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February 18, 1999

HAND DELIVERED

**ORIGINAL**

RECORDS AND REPORTING

FEB 18 7 12 47

RECEIVED FPSC

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32388-0850

Re: Adoption of Numeric Conservation Goals by Tampa Electric Company  
FPSC Docket No. 971007-EG

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Objections, Motion for Protective Order and Written Response to Legal Environmental Assistance Foundation Inc.'s Second Set of Interrogatories (Nos. 7-79) and Second Request for Production of Documents (Nos. 1-42).

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

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- DMU \_\_\_\_\_ JDB/pp
- STR \_\_\_\_\_ Enclosures
- EAG \_\_\_\_\_
- EG 1 \_\_\_\_\_
- JIN 5 \_\_\_\_\_
- JPC \_\_\_\_\_
- JCH \_\_\_\_\_
- SEC 1 \_\_\_\_\_
- VAS \_\_\_\_\_
- JTH \_\_\_\_\_

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

RECEIVED & FILED

167  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

~~971007-EG FEB 18 99~~

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Adoption of Numeric )  
Conservation Goals by Tampa )  
Electric Company. )  
\_\_\_\_\_ )

DOCKET NO. 971007-EG  
FILED: February 18, 1999

**TAMPA ELECTRIC COMPANY'S OBJECTIONS,  
MOTION FOR PROTECTIVE ORDER AND WRITTEN RESPONSE  
TO LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION INC.'S  
SECOND SET OF INTERROGATORIES (NOS. 7-79) AND SECOND  
REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-42)**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Rule 28-106.206, Florida Administrative Code, and this Commission's Order Establishing Procedure<sup>1</sup> submits the following Objections, Motion for Protective Order and Written Response to Legal Environmental Assistance Foundation, Inc.'s ("LEAF") Second Set of Interrogatories (Nos. 7-79) and Second Request for Production of Documents (Nos. 1-42), and as grounds therefor, says:

**The above 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 set forth in the Commission's Order Establishing Procedure in this docket. Should additional grounds for objection be discovered as Tampa Electric reviews its answers to interrogatories and documents, the company reserves the right to supplement, or revise or modify its objections prior to the time it serves answers to interrogatories or produces any documents. Should Tampa Electric determine that a protective order is necessary with respect to any of the information requested by LEAF, Tampa Electric reserves the right to file a motion with the Commission seeking such an order at the time it serves its written responses to LEAF.**

<sup>1</sup> Order No. PSC-98-0384-PCO-EG.

DOCUMENT NUMBER-DATE

02156 FEB 18 99

FPSO-RECORDS/REPORTING

**This document shall also serve as Tampa Electric's written response to LEAF's Second Request for Production of Documents. The actual due date for the company's response is March 10, 1999. Tampa Electric reserves the right to supplement and modify its written response by March 10, 1999, 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 to 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 LEAF's requests appear to be broader than the subject matter of this docket.**

**Notwithstanding the bases for the objections posed herein, Tampa Electric will strive to respond to all relevant discovery requests from LEAF which reasonably relate to the subject matter of this docket. 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 interpretation, 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 LEAF seeks by way of such request.**

**The company will continue to work with LEAF to refine LEAF's requests to interrogatory answers and documents which are reasonably related to this proceeding.**

## GENERAL OBJECTIONS

Tampa Electric makes the following general objections to LEAF's Second Set of Interrogatories and Second Request for Production of Documents (collectively referred to as discovery requests) as follows:

1. Tampa Electric objects to each and every discovery request to the extent such request calls for information which is exempt from discovery by virtue of the attorney/client privilege, work product privilege, or other applicable privilege.

2. Tampa Electric objects to each and every discovery 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 response produced by Tampa Electric to LEAF's discovery requests will be provided subject to, and without waiver of, the foregoing objections.

3. Tampa Electric objects to each and every discovery request 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.

4. Tampa Electric objects to each request insofar as it seeks to impose obligations on Tampa Electric which exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

5. 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 LEAF through normal procedures.

6. Tampa Electric objects to each and every discovery request to the extent that responding to the request would be unduly burdensome, expensive, oppressive, or excessively time consuming.

7. Tampa Electric objects to each discovery request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes. To the extent that LEAF's discovery requests call for the production of information which is not subject to the trade secrets privilege, but nevertheless is proprietary confidential business information, Tampa Electric will make such information available to LEAF pursuant to an appropriate non-disclosure agreement, subject to any other general or specific objections contained herein.

8. 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 purpose 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**

9. Tampa Electric's objections to LEAF's discovery requests are submitted pursuant to the authority contained in Slatnick v. Leadership Housing Systems of Florida, Inc., 368 So.2d 79 (Fla. 3<sup>rd</sup> 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**

#### **LEAF's Second Set of Interrogatories**

10. Subject to, and without waiver of the foregoing general objections, Tampa Electric makes the following specific objections to LEAF's Second Set of Interrogatories:

11. Tampa Electric objects to Interrogatory No. 13 because it is unclear what information LEAF seeks to obtain in response to this interrogatory. Tampa Electric will confer with LEAF and attempt to obtain clarification from LEAF in order to respond to this interrogatory.

12. Tampa Electric objects to Interrogatory No. 28 in that it calls for information not relevant to the subject matter of this docket.

13. Tampa Electric objects to Interrogatory No. 40 in that it seeks information which is not relevant to the subject matter of this docket.

14. Tampa Electric objects to Interrogatory No. 55 in that it seeks information not relevant to the subject matter of this docket.

15. Tampa Electric objects to subpart (b) of Interrogatory No. 56 in that it seeks information that is not relevant to the subject matter of this docket. Even if it were relevant, Tampa Electric cannot say with any degree of certainty what the subject emissions would be

because many variables influence the extent of emissions. Tampa Electric can say that it intends to comply with all governmentally imposed environmental constraints.

16. Tampa Electric objects to Interrogatory No. 78 in that it is unclear what information LEAF seeks to obtain in a response to this interrogatory. Tampa Electric will confer with LEAF and attempt to obtain a necessary clarification of what is requested.

**LEAF's Second Request for Production of Documents**

17. Subject to, and without waiving the above general objections, Tampa Electric makes the following specific objections to LEAF's Second Request for Production of Documents:

18. Tampa Electric objects to Document Request No. 23 in that it calls for information not relevant to the subject matter of this docket.

19. Tampa Electric objects to Document Request No. 36 in that it calls for the production of copyright protected information that is proprietary and confidential.

20. Tampa Electric objects to Document Request No. 38 in that the company is uncertain as to what information this request seeks and in what format the information should be submitted. Notwithstanding this objection, Tampa Electric will seek clarification from LEAF as to what they are requesting and in what format the information is requested.

DATED this 18<sup>th</sup> day of February, 1999.

Respectfully submitted,



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LEE L. WILLIS  
JAMES D. BEASLEY  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, FL 32302  
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Response in Opposition to LEAF's Motion to Extend Discovery Schedule and Filing Date for LEAF's Testimony and Exhibits, filed on behalf of Tampa Electric Company, has been furnished by hand delivery (\*) or U. S. Mail on this 18<sup>th</sup> day of February, 1999 to the following:

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ATTORNEY