

AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

ORIGINAL

RECORDS AND REPORTING

NOV 15 PM 4:40

RECEIVED FPSC

November 15, 1999

HAND DELIVERED

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

Re: Petition for determination of need for an electrical power plant in Okeechobee County by the Okeechobee Generating Company, L.L.C.;
FPSC Docket No. 991462-EU

Dear Ms. Bayo:

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

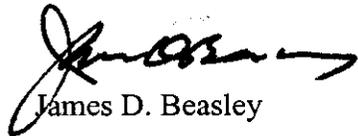
- ~~14004~~-99 1. Tampa Electric Company's Objections to Okeechobee Generating Company's First Request for Admissions (Nos. 1-43).
- ~~14005~~-99 2. Tampa Electric Company's Objections to Okeechobee Generating Company's First Request for Production of Documents.
- ~~14006~~-99 3. Tampa Electric Company's Objections to Okeechobee Generating Company's First Set of Interrogatories.
- 14007-99 4. Notice of Appearance of Additional Counsel for Intervenor Tampa Electric Company.

AFA _____
 APP _____
 CAF _____
 CMU _____
 CTR _____
 EAG _____
 LEG 2 _____
 MAS 3 _____
 OPC _____
 PAI _____
 SEC 1 _____
 WAW _____
 OTH notice _____

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

FPSC-BUREAU OF RECORDS

of appearance to Hong
JDB/pp

Enclosures

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

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination)	
Of Need for an Electrical Power)	DOCKET NO. 991462-EU
Plant in Okeechobee County by)	
Okeechobee Generating Company,)	Submitted for filing: November 15, 1999
L.L.C.)	
_____)	

TAMPA ELECTRIC COMPANY'S OBJECTIONS TO OKEECHOBEE GENERATING COMPANY'S FIRST REQUEST FOR ADMISSIONS (NOS. 1-43)

Tampa Electric Company ("Tampa Electric") objects to Okeechobee Generating Company's ("OGC") First Request for Admissions (Nos. 1-43), as follows:

General Objections

The Requests for Admissions propounded by OGC to Tampa Electric on November 5, 1999, are not calculated to lead to the discovery of relevant or material evidence. As discussed below, the propositions which OGC challenges Tampa Electric to admit have no reasonable nexus to the facts which OGC must adduce in order to establish its entitlement to "applicant" status under the Florida Power Plant Siting Act (the "Siting Act") or the need for its proposed project.

Although Tampa Electric intends to participate fully in this proceeding, it does not plan to sponsor a witness. Since Tampa Electric is not an applicant or respondent in this proceeding, it has no burden of proof or any burden of coming forward with evidence. As a party to this proceeding, Tampa Electric is entitled to develop its position through the sponsorship of a witness and exhibits or through cross-examination, where necessary, and through post-hearing briefs, based on the record compiled. Tampa Electric has elected to take the latter approach in this proceeding.

DOCUMENT NUMBER-DATE
14006 NOV 15 89
FPSC-RECORDS/REPORTING

The relevance or usefulness to the Commission or OGC of the Requests for Admissions from Tampa Electric is questionable at best. No doubt, OGC will argue that these admissions are essential to its ability to meet its burden of proof in this proceeding. However, such assertions can and should be pre-emptively dismissed since OGC did not find it necessary to join Tampa Electric in this proceeding as an essential party. OGC's decision not to do so can only be taken as an admission that it did not need or intend to rely on discovery from Tampa Electric to meet its burden of proof. Nonetheless, in an effort to punish Tampa Electric for its intervention, OGC has now served extensive, unduly burdensome discovery on Tampa Electric, including 43 Requests for admissions. Tampa Electric objects to responding to this discovery.

The objections stated herein are preliminary and are made at this time for the purpose of complying with the requirement in the Commission's order establishing Procedure in this docket that objections to discovery requests must be filed within ten (10) days of the receipt of such requests. Given the intentionally broad and open-ended nature of OGC's document requests, it would be weeks, if not months, before responsive documents could be identified. Therefore, should additional grounds for objection be discovered if Tampa Electric is required to search for responsive documents, the Company reserves the right to supplement, revise, or modify its objections prior to the time that it produces any documents. Should Tampa Electric determine that a protective order is necessary with respect to any of the documents requested by OGC, then Tampa Electric reserves the right to file a motion with the Commission seeking such an order prior to the time that it produces any documents to OGC.

Without waiving this position, Tampa Electric makes both general and specific objections to OGC's requests for admissions from Tampa Electric, as follows.

1. Tampa Electric objects to each and every request to the extent that such request calls for information that is exempt from discovery by virtue of the Attorney/Client privilege, work product privilege, or other applicable privilege or protection provided by law.
2. Tampa Electric objects to each and every request insofar as the request is vague, ambiguous, overly broad, imprecise or uses terms that are subject to multiple interpretations but are not properly defined or explained.
3. Tampa Electric objects to each request to the extent that the information sought is already a matter of public record before this Commission or elsewhere, and is available to OGC through normal procedures.
4. Tampa Electric objects to any request that calls for business information that is considered confidential proprietary business information, including "Trade Secrets" which are privileged pursuant to Section 90.506, Florida Statutes.
5. Tampa Electric objects to these requests and any definitions or instructions that purport to expand Tampa Electric's existing obligations under applicable law.

Tampa Electric incorporates by reference all of the foregoing general objections into each of its specific objections set forth below as though pleaded therein.

Specific Objections

1. Tampa Electric objects to Request for Admissions Nos. 1 through 8, 12 through 20, and 38 through 40 on the grounds that they are irrelevant, argumentative, and, for the most part, address information that is a matter of public record in various Commission proceedings. Unlike OGC, Tampa Electric is an electric utility subject to this Commission's jurisdiction. Therefore, the treatment of Tampa Electric's wholesale sales for retail ratemaking purposes

is a subject that is addressed by the Commission on an ongoing basis in a number of other regulatory proceedings. This Commission's decisions with regard to the nature and regulatory treatment of Tampa Electric's wholesale sales speak for themselves. None of the requested admissions will help OGC to meet its burden of demonstrating that its proposed project is needed.

2. Tampa Electric objects to Request for Admissions Nos. 9 through 11 and 24 on the grounds that they are irrelevant, argumentative, address information that is a matter of public record in various Commission proceedings, and call for opinions on matters of law which OGC can evaluate on its own. Again, these admissions have nothing to do with OGC's ability to meet its burden of proof in this proceeding.
3. Tampa Electric objects to Request for Admissions Nos. 21, 22, 28, 32, 33, and 37 on the grounds that they are irrelevant, argumentative, and call for pure speculation on Tampa Electric's part. These requests don't even begin to address all of the relevant variables that would have to be specified if one were going to address the subject matter in a meaningful way. With regard to Request for Admissions No. 22, 33 and 37, the method for calculation of reserve margins is being addressed currently by the Commission in Docket No. 981890-EU. In any event, none of the requested admissions will help OGC to meet its burden of demonstrating that its proposed project is needed.
4. Tampa Electric objects to Request for Admission No. 23 on the grounds that it is irrelevant, argumentative, ambiguous and misleading in that it refers only to OGC's definition of a "Merchant Plant". Whether or not there are "Merchant Plants" operating in the State of Florida, OGC's burden of proof in this proceeding remains unchanged.

5. Tampa Electric objects to Request for Admission Nos. 25 through 27 on the grounds that they are irrelevant, argumentative, ambiguous, call for pure speculation on Tampa Electric's part or call for a legal opinion which OGC can develop for itself.
6. Tampa Electric objects to Requests for Admissions Nos. 29 through 31 on the grounds that they are irrelevant, argumentative, vague and call for speculation on Tampa Electric's part. This Commission's retail rate treatment of Tampa Electric's plant additions and purchased power transactions is a matter of public record. In the unlikely event that OGC has a relevant point that it wishes to make through these requested admissions, it can do so by reviewing publicly available information.
7. Tampa Electric objects to Requests for Admissions Nos. 34 and 35 on the grounds that they are irrelevant and argumentative. Tampa Electric's position with regard to the subject of these requests is a matter of public record in several proceedings, including Docket No. 981042-EM, In Re: Joint Petition for Determination of Need for an Electrical Power Plant in Volusia County by the Utilities Commission, City of New Smyrna Beach, Florida, and Duke Energy New Smyrna Beach Power Company Ltd., L.L.P. and Docket No. 971337-EU, Petition of Duke Mulberry Energy, L.P. and IMC-Agrico Company for a Declaratory Statement Concerning Eligibility to Obtain Determination of Need Pursuant to Section 403.519, F.S. OGC can obtain this information on its own and characterize it as it wishes.
8. Tampa Electric objects to Request for Admission Nos. 36, 41, 42 and 43 on the grounds that they are irrelevant, argumentative and call for pure speculation on Tampa Electric's part. In this proceeding, it is the question of what OGC intends to do with the output of its proposed plant and whether its proposed plant is needed that are relevant.

WHEREFORE, Tampa Electric submits the foregoing objections to Okeechobee
Generating Company's First Request for Admissions (Nos. 1 through 43).

DATED this 15th day of November 1999.

Respectfully submitted,

HARRY W. LONG, JR.
TECO Energy Inc.
Post Office Box 111
Tampa, FL 33601

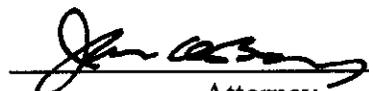


LEE L. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing TAMPA ELECTRIC COMPANY'S OBJECTIONS TO OKEECHOBEE GENERATING COMPANY'S FIRST REQUEST FOR ADMISSIONS (NOS. 1-43) has been furnished either by hand delivery, facsimile or overnight courier to the following counsel of record this 15th day of November, 1999.


Attorney

COUNSEL OF RECORD:

Robert Scheffel Wright
John T. LaVia
Landers & Parsons, P.A.
310 West College Avenue
Tallahassee, FL 32301
Phone: (850) 681-0311
Fax: (850) 224-5595
Attorneys for Okeechobee Generating
Company, L.L.C.

Jon Moyle
Moyle Flanigan, Katz, et al.
210 S. Monroe Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788
Attorneys for Okeechobee Generating
Company, L.L.C.

Sanford L. Hartman
Okeechobee Generating Company, L.L.C.
PG&E Generating Company
7500 Old Georgetown Road
Bethesda, MD 20814
Phone: (301) 280-6800
Fax: (301) 280-6900

Matthew M. Childs
Charles A. Guyton
Steel Hector
215 South Monroe Street, Ste. 601
Tallahassee, FL 32301-1804
Telephone: (850) 222-2300
Fax: (850) 222-7150
Attorneys for Florida Power & Light Company

Sean J. Finnerty
PG&E Generating Company
One Bowdoin Squaren Road
Boston, MA 02114-2910

Regional Planning Council #07
Douglas Leonard
P.O. Drawer 2089
Bartow, FL 33830
Phone: (941) 534-7130
Fax: (941) 534-7138

Michelle Hershel
Post Office Box 590
Tallahassee, FL 32302
Phone: (850) 877-6166
Fax: (850) 656-5485
Attorney for Florida Electric Cooperative
Assoc.

Department of Environmental Protection
Scott Goorland
2600 Blairstone Road
Tallahassee, FL 32399-2400
Phone: (850) 487-0472

Kenneth Hoffman/John Ellis
Rutledge Law Firm
Post Office Box 551
Tallahassee, FL 32302-0551
Phone: (850) 681-6788
Fax: (850) 681-6515
Attorneys for City of Tallahassee

Florida Industrial Cogeneration Association
c/o Richard Zambo, Esq.
598 Sw Hidden River Avenue
Palm City, FL 34990
Phone: (561) 220-9163
Fax: (561) 220-9402

Legal Environmental Assistance
Foundation, Inc.
Gail Kamaras/Debra Swin
1114 Thomasville Road, Ste. E
Tallahassee, FL 32303
Phone: (850) 681-2591
Fax: (850) 224-1275

Paul Darst
Department of Community Affairs
Division of Local Resource Planning
2740 Centerview Drive
Tallahassee, FL 32399-2100
Phone: (850) 488-8466
Fax: (850) 921-0781

Myron Rollins
Black & Veatch
Post Office Box 8405
Kansas City, MO 64114
Phone: (913) 458-7432
Fax: (913) 339-2934

James Beasley/Lee Willis
Ausley Law Firm
Post Office Box 391
Tallahassee, FL 32302
Phone: (850) 224-9115
Fax: (850) 222-7560
Attorneys for Tampa Electric Company

Florida Power & Light Company (Miami)
William G. Walker, III
9250 W. Flagler Street
Miami, FL 33174
Phone: (305) 552-4327
Fax: (305) 552-3660

Ms. Angela Llewellyn
Tampa Electric Company
Regulatory and Business Strategy
Post Office Box 111
Tampa, FL 33601-0111
Phone: (813) 228-1752
Fax: (813) 228-1770