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August 1, 2012

HAND DELIVERED

RECEIVED-FPSC
12 AUG - 1 PM 4:00
COMMISSION
CLERK

Ms. Ann Cole, Director
Division of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Conservation Cost Recovery Clause
FPSC Docket No. 120002-EG

Dear Ms. Cole:

Enclosed for filing in the above docket are the original and fifteen (15) copies each of Tampa Electric Company's Objections to SACE's First Set of Interrogatories (Nos. 1-16) and First Request for Production of Documents (Nos. 1-5) , propounded and served by electronic and U. S. Mail on July 12, 2012.

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

JDB/pp
Enclosures

COM		
AFD	12	cc: All Parties of Record (w/enc.)
APA	_____	
ECO	_____	
ENG	_____	
GCL	_____	
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CLK	_____	

DOCUMENT NUMBER-DATE
05193 AUG-1 2012
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy Conservation Cost)
Recovery Clause.)
_____)

DOCKET NO. 120002-EG

FILED: August 1, 2012

**TAMPA ELECTRIC COMPANY'S OBJECTIONS
TO SACE'S FIRST SET OF INTERROGATORIES
TO TAMPA ELECTRIC COMPANY (NOS. 1-16)**

Pursuant to Rule 28-106.206, Florida Administrative Code, and Rule 1.340, Florida Rules of Civil Procedure, Tampa Electric Company files these its objections to SACE's First Set of Interrogatories to Tampa Electric Company (Nos. 1-16) served on Tampa Electric on July 12, 2012. As grounds therefor, the company says:

General Objections

1. With respect to each interrogatory that requests information for the last five years, Tampa Electric objects to the interrogatory as being beyond the scope of this docket and, therefore, irrelevant. The purpose of this docket is to set conservation cost recovery factors to be utilized during the period 2013. Information relevant to that task includes true-up data for 2011, actual/estimated data for 2012 and projected data for 2013. Such data relating to the actual/estimated true-up for 2012 does not yet exist nor does information pertaining to projected data for 2013. Thus, the only available relevant information is data pertaining to 2011. Accordingly, Tampa Electric objects to SACE's interrogatories to the extent that each of them asks for information or data relating to any years prior to 2011, and states that data for 2012 and 2013 does not yet exist. Tampa Electric objects to each interrogatory to the extent that it asks for forecasts or projections that have yet to be made.

DOCUMENT NUMBER-DATE

05193 AUG-1 2

FPSC-COMMISSION CLERK

2. With respect to the “Definitions” and “Instructions” in SACE’s First Set of Interrogatories, Tampa Electric objects to any definitions or instructions that are inconsistent with Tampa Electric’s discovery obligations under applicable rules. If some question arises as to Tampa Electric’s discovery obligations, Tampa Electric will comply with applicable rules and not with any of SACE’s definitions or instructions that are inconsistent with those rules. Furthermore, Tampa Electric objects to any interrogatory that calls for Tampa Electric to create data or information that it otherwise does not have because there is no such requirement under the applicable rules and law.

3. Additionally, Tampa Electric generally objects to SACE’s interrogatories to the extent that they call for data or 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.

4. By making these general objections at this time, Tampa Electric does not waive or relinquish its right to assert additional general and specific objections to SACE’s discovery at the time Tampa Electric’s response is due.

Specific Objections

5. Tampa Electric objects to SACE’s Interrogatory No. 9 which asks the following:

9. For each energy efficiency program, please provide the rate of free ridership, and the spillover rate, for the last five years.

Tampa Electric objects to this interrogatory on the ground that it seeks information relating to program design and characteristics as opposed to cost recovery. Issues of free ridership and spillover rate have to do with the design characteristics of programs as opposed to the recovery of costs incurred in implementing programs. In Docket No. 110002-EG SACE attempted to raise similar program design issues in its October 3, 2011 Preliminary List of Issues and

Positions. There SACE attempted to include five issues having to do with the design of approved DSC plan programs. That attempt was rejected in the Prehearing Order¹ wherein the Prehearing Officer stated with respect to the five SACE issues:

Issues 9-13

Pursuant to Rule 265-17.015, Florida Administrative Code, this docket is limited to cost recovery of Commission approved conservation programs. The individual demand-side management (DSM) plan dockets implement and address the approval of the programs and continue to be the more appropriate forum for resolution of SACE's raised issues. I find that SACE's Issues 9-13 are not relevant and beyond the scope of this proceeding.

The same observation applies to SACE's attempt to address free ridership and spillover rate characteristics of existing approved programs in this proceeding. That information is not relative to cost recovery and is beyond the scope of this proceeding.

6. Tampa Electric objects to SACE's Interrogatory No. 12 which asks the following:

12. For the entire energy efficiency portfolio, please provide a breakdown of annual portfolio costs into incentives and administrative costs for the last five years.

Tampa Electric objects to the vagueness of the term "administrative costs." The particular costs required to be reported are set out in detail in Schedule C2 filings and do not include a category entitled "administrative costs." To the extent SACE desires to review details of the costs of each energy efficiency program, it may do so in detail by reference to Schedule C2, available on line through the Commission's website. The reported data does not include a category entitled "administrative costs" and Tampa Electric does not maintain a subaccount by that name. Tampa Electric further objects to this interrogatory in that it would require Tampa Electric to make calculations it doesn't otherwise make in the ordinary course of business and which the company is not required to make as a part of its ECCR filings.

¹ Order No. PSC-11-0507-PHO-EG issued October 28, 2011 in Docket No. 110002-EG

7. Tampa Electric objects to SACE's Interrogatory No. 14 which asks the following:

14. Please provide the MW of incremental capacity savings, MWh of incremental energy savings, and participants for each program in 2011, and forecasts for the year 2012, 2013, and 2014.

Tampa Electric objects to this interrogatory to the extent that it seeks information relating to year 2014. This docket is limited to recovery of costs associated with Tampa Electric's approved demand-side management programs for years 2011, 2012 and 2013. Information related to years other than 2011, 2012 and 2013 is not relevant to any issues presented in this docket and is not reasonably calculated to lead to the discovery of admissible evidence. Tampa Electric further notes that forecasts for year 2013 are the subject of Tampa Electric's projection testimony which is due to be filed in this docket on September 12, 2012 and that Tampa Electric continues to be in the process of developing this information. This information will be provided in testimony on September 12, 2012, but not sooner.

8. Tampa Electric objects to SACE's Interrogatory No. 15 which asks the following:

15. Please explain the basis for forecasts, by program, for numbers of participants, MW capacity savings, and MWh energy savings.

Tampa Electric objects to SACE's Interrogatory No. 15 on the ground that it seeks information which is not relevant to any issue in this docket and which is not calculated to lead to the discovery of admissible evidence. As noted in Order No. PSC-11-0507-PHO-EG, "this docket is limited to cost recovery of Commission approved conservation programs." *Id.* at 14. This interrogatory seeks explanation of the "basis" for participating and energy/demand savings forecasts which were previously established in Tampa Electric's Commission-approved Demand-Side Management Plan. These forecasts do not change from year to year, absent modifications to the Company's DSM Plan. To the extent that SACE desires to explore such subjects, it must

attempt to do so in the context of the individual demand-side management plan dockets which specifically address these matters. Id. See also, Prehearing Transcript dated 10/20/2011 (Document No. 07767-11) at pages 27-36.

9. Tampa Electric objects to SACE's Interrogatory No. 16 which asks the following:

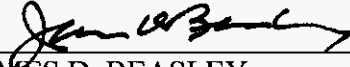
16. Please provide any cost forecasts for each program for the year 2012 and 2014.

Tampa Electric objects to SACE's Interrogatory No. 16 to the extent that it seeks information relating to year 2014. This docket is limited to recovery of costs associated with Tampa Electric's approved demand-side management programs for years 2011, 2012 and 2013. Information related to years other than 2011, 2012 and 2013 is not relevant to any issues presented in this docket and is not reasonably calculated to lead to the discovery of admissible evidence. Tampa Electric further notes that forecasts for year 2013 are the subject of Tampa Electric's projection testimony which is due to be filed in this docket on September 12, 2012 and that Tampa Electric continues to be in the process of developing this information. This information will be provided in testimony on September 12, 2012, but not sooner.

WHEREFORE, Tampa Electric Company submits the foregoing general and specific objections to SACE's First Set of Interrogatories to Tampa Electric Company (Nos. 1-16).

DATED this 1st day of August, 2012.

Respectfully submitted,



JAMES D. BEASLEY
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(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objections to SACE's First Set of Interrogatories (Nos. 1-16), filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (*) on this 1st day of August, 2012 to the following:

Ms. Lee Eng Tan*
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Ms. Cheryl Martin & Ms. Aleida Socarras
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West Palm Beach, FL 33402-3395

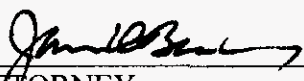
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ATTORNEY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy Conservation Cost)
Recovery Clause.)
_____)

DOCKET NO. 120002-EG

FILED: August 1, 2012

**TAMPA ELECTRIC COMPANY'S OBJECTIONS
TO SACE'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS TO TAMPA ELECTRIC COMPANY (NOS. 1-5)**

Pursuant to Rule 28-106.206, Florida Administrative Code, and Rule 1.350, Florida Rules of Civil Procedure, Tampa Electric Company objects to SACE's First Request for Production of Documents to Tampa Electric Company (Nos. 1-5). As grounds therefor, the company says:

General Objections

1. With respect to each document request seeking information for the last five years, Tampa Electric objects to the request as being beyond the scope of this docket and, therefore, irrelevant. The purpose of this docket is to set conservation cost recovery factors to be utilized during the period 2013. Information relevant to that task includes true-up data for 2011, actual/estimated data for 2012 and projected data for 2013. Documents relating to the actual/estimated true-up for 2012 and projections for 2013 have yet to be prepared. Thus, the only available relevant documents relate to data for 2011. Accordingly, Tampa Electric objects to SACE's requests for production of documents to the extent that each of them asks for documents relating to any years prior to 2011, and states that documents addressing data for 2012 and 2013 do not yet exist.

2. Tampa Electric generally objects to the time and place of production requirement in SACE's First Request to Produce Documents and will make all responsive documents available for inspection and copying at the offices of the undersigned counsel at a mutually-

convenient time, or will produce the documents in some other manner or at some other place that is mutually convenient to both Tampa Electric and SACE for purposes of inspection, copying, or handling of the responsive documents.

3. With respect to the “Definitions” in SACE’s First Request for Production of Documents, Tampa Electric objects to any definitions or instructions that are inconsistent with Tampa Electric’s discovery obligations under applicable rules. If some question arises as to Tampa Electric’s discovery obligations, Tampa Electric will comply with applicable rules and not with any of SACE’s definitions or instructions that are inconsistent with those rules. Furthermore, Tampa Electric objects to any request that calls for Tampa Electric to create documents that it otherwise does not have because there is no such requirement under the applicable rules and law.

4. Additionally, Tampa Electric generally objects to SACE’s requests to the extent that they call for documents 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. Tampa Electric will provide a privilege log in accordance with the applicable law or as may be agreed to by the parties to the extent, if at all, that any document request calls for the production of privileged or protected documents.

5. Further, in certain circumstances, Tampa Electric may determine upon investigation and analysis that documents responsive to certain requests to which objections are not otherwise asserted are confidential and proprietary and should be produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to provide such information in response to such a request, Tampa Electric is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement, protective

order, or the procedures otherwise provided by law or in the Order Establishing Procedure. Tampa Electric hereby asserts its right to require such protection of any and all information that may qualify for protection under the Florida Rules of Civil Procedure, the Order Establishing Procedure, and all other applicable statutes, rules, and legal principles.

6. Tampa Electric generally objects to SACE's First Request for Production of Documents to the extent that it calls for the production of "all" documents of any nature, including, every copy of every document responsive to the requests. Tampa Electric will make a good faith, reasonably diligent attempt to identify and obtain responsive documents when no objection has been asserted to the production of such documents, but it is not practicable or even possible to identify, obtain, and produce "all" documents. In addition, Tampa Electric reserves the right to supplement any of its responses to SACE's requests for production if Tampa Electric cannot produce documents immediately due to their magnitude and the work required to aggregate them, or if Tampa Electric later discovers additional responsive documents in the course of this proceeding.

7. Tampa Electric also objects to any Interrogatory or Request for Production that purports to require Tampa Electric or its experts to prepare studies, analyses, or to do work for SACE that has not been done for Tampa Electric, presumably at Tampa Electric's cost.

8. By making these general objections at this time, Tampa Electric does not waive or relinquish its right to assert additional general and specific objections to SACE's discovery at the time Tampa Electric's response is due under the Florida Rules of Civil Procedure and the Order Establishing Procedure. Tampa Electric provides these general objections at this time to reduce the delay in identifying and resolving any potential discovery disputes.

Specific Objections

9. Tampa Electric objects to SACE's Request for Production of Documents No. 5 which reads as follows:

5. Please provide documents prepared by the Company, or consultants of cost differences on a per-participant, or per-MW, or per-MWh basis for the Company's portfolio of efficiency programs, or the Company's efficiency programs compared to other utilities' efficiency programs, or the Company's efficiency programs compared to program alternatives.

This document request appears to seek information relating to the appropriateness of Tampa Electric's portfolio of DSM programs, vis-à-vis, those of other utilities or other alternative programs. Tampa Electric objects on the ground that such information is beyond the scope of this proceeding. In Docket No. 110002-EG SACE attempted to raise similar program appropriateness issues in its October 3, 2011 Preliminary List of Issues and Positions. There SACE attempted to include five issues having to do with the design of approved DSM plan programs. That attempt was objected in the Prehearing Order¹ wherein the Prehearing Officer stated with respect to the five SACE issues:

Issues 9-13

Pursuant to Rule 265-17.015, Florida Administrative Code, this docket is limited to cost recovery of Commission approved conservation programs. The individual demand-side management (DSM) plan dockets implement and address the approval of the programs and continue to be the more appropriate forum for resolution of SACE's raised issues. I find that SACE's Issues 9-13 are not relevant and beyond the scope of this proceeding.

The same observation applies to SACE's attempt to address free ridership and spillover rate characteristics of existing approved programs in this proceeding. That information is not relative to cost recovery and is beyond the scope of this proceeding.

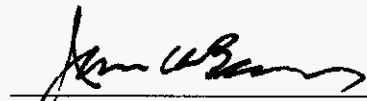
¹ Order No. PSC-11-0507-PHO-EG issued October 28, 2011 in Docket No. 110002-EG

10. Subject to the foregoing general and specific objections, Tampa Electric states that it has no documents of the type requested in Document Request No. 5 relative to 2011.

WHEREFORE, Tampa Electric Company submits the foregoing general and specific objections to SACE's First Request for Production of Documents to Tampa Electric Company (Nos. 1-5).

DATED this 1st day of August, 2012.

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 Objections to SACE's First Request for Production of Documents (Nos. 1-5), filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (*) on this 1st day of August, 2012 to the following:

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