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ORIGINAL

February 21, 2000

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VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket Number 992014-EI

Dear Ms. Bayo:

I am enclosing for filing and distribution in the above-referenced matter the original and 15 copies of Reliant Energy Power Generation Inc.'s:

- ▶ Motion to Compel TECO to Respond to Reliant Energy's First Request to Produce Documents, Item No. 4; 02369-00
- ▶ Response to TECO's Contingent Motion for Protective Order related to Reliant Energy's First Request to Produce Documents; and 02370-00
- ▶ Response to TECO's Contingent Motion for Protective Order related to Reliant Energy's Second Request to Produce Documents. 02371-00

Please acknowledge receipt of the above on the extra copy of the petition for return to my office.

Thank you for your assistance.

Yours truly,

Joe McGlothlin
Joseph A. McGlothlin

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enc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Tampa Electric Company's
Petition for Approval of its Plan to
bring its Generating Units into
Compliance with the Clean Air Act.

DOCKET NO. 992014-EI
Filed on February 20, 2000

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RELIANT ENERGY POWER GENERATION, INC.'S
MOTION TO COMPEL TAMPA ELECTRIC COMPANY
TO RESPOND TO PRODUCTION REQUEST NO. 4

Pursuant to Rule 28-106.206, Florida Administrative Code, Reliant Energy Power Generation, Inc. (Reliant Energy) files this Motion to Compel Tampa Electric Company (TECO) to provide documents fully responsive to Item 4 of Reliant Energy's First Request for Production of Documents. As grounds therefor, Reliant Energy states:

1. On January 26, 2000, Reliant Energy served its First Request to Produce, Items 1 - 10, on TECO.
2. On February 7, 2000, TECO objected to Reliant Energy's Production Request No. 4.
3. Request No. 4 specifically calls for TECO to produce communications between TECO and credit rating agencies for the periods 1998, 1999, and 2000 to date. TECO objects to Production Request No. 4 on the grounds that it is irrelevant. To the contrary, the information is clearly relevant to this case. TECO proposes to repower Gannon rather than pursue market-based alternatives. The decision to ignore a purchased power alternative purportedly is based on a "market analysis" that includes the assumption that credit rating agencies would perceive greater financial risk if TECO were to pursue purchased power. In order to assess this claim, Reliant Energy has requested all communications between TECO and major rating agencies during 1998, 1999, and 2000 to date. Such communications will shed light on how TECO represents its creditworthiness to the credit rating agencies; the various factors they deem pertinent to establishing their ratings; and the information they deem significant to their judgments. While Reliant Energy certainly regards the agencies' final reports as falling within the scope of the request, TECO cannot -- as it proposes --

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limit its response to the final reports. The opinions of the agencies may have evolved based on information received over time, and any such changes may be pertinent to the issue in this case. Further, questions may have been answered, issues may have been raised, or concerns may have been allayed in documents that bear on the agencies' final conclusions but are not reflected in the final reports.

4. TECO also claimed generally that communications regarding operations and/or business planning constitute confidential business information that should not be disclosed. However, Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, require a party to demonstrate that documents are eligible for confidential classification. A mere statement that information is confidential is not sufficient to shield it from disclosure. In addition, it is clear that not all information relating to the operations and/or business planning of a public utility is competitively sensitive; in fact, much of TECO's information of this nature is in the public domain. TECO has the burden to distinguish between information that is competitively sensitive and information that is not.

5. Finally, TECO claims that the request is overbroad. Again, this assertion is unsubstantiated. The request specifically calls for communications between TECO and credit agencies between 1998 and 2000. Reliant Energy chose this time frame so as to limit its inquiry to a time frame that would yield pertinent information without being unduly burdensome.

WHEREFORE, Reliant Energy moves for an order compelling TECO to produce all documents responsive to Reliant Energy's Production Request No. 4, except for any specific documents that TECO properly establishes to be commercially sensitive.



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Attorneys for Reliant Energy Power Generation, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing, filed on behalf of Reliant Energy Power Generation, Inc., has been furnished by U.S. mail and by hand-delivery* on this 21st day of February, 2000 to the following:

*Robert Elias
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