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JOHNNIE BYRD
Speaker



January 23, 2004

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 031033-EI

Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket are the original and fifteen (15) copies of Office of Public Counsel's Response to Tampa Electric Company's Objections to Citizens Third Request for Production of Documents.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Vandiver".

Robert Vandiver
Associate Public Counsel

RV/pwd
Enclosures

DOCUMENT NUMBER-DATE

01055 JAN 23 03

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Tampa Electric Company's
2004-2008 waterbound transportation
contract with TECO transport and trade

Docket No. 031033-EI

Filed: January 23, 2003

OFFICE OF PUBLIC COUNSEL'S RESPONSE TO TAMPA ELECTRIC COMPANY'S OBJECTIONS TO CITIZENS THIRD REQUEST FOR PRODUCTION OF DOCUMENTS

The citizens of the State of Florida (Citizens) through the Office of Public Counsel, pursuant to Rule 28-106.206, Florida Administrative Code Rule 1.280 and 1.350 Florida Rules of Civil Procedure and Order No. PSC-03-1398-PCO-EI issued in this proceeding on December 11, 2003, files this Response to Tampa Electric Company's Objections to Citizen's Third Request for Production of Documents filed January 20, 2004, and states:

1. On January 9, 2004, Citizens filed its First Motion to Compel Production of Documents. That motion sought production of the balance sheet and income statement from TECO Transport for December 31, 1992, and the past five years. Citizens hereby adopt and incorporate that pleading in the arguments are substantially identical.

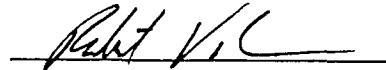
2. In both instances, the company argues that it should not be required to produce the documents because Tampa Electric does not possess or have access to the documents. Company response of January 16, 2004, at page 1-3, Exhibit A at 1-2; Company Response of January 20, 2004, pages 1-2.

3. Citizens contend that the cost to transport coal is relevant to the issues in this proceeding. Should the Commission not approve the contract at issue, the Commission may wish to look at other indicies such as the cost to TECO Transport in

arriving at a fair and reasonable rate that ratepayers are required to pay for the transportation of coal.¹

4. Affiliate transactions are particularly subject to manipulation and the Commission should carefully scrutinize each transaction to be certain that rate payers are paying no more than market. This is exactly why Citizens wish access to the records of the affiliated company.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert Vandiver", is written over a horizontal line.

Robert D. Vandiver
Office of Public Counsel
111 West Madison Street Room 812

¹ Although technically Tampa Electric contracts with TECO Transport for the transportation, it is ratepayers that ultimately foot the bill.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and exact copy of the above and foregoing has been furnished by U.S. Mail or *hand-delivery this 23rd day of January, 2004:

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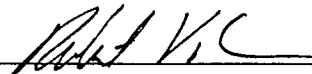
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