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November 12, 1999

ORIGINAL

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

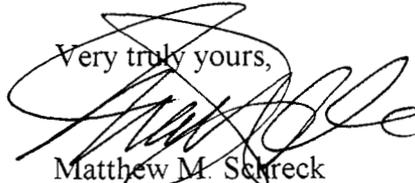
In Re: Petition of Tampa Electric
Company to Close Rate Schedules
IS-3 and IST-3, and approve
New Rate Schedules GSLM-2 and GSLM-3
Docket No. 990037-EI

Dear Ms. Blanco:

Enclosed please find for filing an original and fourteen copies of the "Response of Coronet Industries, Inc. to Motion to Strike" in the above-referenced proceeding. An extra copy of this document is enclosed to be time-stamped and returned in the enclosed self-addressed, stamped envelope.

Please call me if you have any questions. Thank you for your assistance with this matter.

Very truly yours,



Matthew M. Schreck
Attorney for
Coronet Industries, Inc.

AFA	<u>1</u>	Enclosures
APP	_____	
CAF	_____	
CMU	_____	
CTR	_____	
EAG	<u>1</u>	
LEG	<u>3</u>	
MAS	_____	
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PAI	_____	
SEC	<u>1</u>	
WAW	_____	
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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In Re: Petition of Tampa Electric)
Company to Close Rate Schedules)
IS-3 and IST-3, and approve)
new Rate Schedules GSLM-2 and GSLM-3)

DOCKET No. 990037-EI
FILED: November 12, 1999

RESPONSE OF CORONET INDUSTRIES, INC. TO MOTION TO STRIKE

Pursuant to Fla. Admin Code Rule 28-106.204(1), Coronet Industries, Inc. ("Coronet") hereby files this response to the "Motion to Strike Supplement to Petition to Intervene of Coronet Industries, Inc." ("Motion") filed by Tampa Electric Company ("TECo") in the above-styled proceeding. As set forth below, TECo's Motion is procedurally and substantively deficient, and should be denied by the Florida Public Service Commission ("Commission"). In support of this response, Coronet respectfully states the following:¹

I.

Background

On September 10, 1999, the Commission issued its "Order Approving Closure of Interruptible Service Rate Schedules To New Customers and Approving New Load Management Rate Schedules" (the "September 10th Order"), in which the Commission approved the closure of certain interruptible rate schedules to new customers and approving new load management rate schedules. On page 9 of the September 10th Order, the Commission stated:

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. The petition must be received by the Director, Division of Records and Reporting, 2540

¹ Counsel for Coronet received TECo's Motion on November 10, 1999. Pursuant to Fla. Admin Code Rule 28-106.204(1), the instant response in opposition to TECo's Motion is timely if filed "within 7 days of service." Accordingly, Coronet's response is timely.

DOCUMENT NUMBER-DATE

13895 NOV 12 99

FPSC-RECORDS/REPORTING

Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 1, 1999.

On October 1, 1999, the Florida Industrial Power User's Group ("FIPUG") filed its "Petition for Formal Proceeding on Proposed Action in Order No. PSC-99-1778-FOF-EI" (the "Petition"). FIPUG's Petition, which was filed pursuant to both the Commission's September 10th Order and Rule 28-106.201, requested that the Commission hold a hearing to address certain disputed issues and to grant the relief requested therein.

On October 20, 1999, Coronet, pursuant to Rule 28-106.205, filed its Supplement to Petition to Intervene ("Supplement"),² in which Coronet expressed its support of FIPUG's Petition.

On November 4, 1999, TECo filed its Motion, stating:

Coronet's Supplement to its Petition to Intervene was filed on October 20, 1999, after the expiration of the protest period, and represents a belated request that the Commission institute a formal proceeding. As such, it was filed outside the permissible protest period contained in the Commission's order and should be stricken for having been filed out of time. (*Mimeo at 1*).

II.

Response

TECO's assertion that Coronet's Supplement should be stricken from the record is procedurally and substantively deficient, and should be denied by the Commission.

Pursuant to the Commission's September 10th Order, this proceeding would be considered closed unless a person substantially affected by the order filed a petition for formal proceeding pursuant to Rule 28-106.201. As noted above, FIPUG filed such a petition on October 1, 1999,

² By order issued on May 4, 1999, the Florida Public Service Commission ("FPSC") granted Coronet's Petition. By order issued on June 1, 1999, the FPSC authorized the undersigned to act as Coronet's Qualified Representative in the above-styled proceeding.

within the deadline established by the Commission.

Upon the filing of FIPUG's Petition, this proceeding is procedurally governed by Rules 28-106.201, *et seq.* Pursuant to Rule 28-106.201(3), the Commission on October 22, 1999 scheduled this proceeding for a formal hearing set for April 11, 2000. As a formal proceeding has been established to address the issues raised by FIPUG's Petition, Coronet's Supplement is completely in compliance with Rule 28-106.205, which permits:

Persons other than the original parties to a pending proceeding whose substantial interests may be determined in a proceeding and who desire to become parties may petition the presiding officer for leave to intervene. Except for good cause shown, petitions for leave to intervene must be filed at least 20 days before the final hearing. The petition shall conform to Rule 28-106.201(2), and shall include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding. The presiding officer may impose terms and conditions on the intervenor to limit prejudice to other parties.

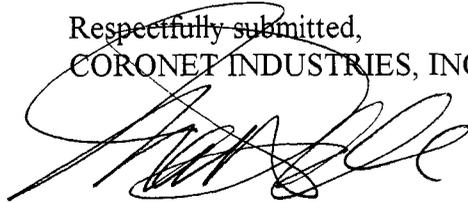
TECO's sole argument to strike Coronet's Supplement is that it was filed past the "permissible protest period contained in the Commission's order" *Mimeo at 1.* However, the basis and grounds for which Coronet's Supplement was filed and should be granted by the Commission are found in Rule 28-106.205, not the September 10th Order. Once the Commission establishes a formal hearing in response to FIPUG's Petition, Coronet, and indeed any affected party that meets the standards set forth in Rule 28-106.205, may intervene to protect its interests. TECO has not asserted that Coronet's Supplement does not meet these standards. TECO incorrectly bases its Motion on Coronet's purported failure to comply with the September 10th Order. However, Coronet's Supplement did not seek to institute a proceeding pursuant to the September 10th Order -- the petition for such proceeding already was on file and subject to action by the Commission. Accordingly, TECO's Motion is procedurally and substantively deficient because it fails to assert sufficient

grounds under which the Commission can grant the requested relief, and Coronet's Supplement complies with the standards for intervention set forth in Rule 28-106.205, a fact TECo fails to dispute. Therefore, TECo's Motion should be denied.

III.

WHEREFORE, Coronet respectfully requests that the Commission deny TECo's Motion.

Respectfully submitted,
CORONET INDUSTRIES, INC.



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Coronet Industries, Inc.

Dated: November 12, 1999

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the following parties by first-class, U.S. Mail, on this 12th day of November, 1999:

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