

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost Recovery)	
Clause with Generating Performance Incentive)	DOCKET NO. 010001-EI
Factor.)	FILED: March 16, 2001
_____)	

TAMPA ELECTRIC COMPANY’S RESPONSE, MOTION FOR PROTECTIVE ORDER AND OBJECTIONS TO FIPUG’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS (NOS. 1-6)

Tampa Electric Company (“Tampa Electric” or “the company”) submits the following Response, Motion for Protective Order and Objections to Florida Industrial Power Users Group’s (“FIPUG”) First Request for Production of Documents to Tampa Electric Company (Nos. 1-6) and, as grounds therefor, says:

Preliminary Nature of These Objections

The objections stated herein are preliminary in nature and should additional grounds for objections be discovered as Tampa Electric attempts to produce documents in this proceeding, the company reserves the right to supplement or revise or modify its objections. Should Tampa Electric determine that a further protective order is necessary with respect to any of the information requested, Tampa Electric reserves the right to file a motion with the Commission.

GENERAL OBJECTIONS

Tampa Electric makes the following general objections to FIPUG’s First Request for Production of Documents in this proceeding:

DOCUMENT NUMBER-DATE
03375 MAR 16 2001
FPSC-RECORDS/REPORTING

1. 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.

2. 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.

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.

4. 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, or which is proprietary confidential business information.

5. Tampa Electric objects to each and every request to the extent it seeks "all" documents in a specified category on grounds that such a requirement is burdensome, excessive, oppressive or excessively expensive. 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, not every document can be provided in response to these discovery requests. Tampa Electric will make a good-faith effort to locate responsive documents in files and other locations where they are expected to be found in the ordinary course of business.

6. Tampa Electric objects to each and every document request to the extent it requests amended, supplemental or continuing discovery.

7. Tampa Electric objects to the definitions and instructions provided as overbroad, burdensome.

8. Tampa Electric is proceeding to research its records in response to FIPUG's discovery requests and to the extent the company locates information responsive to those requests which is not subject to the foregoing general objections, the same will be provided to FIPUG on a timely basis.

Motion for Protective Order

9. Tampa Electric's objections to FIPUG's discovery requests are submitted pursuant to the authority contained in Slatnick v. Leadership Housing Systems of Florida, Inc., 368 So. 2d 78 (Fla. 3rd 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.

Objections to Specific Requests

10. Tampa Electric objects to Request No. 1 as being unduly burdensome and oppressive. Tampa Electric is objecting to a number of the interrogatories contained in FIPUG's First Set of Interrogatories, Nos. 1-23, on the same ground. It would take a monumental effort to pull together the information needed to respond to the interrogatories objected to and the same would apply to Request for Production No. 1 which calls for all documents, memoranda, analysis, consulted or relied upon in responding to FIPUG's First Set of Interrogatories Nos. 1-23. Such a request is patently unreasonable. In addition, a significant portion of information covered by Request No. 1 is confidential proprietary business information.

11. Tampa Electric objects to Request No. 2. Tampa Electric has already produced the company's system status reports for every day from April 1, 1999 through October 31, 1999 for FIPUG's inspection and copying, pursuant to a non-disclosure agreement in a prior Commission proceeding. This production of documents required considerable time, effort and expense on the part of Tampa Electric, including travel time, setup and breakdown costs, manual labor in copying and producing those documents FIPUG's counsel saw fit to request. Tampa Electric objects to going through this exercise again with respect to the system reports for April 1 through October 31, 1999. Subject to the foregoing objection, and subject to FIPUG executing an appropriate non-disclosure agreement,¹ Tampa Electric will produce its system status reports from November 1, 1999 through the most recently available reports at the time of such production.

12. Tampa Electric objects to producing its Schedules A-1 through A-9 to FIPUG as these schedules have already been furnished to FIPUG and continue to be provided to FIPUG on a routine ongoing basis each time they are submitted to the Commission. In addition, these documents are a matter of public record and as such are available to FIPUG.

WHEREFORE, Tampa Electric submits the foregoing as its Response, Motion for Protective Order and Objections relating to FIPUG's First Request for Production of Documents Nos. 1-6.

¹ Tampa Electric's system status reports are and have been previously determined by the Commission to constitute proprietary, confidential business information the disclosure of which would harm Tampa Electric's competitive interests and thus are entitled to protection against public disclosure pursuant to Section 366.093, Florida Statutes and Rule 25-22.006, Florida Administrative Code. That determination was made by then Prehearing Officer Joe Garcia in the 1999 reserve margin proceeding, Docket No. 981890-EU, and FIPUG's counsel was allowed access to the system status reports only after executing a non-disclosure agreement.

DATED this 16th day of March, 2001.

Respectfully submitted,



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Response, Motion for Protective Order and Objections to FIPUG's First Request for Production (Nos. 1-6), filed on behalf of Tampa Electric Company, has been served by hand delivery (*) or U. S. Mail on this 16th day of March, 2001 to the following:

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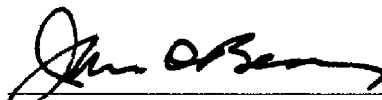
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