with wholesales)
to Florida Municipal Power Agency and City)
of Lakeland by Tampa Electric Company.)

Docket No. 970171-EU

Filed: May 27, 1997

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S RESPONSE
TO TAMPA ELECTRIC COMPANY'S MOTION FOR PROTECTIVE ORDER**

The Florida Industrial Power Users Group (FIPUG), pursuant to rule 1.280, Florida Rules of Civil Procedure and rule 25-22.037, Florida Administrative Code, hereby responds to Tampa Electric Company's (TECO) motion for protective order. TECO's motion should be denied and TECO should be required to immediately respond to FIPUG's discovery. As grounds therefor, FIPUG states:

1. In this docket, TECO seeks the Commission's sanction in regard to its proposed regulatory treatment of two wholesale transactions. FIPUG sought and was granted permission to intervene in this docket on the basis that its substantial interests will be affected by the action the Commission takes regarding TECO's request.

2. The treatment TECO requests represents a deviation from the Commission's general policy regarding the separation of long term wholesale sales. The basis for TECO's requested treatment is its allegation that these wholesale transactions provide "benefits" to the retail ratepayers, among whom are FIPUG members who purchase large quantities of power from TECO. TECO alleges that such benefits are illustrated in the exhibits of TECO witness Branick.

3. To put TECO's allegations of "benefits" to the test, FIPUG has propounded some fundamental questions concerning these "benefits." FIPUG's

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questions go to the heart of TECO's case and request information which underlies witness Branick's exhibits which purport to demonstrate benefits to retail ratepayers from these transactions. FIPUG production request no. 3 asks TECO to supply FIPUG with the same documents which TECO is to supply to Staff (year-by-year calculations showing the derivation of the costs and revenues set forth in TECO witness Branick's exhibits). The same information is requested in FIPUG interrogatories nos. 3 and 4, to which TECO also objects. While TECO has supplied some information, it has objected to supplying incremental cost information to FIPUG.

4. Further, Staff has noticed TECO witness Branick for deposition on May 27 and 28 and requested that she bring to the deposition all documents TECO has relied upon to determine incremental costs and forecasted revenues.¹ To the extent TECO intends to attempt to block FIPUG's access to this material at the Branick deposition, FIPUG adopts and reiterates the same position stated herein in regard to its right to review the information which will be the subject of Ms. Branick's deposition.

¹Staff's request states: "Please bring all documents relied upon by TECO to determine the projected incremental costs and forecasted revenues for the FMPA and City of Lakeland sales. Include source documents relied upon to prepare the response to staff's POD #2. The documents should also include, but not be limited to, TECO's production simulation analyses reports, before and after the addition of the FMPA and Lakeland sales. The production simulation reports should indicate at a minimum: Outages (maintenance, planned, unplanned, etc.), O&M Expenses, Fuel Expenses, Emission Levels (SO₂ and NO_x), Generation Levels, and Capacity Factors, for each generating unit on TECO's system on a yearly basis. Reports should also indicate annual interchange amounts. Bring a listing of the input assumptions and the reference source for all assumptions. Also, bring all sensitivity analyses performed by TECO on the projected incremental costs and forecasted revenues for the FMPA and Lakeland sales."

5. As FIPUG's testimony illustrates, TECO's proposal will result in increased charges to retail customers. TECO is a regulated, public utility; it has an obligation to disclose the information which is the basis for these increased charges.

6. The grounds for TECO's objection to providing the supporting documents to FIPUG is its claim that the information sought, which is directly relevant to the issues in this docket, might impact negotiations with an industrial customer in an unrelated matter.

7. FIPUG acknowledges that an industrial customer of TECO is considering proposals for alternative self-generated power. However, TECO's incremental cost is irrelevant to this customer in determining whether to accept TECO's proposal or any of a number of alterations. The price TECO offers to that customer will either be more or less than the other alternatives under consideration. In contrast, the incremental cost information TECO has withheld here is directly relevant to the claims TECO makes in an attempt to support its proposal in this case.

8. Further, Commission policy, and FIPUG's previously stated policy in the Gulf Power commercial/industrial rider case, are in opposition to the attempt of a utility to offer economic development rates or load retention rates which seek to recover the difference between average and incremental costs from the general body of ratepayers. Docket No. 951161-EI. TECO's assertion that a FIPUG member would suggest such a proposal is baseless.

9. The hearing is less than three weeks away and FIPUG has been denied information vital to its case preparation -- information which underlies TECO's exhibits

in this case.

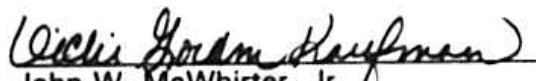
10. The Commission should order TECO to immediately provide the requested discovery to FIPUG and any other such information discussed or provided at Ms. Branick's deposition. Alternatively, the Commission should not permit TECO to utilize the exhibits of witness Branick for which it refuses to provide the underlying documentation and support.

11. Counsel for FIPUG has discussed this matter with counsel for TECO and has been unable to reach a mutually acceptable resolution.

WHEREFORE, FIPUG requests that:

1. TECO's motion for protective order be denied; and
2. TECO be required to immediately furnish the requested information to

FIPUG.


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Attorneys for the Florida Industrial
Power Users Group

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing **FIPUG Response to Tampa Electric Company's Motion for Protective Order** has been furnished by *hand delivery or U.S. Mail to the following this 27th day of May, 1997:

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