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April 6, 2009

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COMMISSION
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HAND DELIVERED

Ms. Ann Cole, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Petition for Rate Increase by Tampa Electric Company;
Docket No. 080317-EI

Dear Ms. Cole:

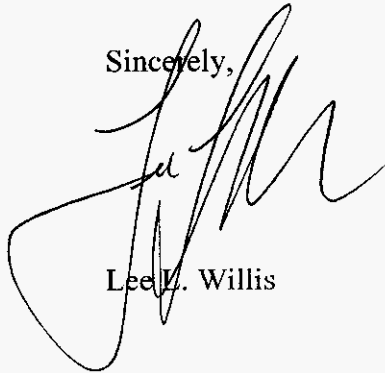
Enclosed are the original and twenty (20) copies of Tampa Electric Company's Response to Florida Industrial Power Users Group's Objection to Administrative Approval of Its IS, IST and SBI Tariffs and Rate Design.

Please acknowledge receipt and filing of this document by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

COM _____
ECR _____
GCL 2 _____
OPC _____
RCP 1 _____
SSC 1 _____
SGA 2 _____
ADM _____
CLK LLW/bjd _____

Sincerely,



Lee L. Willis

cc: All Parties of Record

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 080317-EI

FILED: April 6, 2009

**TAMPA ELECTRIC COMPANY'S RESPONSE TO
FLORIDA INDUSTRIAL POWER USERS GROUP'S OBJECTION
TO ADMINISTRATIVE APPROVAL OF
ITS IS, IST AND SBI TARIFFS AND RATE DESIGN**

Tampa Electric Company ("Tampa Electric" or the "company") files this its Response to Florida Industrial Power User's Group's ("FIPUG") Objection to Administrative Approval of Tampa Electric's IS, IST and SBI Tariffs (IS rate schedules) and Rate Design filed at 4:15 p.m. on Friday, April 3, 2009 and says:

1. The Commission on March 17, 2009 voted to retain the IS rate schedules as a separate firm rate schedule with a GSLM credit provided for their interruptibility. In doing so, the Commission rejected all of FIPUG's rate design proposals for the new separate IS rate schedules and voted specifically to close the new IS rate schedule to new business.

2. The real issue here is not the "design" of the IS rates but is rather the level of the energy and demand charges in the rate schedules and whether the IS rate schedules should be closed to new business.

3. FIPUG asserts:

TECO is proposing to more than double the IS energy charge. This design of the energy charge was not discussed at hearing and contradicts evidence.

This assertion is misleading and incorrect. The appropriate level of the energy and demand charges to be included in IS rate schedules was discussed both directly and indirectly at length in the record

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FPSC-COMMISSION CLERK

in evidence relating to whether customers served under the current IS rates should be transferred to the GSD rate schedule or continue to be served under separate IS rates (Issue 87), whether a separate IS rate should be a firm rate offset by contracted credit values (CCV) credits under GSLM-2 and GSLD-3 to properly consider the benefits of interruptibility (Issue 87), and, if so, how should the CCV credit be applied to load factor adjusted demand (Issue 87). In addition, the record shows detailed discussions concerning the appropriate cost of service study (Issue 83), the treatment of the Big Bend Scrubber and the Polk Gasifier as energy (Issue 84), and the resolution of all of the issues leading up to the Commission's decision in Issue 80 with respect to the appropriate amount of the rate increase in the proceeding. On March 17, 2009 the Commission made its decisions with respect to these issues. Consequently the energy and demand charges resulting from these multiple decisions are fall out issues which are now before the Commission for final decision on April 7, 2009.

4. The exact energy and demand charges to be placed into the IS rate schedules is precisely what is before the Commission for final decision. These are fall out numbers because they are dependent upon and driven by the multiple decisions the Commission made on March 17, 2009 which affect the level of the demand and energy charges for the IS rates. The "design" decisions were made on March 17, and the remaining issues before the Commission simply involve approval of the calculation of the fall out numbers.

5. FIPUG complains that the precise numbers of the energy and demand charges were not in evidence. Of course the evidence does not have the precise final numbers for the demand or energy charges because those levels were dependent first on the level of the rate increase approved and then on the resolution of the multiple rate design issues decided on March 17, 2009. That is precisely why the Commission's final decision is split into two Agenda Conferences.

6. The record evidence certainly supports the decisions the Commission made on March 17, 2009 that lead to a determination of the fall out numbers. FIPUG complains that the IS energy charge included in the Staff Recommendation is increased by 125%. While this is mathematically correct, it is also true that the demand charge included in the Staff Recommendation is the same demand charge level found in the current IS Tariffs. The demand charges to be included in IS rate schedules under Staff's recommendation, if approved by the Commission, will have a 0% increase. The levels for the demand and energy charges recommended by Staff for the proposed IS rates also reflect the application of the load factor adjusted CCV credit. Staff's March 27, 2009 recommendation explains: ". . . increasing the energy charge in lieu of the demand charge will ensure that the base rate component of bills for all IS customers with varying load factors will remain unchanged."

7. FIPUG complains that the 125% energy charge increase is higher than the company's proposed percent increase to its overall revenue requirement in its original filing. This is a misleading statement. While the energy charge increase is a higher percentage than the proposed revenue requirement increase, this allegation ignores the fact that the Staff's proposed demand charge has a 0% increase.

8. FIPUG further complains that the energy charge is higher than what Tampa Electric provided in a response to discovery (Exhibit 13, Document 15), Response to Staff Interrogatory 232. This is incorrect. First of all, the company did not propose a separate IS rate but merely responded with respect to how a separate IS rate could be structured. The response makes it clear that the company did not propose or support the retention of a separate IS rate schedule. The response simply provided an example of how the energy and demand charge levels could be set for a separate IS rate. In that example the company held the energy charge at the current level and

increased the demand charge to make up the differential. In other words, the energy charge was not increased but the demand charge would have increased 413% from \$1.45 to \$6.00. FIPUG is flat wrong in its assertion that the company “stated that the energy charge should be comparable to the current IS-3 energy charge.”

9. FIPUG states the rate levels in the proposed IS rates are highly illogical. Quite to the contrary, these rate levels are highly logical as explained by Staff on page 3 of its March 27, 2009 recommendation. The rate levels recommended simply implement the Commission’s decision made on March 17, 2009.

10. FIPUG contends that the closure of the IS rate was not raised as an issue in the case. While such closure was not separately and specifically identified as an issue, it was covered in the company’s initial rate design proposal which Tampa Electric continued to support in its brief on page 66 which states: “If the Commission determines that the IS class should remain separate from GSD, the class should remain closed to new business and should only consist of existing accounts.” Staff’s recommendation on March 5, 2009 at page 196 under issue 88 states: “The IS Rate should remain closed to new business.” This recommendation was approved by the Commission on March 17, 2009 and consequently must be included in the language of the tariff. Tampa Electric’s current IS rates are closed to new business and the Commission’s decision is consistent.

11. It is obvious that FIPUG’s objection is merely an inappropriate and premature attempt to seek reconsideration of the Commission’s decisions on March 17, 2009 on the various issues affecting the IS rate level and the specific direction provided to include language in the tariff stating that the rate schedule shall be closed to new business. It is most telling in this respect that FIPUG argues that the result recommended is illogical demonstrating that it is merely disagreeing with the Commission’s decisions on March 17, 2009 that affect IS rates.

12. FIPUG also objects to providing Staff with authority to administratively approve the tariffs. Such authority is normal and expected because once the revenue requirement decision was reached and certain rate design guidance was given by the Commission, the only task left for Staff was to utilize these decisions and guidance to derive the resulting demand and energy charges and then bring the results back to the Commission for final approval. Once these charges are approved, the Staff then is given administrative authority to check whether the approved energy and demand charges and the tariff language is consistent with those decisions including the provision that the tariff be closed to new business. This is obviously a ministerial act not requiring any other procedural steps to approve the tariffs to be effective on May 7, 2009 as set out in the Commission's schedule established for this case. This activity is contemplated in all rate case dockets and is the reason the Commission's final agenda consideration in rate proceedings are split into two separate Agenda Conferences.

13. The next opportunity for raising any issues with respect to the Commission's decisions, including its decision with respect to the energy and demand charges which are presented for approval on April 7, 2009, is a Motion for Reconsideration under Rule 25-22.060, Fla. Admin. Code.

14. FIPUG asserts that ". . . because decisions as to these tariffs are substantive, rather than ministerial such delegation would be inappropriate." By making this assertion, FIPUG effectively assumes that substantive decisions will remain after the Commission votes on April 7, 2009. Such assertion is simply incorrect. All substantive decisions will have been made by the Commission and only remaining ministerial task is the checking the tariff schedules to ensure they represent the appropriate rates, charges and language consistent with the Commission's decision. The Commission most assuredly will not be delegating ratemaking authority to administrative staff

as FIPUG contends. Moreover, Citizens v. Wilson, 567 So.2d 889 (Fla. 1990), cited by FIPUG, supports the delegation of final tariff to Staff. That case at pg. 892 states:

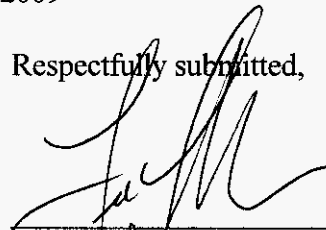
Further we do not believe that the Commission improperly delegated to its Staff the authority to approve the revised supplemental service rider. The Commission specified the conditions for approval, and the Staff merely carried out the ministerial task of seeing whether these conditions were met.”

That is exactly what is contemplated following the Commission’s final decision on April 7, 2009.

WHEREFORE, Tampa Electric urges this Commission to deny FIPUG’s objection for the reasons stated herein.

DATED this 6th day of April, 2009

Respectfully submitted,



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to Florida Industrial Power Users Group's Objection to Administrative Approval of Its IS, IST and SBI Tariffs and Rate Design, filed on behalf of Tampa Electric Company, has been served by hand delivery (*) or U. S. Mail on this 6th day of April, 2009 to the following:

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Florida Public Service Commission
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Tallahassee, FL 32399-0850

J. R. Kelly/Patricia A. Christensen
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

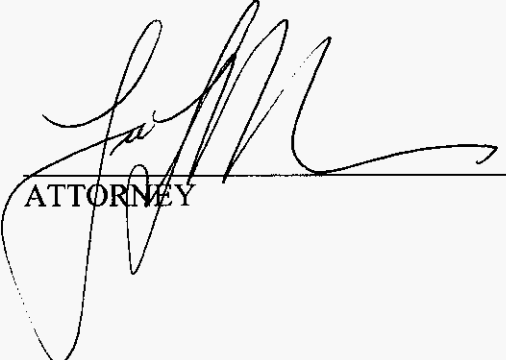
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