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ORIGINAL

July 12, 2001

HAND DELIVERED

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

RECEIVED-FPSC
01 JUL 12 PM 2:47
COMMISSION
CLERK

Re: Fuel and Purchased Power Cost Recovery Clause with Generating
Performance Incentive Factor; FPSC Docket No. 010001-EI

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Motion for a Protective Order. The facsimile copy of the Affidavit of William L. Brown III included with this filing as Exhibit "A" will be supplemented with the original version of that Affidavit tomorrow.

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

- APP _____
- CAF _____
- CMP _____
- COM 5 _____ JDB/pp
- CTR _____ Enclosures
- ECR _____
- LEG 1 _____ cc: All Parties of Record (w/enc.)
- OPC _____
- PAI _____
- RGO _____
- SEC 1 _____
- SER _____
- OTH _____

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

08530 JUL 12 01

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased)
Power Cost Recovery Clause)
and Generating Performance)
Incentive Factor.)
_____)

DOCKET NO. 010001-EI
FILED: July 12, 2001

**TAMPA ELECTRIC COMPANY'S
MOTION FOR A PROTECTIVE ORDER**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Commission Order No. PSC-01-1444-PCO-EI ("Order No. 01-1444") issued July 5, 2001 in this proceeding, Rule 28-106.206, Florida Administrative Code, and Rule 1.280(c), Florida Rules of Civil Procedure, moves the Commission for entry of a protective order requiring the Florida Industrial Power Users Group ("FIPUG") to sign an appropriately designed non-disclosure agreement in advance of reviewing certain information to be provided in response to FIPUG's Interrogatory No. 11(e) and FIPUG's Request for Production of Document No. 3 in accordance with Order No. 01-1444 and, as grounds therefor, says:

In Order No. 01-1444 the Commission, through Prehearing Officer Jaber, afforded Tampa Electric the opportunity to move for a protective order with respect to FIPUG's Interrogatory No. 11(e) and FIPUG's Request for Production of Documents No. 3 describing the confidential nature of the information called for in such discovery requests. By this Motion Tampa Electric respectfully requests that an order be entered requiring FIPUG to execute an appropriate non-disclosure agreement in advance of having access to information responsive to the above-referenced discovery requests. Set forth below are Tampa Electric's justifications for such a requirement.

FIPUG's Interrogatory No. 11(e)

1. As is noted in Order No. 01-1444 FIPUG's Interrogatory No. 11(e) asks Tampa Electric to provide the incremental costs of power purchases made on the day of, the day before and the day after each interruption identified in response to Interrogatory No. 10. The incremental cost to Tampa Electric of power purchases is the actual price Tampa Electric pays for such purchases. This pricing information is sensitive, proprietary business information relating to Tampa Electric's participation in the highly competitive wholesale electric power market in this state, the disclosure of which would impair the competitive business interests of Tampa Electric. As such, the cost information in question falls within a category of proprietary confidential business information specifically identified in Section 366.093(3)(e), Florida Statutes, and, thus qualifies for confidential treatment both by the Commission and any party having access to such information.

2. To understand the importance of confidential treatment of the cost information in question, one must consider the very private and highly competitive nature of the wholesale power market in Florida. Unlike other parts of the country where prices are indexed and published, such as hub prices, the Florida market is completely private and non-published. The Florida wholesale market does not have daily indices where prices are published. This market does not have published hub prices. As a consequence, any market information concerning the costs, operating characteristics, negotiated or offered prices or other similar information a market participant is immensely valuable to other market participants.

3. Disclosure of the price Tampa Electric pays for purchased power during any given hour discloses the fact that Tampa Electric could not itself produce the needed power during the same time frame at a lower cost. This can be used by Tampa Electric Company's

competitors and potential wholesale customers to model Tampa Electric's system and to define the threshold of Tampa Electric's incremental cost of power production on an hour-by-hour basis. This is precisely the type of information Tampa Electric's competitors in the wholesale power market would pay dearly for in order to ascertain the company's incremental cost of production on an hour-by-hour basis.

4. In addition, public disclosure of what Tampa Electric has been willing to pay for purchased power on an hour-by-hour basis pursuant to privately negotiated purchase power agreements would enable potential sellers of electricity to predict what Tampa Electric would be willing to pay for power under any given set of circumstances. This would enable the potential sellers to target a higher price quote to Tampa Electric than they might otherwise offer if they did not have access to this confidential information.

5. Attached hereto as Exhibit "A" is an Affidavit of W. Lynn Brown, Tampa Electric's Director of Wholesale Sales, describing the sensitivity of the incremental price information in question and addressing the impact that public disclosure of the information sought in Interrogatory No. 11(e) as well as the incremental cost information sought in Request for Production of Documents No. 3 would have on Tampa Electric and its retail customers.

6. At the Motion hearing FIPUG's counsel indicated that FIPUG had offered to sign a confidentiality agreement for information for the past 18 months and only objected to protecting information for 1998 and 1999 on the claim that it is "old information" or "stale." That statement was made in connection with Interrogatory No. 18, although counsel for FIPUG characterized the information sought in Interrogatory No. 11(e) as the same kind of incremental cost information. Contrary to FIPUG's unsupported assertions to the contrary, the information in question relating to 1998 and 1999 is not "old" or "stale" and public disclosure of that

incremental cost information concerning power purchases would significantly harm Tampa Electric's competitive interests in the wholesale power market to the ultimate detriment of Tampa Electric's retail customers who benefit from the gains Tampa Electric derives from those sales. As is described in Mr. Brown's attached Affidavit, Tampa Electric's competitors and potential customers in the wholesale power market would be delighted to have access to Tampa Electric's incremental cost of power purchases for 1998 and 1999 to help Tampa Electric's competitors to underbid the company and its potential customers to negotiate the lowest possible price for Tampa Electric supplied wholesale power. As Mr. Brown's Affidavit points out, the physical makeup of Tampa Electric's system, system operations and incremental production costs have not changed significantly since the beginning of 1998. As a result, the hourly incremental cost information pertaining to power purchases during 1998 and 1999 remains significantly useful and extremely valuable from the standpoint of Tampa Electric's wholesale power market competitors and potential wholesale customers. It is the privacy of the Florida wholesale power market and the virtual non-availability of incremental cost information and information regarding other operating characteristics of the individual market participants that makes any cost information of this type highly lucrative to the competition, ultimately to the detriment of the entity to which it pertains.

7. It is very likely that the reason FIPUG claims that dates for 1998 and 1999 is "old" or "stale" is to hopefully have that information deemed nonconfidential so that FIPUG's members who compete with Tampa Electric for wholesale sales can have access to it and put it to use in competing with Tampa Electric for wholesale business.

8. Based on the foregoing and the matters set forth in Mr. Brown's Affidavit (Exhibit "A") Tampa Electric is entitled to the entry of an appropriate protective order requiring

FIPUG to execute an appropriate non-disclosure agreement in advance of reviewing information responsive to Interrogatory 11(e). Absent such relief Tampa Electric and its general body of retail customers will suffer significant adverse effects in the form of a reduced amount of gains on wholesale power sales on a going forward basis.

9. A special situation exists with respect to FIPUG that calls for a non-disclosure agreement preventing individual FIPUG members from having access to any of the incremental cost data regarding wholesale power purchases Tampa Electric provides pursuant to a protective agreement. Many of FIPUG's members are active participants in the wholesale power market in Florida. Everything stated in this Motion thus far regarding the usefulness of this highly sensitive incremental cost information to Tampa Electric's wholesale market competitors and potential customers applies with additional force in the case of those FIPUG members who compete in the Florida wholesale power market. As a result, a non-disclosure agreement should be structured to prevent FIPUG's members from having access to the incremental cost information regarding power purchases. In the absence of such a provision, the Commission would be requiring Tampa Electric to supply highly sensitive incremental cost information to the very entities that compete with Tampa Electric in the Florida wholesale power market. FIPUG's attorneys and/or consultants could still make use of the information without subjecting Tampa Electric and, ultimately its retail customers, to a significant competitive disadvantage.

FIPUG's Request for Production of Documents No. 3

10. This document request seeks documentation to support the fact that Tampa Electric complied with the Commission Order No. PSC-97-1273-FOF-EU ("Order No. 97-1273") regarding the treatment of incremental fuel costs associated with Tampa Electric's wholesale sales to the Florida Municipal Power Agency and the City of Lakeland. As

Commission Order No. 01-1444 notes Tampa Electric, in its response to FIPUG's Motion to Compel, stated that it had answered FIPUG's request but that no documentation beyond what was provided exists. Tampa Electric volunteered to allow FIPUG to review the company's Historic Allocation Pricing ("HAP") reports, even though not directly responsive to the request for production, subject to FIPUG executing a non-disclosure agreement, similar to that which FIPUG executed the last time it reviewed these very same documents.

11. The HAP reports contain detailed hourly incremental cost information and, thus, are subject to the same justification set forth above with respect to Interrogatory 11(e). Beyond this, the HAP reports contain actual hour-by-hour pricing quotes and all of the detailed system operations information used to develop the hour-by-hour pricing quotes. This includes the incremental costs referred to above in connection with FIPUG's Interrogatory 11(e) as well as the unit-by-unit generating characteristics, recent operational history – all of which is information that Tampa Electric's competitors in the wholesale power market, including FIPUG members, could use to a significant competitive advantage adverse to the interests of Tampa Electric and its retail customers.

12. Tampa Electric's disclosure of its hourly incremental cost of making wholesale sales would enable those who compete with Tampa Electric for making such sales to model Tampa Electric's system operations and the cost of those operations to determine what it would take to slightly underbid Tampa Electric on a potential new sale. Making this cost information public could have a significant adverse effect on Tampa Electric's ability to negotiate new wholesale sales. This impact would directly and adversely affect Tampa Electric's retail customers – the real beneficiaries of the gains Tampa Electric is able to derive from making these transactions.

13. Similarly, publishing hourly incremental cost information directly relating to Tampa Electric's wholesale sales would afford potential wholesale customers of Tampa Electric the tools with which to model Tampa Electric's system operations, costs and thus, threshold pricing, all of which is information useful to the potential wholesale customer in negotiating the lowest purchase price with Tampa Electric. Making this cost information public would impose significant downward pressure on the prices Tampa Electric is able to negotiate and this downward pressure would be felt directly by Tampa Electric's retail customers.

14. This Commission on scores of occasions has recognized the highly sensitive nature of cost information relating to Tampa Electric's affiliates, the affiliates of other utilities and the utilities themselves who participate in competitive markets because public disclosure of that information would adversely affect the competitive interests of the party making the disclosure. Furthermore, the Federal Energy Regulatory Commission (FERC) prohibits the disclosure of market information by Tampa Electric to any of its affiliates who have market-based pricing authority.

15. As previously explained to the Commission, the details contained in the HAP reports would enable a Tampa Electric competitor, or a would-be wholesale power customer, to model Tampa Electric's system operations, costing and pricing, to determine within a very minor margin of error what Tampa Electric's incremental costs and quoted prices would be on virtually an hour-by-hour basis for wholesale power sales. This, like the information requested in Interrogatory 11(e), would work to the significant disadvantage of Tampa Electric and the retail customers who are the ultimate beneficiaries of Tampa Electric's wholesale power sales activities.

16. Attached hereto as Exhibit “B” is a copy of the Non-Disclosure Agreement FIPUG entered into relative to the HAP reports in Docket No. 981890-EU, the Commission’s reserve margin investigation. These are the very same reports that were not actually requested by FIPUG in Request for Production of Documents No. 3, but which were offered by Tampa Electric subject to a FIPUG commitment to execute a non-disclosure agreement relative to the content of these reports.

17. This motion sets forth the specific justifications upon which Prehearing Officer Garcia based his decision to require FIPUG’s counsel to sign a non-disclosure agreement before reviewing the same HAP reports in the Commission’s reserve margin docket. However, Tampa Electric stands ready to furnish the HAP reports to the Prehearing Officer for an in camera review if that is considered necessary to re-establish the sensitive, proprietary confidential nature of the information contained in the HAP reports.

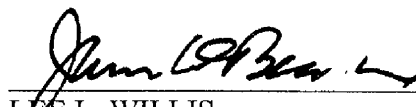
18. Public disclosure of information contained in the HAP reports, like the information to be provided in response to Interrogatory No. 11(e) will only work to the detriment of Tampa Electric’s competitive interests and reduce the benefits that flow to Tampa Electric’s retail customers as a result of the company’s participation in the wholesale electric power market in this state. A protective order requiring a definitive non-disclosure agreement assuring that the documents in question will be treated confidentially and precluding FIPUG members from having access to the information provided in response to this Request for Production of Documents as well as Interrogatory 11(e) will help avoid grave economic consequences to Tampa Electric and the retail customers it serves.

WHEREFORE, Tampa Electric respectfully requests the entry of a protective order requiring counsel for FIPUG to enter into a definitive non-disclosure agreement allowing access

to information sought in FIPUG's Interrogatory No. 11(e) and Request for Production of Documents No. 3 that will preclude public disclosure of the information in question to anyone other than counsel for FIPUG in this proceeding and expert witness consultants who agree to abide by the terms of the non-disclosure agreement upon terms and conditions acceptable to Tampa Electric that preclude disclosure of the information in question to FIPUG's members or anyone acting on their behalf other than FIPUG's legal counsel and expert witness consultants.

DATED this 12th day of July 2001.

Respectfully submitted,



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

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Motion for Protective Order, filed on behalf of Tampa Electric Company, has been furnished by hand delivery (*) or U. S. Mail on this 12th day of July, 2001 to the following:

Mr. Wm. Cochran Keating, IV*
Staff Counsel
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mr. James A. McGee
Senior Counsel
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733

Ms. Vicki Gordon Kaufman*
Mr. Joseph A. McGlothlin
McWhirter, Reeves, McGlothlin, Davidson,
Decker, Kaufman, Arnold & Steen, P.A.
117 S. Gadsden Street
Tallahassee, FL 32301

Mr. Kenneth A. Hoffman
Mr. William B. Willingham
Rutledge, Ecenia, Underwood,
Purnell & Hoffman
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Tallahassee, FL 32302-0551

Mr. Robert Vandiver
Deputy Public Counsel
Office of Public Counsel
111 West Madison Street – Suite 812
Tallahassee, FL 32399-1400

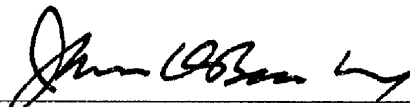
Mr. Matthew M. Childs
Steel Hector & Davis
215 South Monroe Street – Suite 601
Tallahassee, FL 32301

Mr. John W. McWhirter, Jr.
McWhirter, Reeves, McGlothlin, Davidson,
Decker, Kaufman, Arnold & Steen, P.A.
Post Office Box 3350
Tampa, FL 33601

Ms. Susan Ritenour
Gulf Power Company
One Energy Place
Pensacola, FL 32520

Mr. Jeffrey A. Stone
Beggs & Lane
Post Office Box 12950
Pensacola, FL 32576

Mr. Norman Horton
Messer Caparello & Self
Post Office Box 1876
Tallahassee, FL 32302



ATTORNEY

AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF HILLSBOROUGH)

Before me the undersigned authority, personally appeared WILLIAM L. BROWN III, who, first being duly sworn, deposed and said that he is Director Wholesale Marketing and Sales of Tampa Electric Company, and that the information below is true and correct to the best of his knowledge, information, and belief.

Confidential treatment of certain electric wholesale market information:

I have been responsible for the purchase and sale of wholesale power for Tampa Electric Company since April, 1997. I have personally witnessed and participated in the development of the wholesale market within peninsular Florida and throughout the country.

I have read the Motion for a Protective Order to which my Affidavit is appended as Exhibit "A". I verify that the factual matters asserted therein regarding the sensitive, competitive nature of the information that is the subject of such Motion and the harm that Tampa Electric and its general body of ratepayers would suffer if the information is made public or shown to any FIPUG member that competes with Tampa Electric in the wholesale power market are true and correct.

Florida's wholesale market is entirely bilateral, i.e. all transactions are one-on-one and treated confidentially. Other regions (hubs) such as Entergy and Cinergy have developed wholesale power price indices which are updated hourly and published on a daily basis. Deal details are generically published, i.e. the parties are not identified. These indices represent average prices for standard products which are bought and sold into/out of these hubs. Deals within Florida, however, are not published. Past, present and future market price discovery within Florida is accomplished via extensive and costly personal inquiry and research. Tampa Electric invests considerable time and resources "defining the market" each hour of each day. Historical price information is invaluable since the market is typically cyclical. Purchased power quantities and actual prices paid for wholesale power by a market participant are invaluable information and are basic building blocks for future market price forecasting models.

In addition to market price discovery, a supplier's costs and availability are valuable information to other participants. A competitor can take advantage of another by knowing their hourly incremental cost of generation. This information can be used to determine the participant's level of vulnerability at any given time, i.e. the cost reveals which generating unit is currently on the margin. This information is invaluable in determining a participant's level of supply at any

given time. Market participants extract most of their profits when supply vs. demand is out of balance, e.g. California. Historical incremental generation cost data is also valuable to competitors in that it can provide a competitor with an inside look at a participant's operations because a participant's generation portfolio or mode of operation does not change significantly from year to year. Incremental cost data for the years 1998 and 1999 are very sensitive from a competitive standpoint and if made public, could be used by Tampa Electric's wholesale competitors to Tampa Electric's significant disadvantage. This is largely because there have not been significant changes to Tampa Electric's system configuration and operation since the beginning of 1998. This applies equally to the cost data requested in FIPUG's Interrogatory No. 11(e) and to the HAP reports Tampa Electric has offered to provide in response to FIPUG's Document Request No. 3.

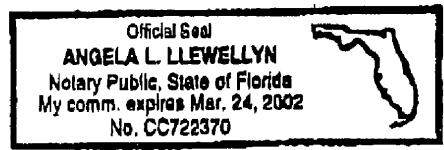
FIPUG has requested that Tampa Electric provide system costs, sales and purchased power information in response to various Interrogatories and Production of Documents (Docket No. 010001-EI). Specific information requests include purchased power and sales contract details, system incremental generation costs, historical power sales quantities and prices and purchased power quantities and prices. (It should be noted that the Federal Energy Regulatory Commission does not allow Tampa Electric to exchange market information with its own affiliates who have market-based pricing authority.) While we have genuinely attempted to comply with FIPUG's requests, we are very concerned with the sensitive nature of this information. FIPUG represents entities who are both Tampa Electric retail customers and wholesale market participants. Should the requested information be shared with FIPUG members who are wholesale market participants or with the public in general, it could disadvantage Tampa Electric's retail customers. We have, therefore, asked FIPUG to sign a non-disclosure agreement as a prerequisite to receiving both market and cost information. FIPUG has objected, which further concerns us and should concern this Commission.

Dated at Tampa, Florida this 12 day of July 2001.

William L. Brown III
 WILLIAM L. BROWN III

Sworn to and subscribed before me this 12th day of July 2001, with the Affiant being personally known to the undersigned.

Angela L. Llewellyn
 NOTARY PUBLIC



My Commission expires: MARCH 24, 2002

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Generic investigation into the)
aggregate electric utility reserve)
margins planned for Peninsular)
Florida)
_____)

DOCKET NO. 981890-EU

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is entered into by and between Tampa Electric Company ("Tampa Electric" or "the company") and Florida Industrial Power User's Group ("FIPUG"), by and through their respective counsel.

Recitals

FIPUG has propounded a number of discovery requests to Tampa Electric during the course of this proceeding. It is expected that certain of Tampa Electric's answers to interrogatories and documents produced in response to requests for production of documents by FIPUG will contain proprietary confidential business information.

The Florida Public Service Commission ("the Commission") has adopted an elaborate rule for dealing with proprietary confidential business information. See Rule 25-22.006, Florida Administrative Code ("Rule"). Under this Rule, the party claiming that information is proprietary confidential business information must file a Request for Confidential Classification before such information is submitted to the Commission. The procedure for filing a Request for Confidential Classification is time consuming and burdensome because it requires a line-by-line, page-by-page analysis of the documents to which a claim of confidentiality attaches.

Under paragraph 7(b) of the Rule, all parties to proceedings are urged to seek mutual agreement regarding access to confidential documents and information prior to bringing a

controversy over such access to the Commission for decision. Under the rule, such agreements do not constitute a waiver of any claim of or objection to confidentiality a party may have.

Agreement

Accordingly, in accordance with paragraph 7(b) of the Rule, and to facilitate the timely review of the information that FIPUG has requested of Tampa Electric, Tampa Electric and FIPUG hereby promise and agree as follows:

1. Applicability. The terms of this Agreement shall cover all confidential documents to which Tampa Electric believes a colorable claim of confidentiality attaches, produced in response to FIPUG's First Request for Production of Documents and First Set of Interrogatories in this docket. This Agreement only covers documents used in this docket.

2. Procedure for Production of Answers and Documents.

a. Before furnishing confidential documents to FIPUG, the company will segregate documents with a colorable claim of confidentiality from those which do not have a colorable claim of confidentiality.

b. Documents with a colorable claim of confidentiality shall be stamped "Confidential." Where less than the entire document is confidential, the specific portions of documents which contain confidential information shall be highlighted by the company. If the entire document is confidential, the entire document shall be highlighted by the company.

c. After documents with a colorable claim of confidentiality have been stamped "Confidential" and highlighted, such documents shall be numbered consecutively beginning with the number "1." The companies shall keep an index of documents with a colorable claim of confidentiality which includes the document number and a general description of the document.

d. Documents with a colorable claim of confidentiality shall be made available to FIPUG's counsel and expert witnesses at the offices of Tampa Electric at a time which is mutually convenient.

3. Procedures for Review of Confidential Answers and Documents.

a. FIPUG's counsel and expert witnesses may review all documents stamped confidential. FIPUG's counsel and expert witnesses shall not disclose the contents of any document stamped confidential to anyone other than FIPUG's counsel and expert witnesses without the prior written consent of Tampa Electric. ~~in Community Organization~~ The confidential documents shall only be reviewed and/or disclosed to counsel and expert witnesses who have a need to review the information in connection with the subject matter of this Docket No. 981890-EU, and have signed the acknowledgment attached to this Agreement.

b. In addition, FIPUG's counsel and expert witnesses for Docket No. 981890-EU may designate some or all of the documents for copying. One copy of the documents will be delivered to FIPUG's counsel in boxes or envelopes clearly marked confidential. FIPUG may not reproduce the confidential documents in any manner without the express written permission of Tampa Electric, which consent will not unreasonably be withheld.

c. While documents stamped "Confidential" are in the possession of FIPUG, its counsel and expert witnesses (collectively "FIPUG"), they shall individually and collectively implement procedures that are adequate to ensure that documents stamped confidential shall not be disclosed to anyone other than those persons covered by this Agreement.

d. Before anyone reviews confidential documents for FIPUG, such person shall sign a written acknowledgment that he or she has read this Agreement and agrees to abide by its terms. (Exhibit "A" NON-DISCLOSURE AGREEMENT.) The total number of persons

which is subject to Chairman Garcia's ruling on the confidential nature of the documents and their contents and the final disposition of any motion for reconsideration and appeal of such ruling. ~~which appeal shall not impede in camera production of the documents at hearing~~ MB MB

who may review the confidential documents by FIPUG shall not exceed eight (8) without the express written permission of Tampa Electric. Each person shall sign the acknowledgment attached to the document.

e. The confidential documents and copies of confidential documents produced pursuant to this Agreement shall remain the property of Tampa Electric. Such confidential documents and copies shall not be used for any purpose unrelated to the proceeding in FPSC Docket No. 981890-EU.

4. Pre-Hearing Procedure. At least seven working days before the final hearing in the above-styled docket, FIPUG shall provide Tampa Electric with a list of confidential documents, if any, that FIPUG intends to use at the final hearing. Such list need not include copies of confidential testimony and or exhibits filed by Tampa Electric with the Commission under a claim of confidentiality. All confidential documents not listed by FIPUG (except copies of confidential testimony and or exhibits filed by Tampa Electric with the Commission under a claim of confidentiality) shall be returned to Tampa Electric. Upon receipt of the list from FIPUG, Tampa Electric shall within a reasonable time file a Request for Confidential Classification covering the documents on the list. Nothing in this Agreement is intended to preclude FIPUG from challenging the merits of whether a particular document is proprietary confidential business information within the meaning of Section 366.093, Florida Statutes.

5. Term. This Agreement shall be effective from the date it is executed by the parties until the conclusion of the above-styled docket. At the end of the term of this Agreement, or before, FIPUG shall return all "confidential" documents of the company remaining in its possession to the undersigned counsel for the company.

6. Remedies. In the event FIPUG discloses, disseminates or releases any proprietary information received from another party without proper authorization, Tampa Electric may refuse to provide any further proprietary information and may demand prompt return to Tampa Electric all proprietary information previously provided to FIPUG. The parties agree: divulgence or unauthorized use of the confidential information could damage Tampa Electric; the amount of resulting damages could be difficult to ascertain; the party whose information is disclosed may not reasonably or adequately be compensated for loss of such information in damages along; and the party whose information is disclosed shall be entitled to injunctive or other equitable relief to prevent or remedy a breach of this agreement or any part of it. Nothing herein is intended to restrict any remedies available to the parties for disclosure, dissemination or release of proprietary information by another party involved in this agreement.

7. Authority. The undersigned acknowledge and represent that they have actual authority to enter into this Agreement on behalf of their respective clients.

8. Modifications. This Agreement can be modified by further written agreement of the parties. If the parties are unable to agree on a mutually acceptable modification, either party may petition the FPSC to determine the basis on which such documents will be made available for review by FIPUG's expert witnesses.

DATED this 21st day of October, 1999.

Vicki Gordon Kaufman

[Signature]

VICKI GORDON KAUFMAN
McWhirter, Reeves, McGlothlin, Davidson,
Decker, Kaufman, Arnold & Steen, P.A.
117 S. Gadsden Street
Tallahassee, FL 32301

ATTORNEY FOR FIPUG

James D. Beasley

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

ATTORNEYS FOR TAMPA ELECTRIC
COMPANY

Exhibit "A"

NON-DISCLOSURE AGREEMENT

The undersigned hereby certifies that prior to the disclosure to them of certain information and documents belonging to or in the possession of, or made available by Tampa Electric, which are considered by Tampa Electric or the owner of such information or documents, to be of a trade secret, privileged or confidential nature, they have read the Non-Disclosure Agreement between Tampa Electric and FIPUG for purposes of FPSC Docket No. 981890-EU, and agree to be bound by its terms.

h:\data\jdb\tec\981890 non-disclosure agreement with fipug.doc