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Sent: Monday, December 08, 2008 4:01 PM
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Subject: Docket No. 080317-EI
Attachments: FIPUG's Objections to TECO's 3rd Set of ROGS _Nos 10-11_ and 2nd PODs _8_ 12.08.08.pdf

Electronic Filing:

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- b. Docket No. 080317-EI – In re: Petition for Rate Increase by Tampa Electric
- c. This document is filed on behalf of FIPUG.
- d. The document has 7 pages.
- e. The document is FIPUG's Objections to TECO's 3rd Set of Interrogatories (Nos. 10-11) & 2nd Request for Production of Documents (No. 8).

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12/8/2008

DOCUMENT NUMBER-DATE
11266 DEC-8 8

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase)
by Tampa Electric Company.)
_____)

DOCKET NO. 080317-EI

FILED: December 8, 2008

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S
THIRD SET OF INTERROGATORIES (NOS. 10-11) AND
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NO. 8)**

The Florida Industrial Power Users Group (FIPUG) submits the following Objections to Tampa Electric Company's (TECO) Third Set of Interrogatories (Nos. 10-11) and First Request for Production of Documents (No. 8).

I. General Objections.

FIPUG asserts the following general objections to TECO's Third Set of Interrogatories (Nos. 10-11) and Second Request for Production of Documents (No. 8):

1. FIPUG objects to each and every individual discovery request, to the extent it calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. FIPUG in no way intends to waive any such privilege or protection.

2. FIPUG objects to each individual request to the extent it requires production of information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. FIPUG in no way intends to waive claims of confidentiality.

3. FIPUG objects to any definitions or instructions accompanying the discovery requests to the extent that they are inconsistent with and expand the scope of discovery specified in the Florida Rules of Civil Procedure that are incorporated into the Model Rules of Procedure or the Commission's rules on discovery. If some question arises as to FIPUG's discovery obligations, FIPUG will comply with applicable rules and not with any of the definitions or instructions accompanying the discovery requests that are inconsistent with or exceed the requirements of those rules. Furthermore, FIPUG objects to any discovery request that calls for FIPUG to create data or information that it otherwise does not have because there is no such requirement under the applicable rules and law.

4. FIPUG objects to any definition or instruction in any discovery request that seeks interrogatory answers containing information from persons or entities who are not parties to this proceeding or that are not subject to discovery under applicable rules.

5. It is possible that not every relevant document may have been reviewed or considered in developing FIPUG's responses to the discovery requests. Rather, FIPUG will provide all the information that FIPUG obtained after a good faith, reasonable and diligent search conducted in connection with these discovery requests. To the extent that the discovery requests propose to require more, FIPUG objects to the requests individually and collectively on the grounds that compliance would impose an undue burden or expense on FIPUG.

6. FIPUG objects to each discovery request to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

7. FIPUG objects to each and every discovery request to the extent it is vague, ambiguous, overly broad, burdensome, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests.

8. FIPUG expressly reserves and does not waive any objections it may have to the admissibility, authenticity or relevancy of the information provided in its responses to the subject discovery requests.

II. Specific Objections — Third Set of Interrogatories (Nos. 10-11)

In addition to the general objections set forth above, which are hereby asserted and incorporated by reference as to each individual request, FIPUG asserts the following specific objections:

11. With respect to each expert witness identified in response to Interrogatory No. 10, provide the following:

(b) With respect to each area of expertise identified in response to Interrogatory 11(a), identify all proceedings in which the witness was qualified to testify as an expert in such area of expertise, by reference to the court or agency, the case or docket number and the dates of the witness's testimony.

Objection: In addition to its general objections, FIPUG objects to this request on the grounds that it is burdensome and overbroad. Mr. Pollock, FIPUG's witness on cost of service and rate design, has appeared in hundreds of proceedings spanning the last thirty (30) years. A response to TECO's request would require a search of 30 years of appearances. Attached as Appendix A to Mr. Pollock's testimony, filed on November 26, 2008 in this docket, is a list of his appearances since 1995. TECO may use this list to

research Mr. Pollock's appearances.

II. Specific Objections — Second Request for Production of Documents (No. 8)

8. With respect to each person whom FIPUG expects to call as an expert witness in this proceeding, identify the witness and produce the following in hard copy and to the extent it exists in the following format, in EXCEL or EXCEL compatible format with all formulae intact:

(a) Copies of all testimonies and exhibits submitted by the witness in utility regulatory proceedings in Florida and in all other regulatory jurisdictions from January 1, 2003 to date.

Objection: In addition to its general objections, FIPUG objects to this request, as to Mr. Pollock, on the grounds that it is burdensome and overbroad. Mr. Pollock has appeared in numerous proceedings. A response to TECO's request would require an extensive search of testimony filings. Attached as Appendix A to Mr. Pollock's testimony, filed on November 26, 2008 in this docket, is a list of his appearances since 1995. Most of the testimony on the list is publically available to TECO for its review.

(b) Copies of all workpapers, calculations, spreadsheets, computer models, computer programs and other materials prepared by, for or on behalf of the witness, or otherwise relied upon by the witness, that support the witness's testimony in this proceeding and all of such documents that support the conclusions or recommendations contained in such testimony.

Objection: In addition to its general objections, FIPUG objects to this request on the grounds that it is burdensome and overbroad in its request for "all workpapers" etc. and for "all of such documents." FIPUG will produce, in response to Production Request No.

2, a working copy of the class cost-of-service studies Mr. Pollock used in this case. FIPUG will also produce Mr. Pollock's workpapers in response to Production Request No. 4, and documents Mr. Pollock referenced in response to Production Request No. 3.

Mr. Pollock, he has relied on his over 30 years of experience in Florida and other jurisdictions in the area of cost of service and rate design. The documents he reviewed include, among others: TECO's testimony in this case related to cost of service issues as well as discovery responses provided by TECO on that topic. In addition, Mr. Pollock has considered literally thousands of documents, treatises, textbooks and other sources of information over the course of his 30 + year professional career. These materials have all in some way shaped his professional knowledge and judgment. Identifying all of those sources of information clearly is not possible within the time frame for discovery in this proceeding.

Similarly, Mr. Herndon has relied on his extensive financial expertise in the financial arena. The documents he reviewed include, among others: TECO's testimony in this case related to return on equity and bond ratings. In addition, Mr. Herndon has considered thousands of documents which he has reviewed over his extensive career. These have all in some way shaped his professional knowledge and judgment. Identifying all of those sources of information clearly is not possible within the time frame for discovery in this proceeding.

(c) Copies of all decisions and orders of regulatory agencies from January 1, 2000 to date referring to testimony presented or positions taken by the witness in the proceeding that gave rise to such decision or order.

Objection: FIPUG incorporates herein its Objection to Interrogatory No. 8(a).

(d) Copies of all orders or decisions reflecting or supporting your answer to Interrogatory 11(b).

Objection: FIPUG incorporates herein its Objection to Interrogatory 11(b).

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing FIPUG Objections to TECO's Third Set of Interrogatories (Nos. 10-11) and Second Request for Production of Documents (No. 8) has been furnished by electronic mail and U.S. Mail this 8th day of December, 2008 to the following:

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