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August 19, 2013

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

Re: Petition for Rate Increase by Tampa Electric Company
FPSC Docket No. 130040-EI

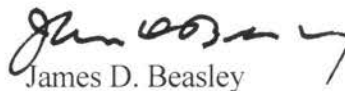
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Motion to Compel Responses to Tampa Electric Company's First Request for Admissions (Nos. 1-10), Second Set of Interrogatories (Nos. 3-21) and Second Request for Production of Documents (Nos. 9-15) to WCF Hospital Utility Alliance.

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
Enclosure

cc: All Parties of Record (w/enc.)

COM	_____
AFD	3
APA	3
ECO	5
ENG	3
GCL	1
IDM	_____
TEL	_____
CLK	_____

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 130040-EI

FILED: August 19, 2013

**TAMPA ELECTRIC COMPANY'S
MOTION TO COMPEL RESPONSES TO TAMPA ELECTRIC
COMPANY'S FIRST REQUEST FOR ADMISSIONS (NOS. 1-10)
SECOND SET OF INTERROGATORIES (NOS. 3-21) AND
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)
TO WCF HOSPITAL UTILITY ALLIANCE**

Pursuant to Rule 28-106.206, Florida Administrative Code, and Rule 1.380, Florida Rules of Civil Procedure, Tampa Electric Company ("Tampa Electric" or "the company") moves the Commission for an order compelling the WCF Hospital Utility Alliance ("HUA") to provide appropriate answers, responses and productions of documents objected to by HUA in response to Tampa Electric's First Request for Admissions (Nos. 1-10), Second Set of Interrogatories (Nos. 3-21) and Second Request for Production of Documents (Nos. 9-15). As grounds therefor, the company states:

HUA has objected to each and every one of Tampa Electric Company's requests for admission, all but five of the company's interrogatories and each and every request for production of documents propounded by Tampa Electric. Tampa Electric is in need of the information set forth in these discovery requests in order to appropriately prepare for hearing. HUA's nearly across-the-board objections to Tampa Electric's discovery requests inappropriately jeopardizes the company's ability to prepare for hearing. Stated simply, HUA has stonewalled Tampa Electric's legitimate efforts to obtain information with which to demonstrate that HUA's

witnesses have criticized Tampa Electric for conducting its business in ways very similar to those utilized by HUA's member hospitals.

In considering the matters below, the Commission should recognize that under the Florida Rules of Civil Procedure the information Tampa Electric has requested does not need to be admissible evidence, but instead, only needs to be reasonably calculated to lead to the discovery of admissible evidence. (Rule 1.280(b)(1), Florida Rules of Civil Procedure).

On August 17, counsel for Tampa Electric conferred with counsel for HUA in an attempt to resolve the matters addressed herein and avoid the need for this motion. That effort was unsuccessful.

Set forth below are Tampa Electric's justifications for the entry of an order requiring HUA to immediately respond to the discovery requests Tampa Electric has propounded:

Requests for Admission

1. HUA has objected to Tampa Electric's Request for Admission No. 1 which reads as follows:

1. Admit that Hospital A uses Towers Watson as its compensation advisor, the same as Tampa Electric.

Basis for Compelling a Response: If, as Tampa Electric has already verified, Hospital A uses Towers Watson as its compensation advisor, the same as Tampa Electric, that fact underscores the appropriateness of relying upon Towers Watson as a compensation advisor. HUA has placed Tampa Electric's compensation at issue in this case. (Issue Nos. 37, 38 and 38A). The fact that Hospital A uses Towers Watson as a compensation advisor has a bearing on the credibility of Towers Watson and its compensation advice provided to Tampa Electric. The fact that Hospital A uses Towers Watson is certainly an indication that Hospital A considers Towers Watson's advice in

the area of compensation to be legitimate and reliable. Tampa Electric is entitled to HUA's admission that Hospital A uses Towers Watson as its compensation advisor.

2. HUA has objected to Tampa Electric's Request for Admission No. 2 which reads as follows:

2. Admit that 30 or more officers and key employees of Hospital A received bonus and/or incentive compensation in 2010.

Basis for Compelling a Response: HUA has raised an issue regarding the fact that Tampa Electric's officers and key employees receive bonus and/or incentive compensation. (Issue Nos. 37, 38 and 38A). The fact that employees of Hospital A receive bonus and/or incentive compensation (a fact that Tampa Electric has verified from publicly information) has a bearing on the credibility of HUA's contention regarding Tampa Electric's officers and key employees receiving bonus and/or incentive compensation. The fact also has a bearing upon the appropriateness of any large company providing bonus and/or incentive compensation to its officers and key employees. HUA's unwillingness to admit this fact, while understandable, is inappropriate.

3. HUA has objected to Tampa Electric's Request for Admission No. 3, which reads as follows:

3. Admit that a portion of Hospital A's bonus and incentive compensation program is based on achieving certain financial targets.

Basis for Compelling a Response: HUA has placed the fact that Tampa Electric Company's bonus and incentive compensation program is based on achieving certain financial targets. (Issue Nos. 37, 38 and 38A). The fact that Hospital A does the same thing (which Tampa Electric has verified from publicly available information) has a

bearing on the appropriateness of corporations in general basing their bonus and compensation programs on achieving certain financial targets. While HUA's reluctance to provide this admission is understandable from a tactical standpoint, it is inappropriate and HUA should be made to answer this request.

4. HUA has objected to Tampa Electric's Request for Admission No. 4, which reads as follows:

4. Admit that officers and key employees of Hospital B received bonus and incentive compensation in 2011.

Basis for Compelling a Response: HUA should be compelled to respond to this request for admission for the same reasons stated with respect to Request No. 3. The fact that Hospital B officers and key employees receive bonus and incentive compensation has a bearing upon the reasonableness of such compensation and the credibility of HUA's witnesses who criticized Tampa Electric for paying bonus and incentive compensation. (Issue Nos. 37, 38 and 38A).

5. HUA has objected to Tampa Electric's Request for Admission No. 5, which reads as follows:

5. Admit that nine officers and key employees of Hospital C received bonus and incentive compensation in 2011.

Basis for Compelling a Response: HUA should be compelled to respond to this request for admission on the same ground as stated with respect to Requests Nos. 3 and 4. (Issue Nos. 37, 38 and 38A).

6. HUA has objected to Tampa Electric's Request for Admission No. 6, which reads as follows:

6. Admit that payment of bonuses to officers and key employees of Hospital C in 2011 are based in part on financial performance.

Basis for Compelling a Response: HUA should be compelled to respond based on the same grounds asserted with respect to Requests Nos. 3 and 4. (Issue Nos. 37, 38 and 38A).

7. HUA has objected to Tampa Electric's Request for Admission No. 7, which reads as follows:

7. Admit that the company that owns or manages Hospital's D and # has a stock based compensation system as reflected in its SEC Form 10K for the period ended December 31, 2012.

Basis for Compelling a Response: HUA has raised an issue regarding Tampa Electric's stock based compensation system. (Issue Nos. 37, 38 and 38A). The fact that Hospital D and E have stock based compensation systems (as already verified by Tampa Electric) directly bears on the credibility of HUA's witnesses regarding the appropriateness of stock base compensation. HUA should be compelled to answer this request for admission.

8. HUA has objected to Tampa Electric's Request for Admission No. 8, which reads as follows:

8. Admit that, while legal expenses may vary from time to time for each of the HUA hospital members, most large businesses, including HUA's hospital members, are subject to litigation on a continuing basis.

Basis for Compelling a Response: HUA has raised an issue regarding Tampa Electric's legal expenses. (Issue No. 45). The fact that HUA hospital members, like Tampa Electric, are subject to litigation on a continuing basis has a bearing on the credibility of HUA's witnesses who challenge Tampa Electric's legal expenses.

9. HUA has objected to Tampa Electric's Request for Admission No. 9, which reads as follows:

9. Admit that legal expenses and payment for litigation are ordinary and necessary expenses of running a modern business such as a hospital.

Basis for Compelling a Response: HUA's objection to this request is almost the equivalent of objecting to a request to admit that the sun comes up in the east. The fact in question has a direct bearing upon the issue raised by HUA concerning the appropriateness of legal expenses, including litigation, incorporated into Tampa Electric's 2014 test year expenses. (Issue No. 45).

10. HUA has objected to Tampa Electric's Request for Admission No. 10, which reads as follows:

10. Admit that Hospital A's legal expenses in 2009 and 2010 based on its Form 990's were \$9.4 and \$2.8 million, respectively.

Basis for Compelling a Response: HUA should be compelled to respond to Request No. 10 for the same reasons set forth in connection with Request No. 9. (Issue No. 45).

Interrogatories

11. HUA has objected to Interrogatory No. 3, which reads as follows:

3. Please state how many of your member hospitals are for-profit and how any are non-profit.

Basis for Compelling a Response: Whether HUA's member hospitals are for profit or not-for-profit has a direct bearing on whether those members are comparable to Tampa Electric, a for profit corporation. HUA has raised many issues concerning the appropriateness of compensation and expenses which differ based on whether a corporation is for profit or non-profit. (Issue Nos. 48 and 52).

12. HUA has objected to Interrogatory No. 4, which reads as follows:

4. For each member of HUA please provide the percentage of employees eligible for incentive compensation.

Basis for Compelling a Response: HUA has raised issues regarding the percentage of Tampa Electric's employees eligible for incentive compensation. The answer to this interrogatory has a direct bearing on the credibility of HUA's position on the percentage of employees that are or should be eligible for incentive compensation. (Issue Nos. 37, 38 and 38A).

13. HUA has objected to Interrogatory No. 5, which reads as follows:

5. By member hospital, provide the amounts of total payroll paid out in incentive compensation broken out by the following categories:
 - a. Bonus payouts
 - b. Stock compensations
 - c. Other non-salary compensation

Basis for Compelling a Response: HUA has raised issues regarding the details of incentive compensation. The information sought in this interrogatory has a direct bearing upon the credibility of HUA's witnesses' testimony concerning the appropriate structure of incentive compensation. HUA should be compelled to answer this interrogatory. (Issue Nos. 37, 38 and 38A).

14. HUA has objected to Interrogatory No. 6, which reads as follows:

6. How much compensation has HUA paid its attorneys and consultants for this base rate proceeding through July of 2013?

Basis for Compelling a Response: HUA has raised issues concerning Tampa Electric's expenses associated with this base rate proceeding. The information sought in this interrogatory has a direct bearing on the credibility of HUA's position concerning rate case expense. (Issue No. 46).

15. HUA has objected to Interrogatory No. 7, which reads as follows:

7. Please provide the percentage change in O&M costs by year from 2000 to the present for each member hospital?

Basis for Compelling a Response: HUA has placed in issue Tampa Electric's O&M costs. The answer to this interrogatory has a direct bearing upon HUA's credibility in this regard and also will help provide a comparison of O&M costs for businesses in general from 2000 to the present. (Issue Nos. 48 and 52).

16. HUA has objected to Interrogatory No. 8, which reads as follows:

8. Please provide the percentage change in uncollectable accounts expense by year from 2000 to the present for each member hospital?

Basis for Compelling a Response: HUA has raised an issue concerning uncollectable accounts expense for Tampa Electric. The information sought in this interrogatory will have a direct bearing upon the reasonableness of uncollectable accounts expense and the credibility of HUA's witnesses who address this subject. HUA should be compelled to answer this interrogatory.

17. HUA has objected to Interrogatory No. 9, which reads as follows:

9. Please provide the amount spent on legal costs as a percentage of O&M for each member hospital from 2000 to the present?

Basis for Compelling a Response: HUA should be required to answer this interrogatory for the same reasons set forth above in connection with Interrogatories Nos. 6 and 7.

18. HUA has objected to Interrogatory No. 10, which reads as follows:

10. Please provide the percentage of legal costs that is recurring vs. non-recurring for each member hospital?

Basis for Compelling a Response: HUA should be required to respond to this interrogatory for the same reasons set forth above in connection with Interrogatories Nos.6 and 7. (Issue No. 45).

19. HUA has objected to Interrogatory No. 11, which reads as follows:

11. Please provide the percentage change in electric costs to the change in O&M for each member hospital from 2000 to the present?

Basis for Compelling a Response: HUA has raised issues concerning Tampa Electric's change in O&M expense over time. (Issue No. 48). The information sought in this interrogatory will place Tampa Electric's O&M expenses in context with businesses in general, including HUA members. The answer to this interrogatory has a direct bearing upon the credibility of HUA's witnesses who address Tampa Electric's O&M.

20. HUA has objected to Interrogatory No. 12, which reads as follows:

12. Please provide the percentage change in total compensation for each member hospital from 2007 to the present?

Basis for Compelling a Response: HUA has raised issues concerning Tampa Electric's total compensation. The information sought in this interrogatory has a direct bearing on HUA's witnesses' credibility and will provide a general gauge as to the reasonableness of total compensation for corporations in general. (Issue Nos. 37, 38 and 39A).

21. HUA has objected to Interrogatory No. 15, which reads as follows:

15. Regarding Kollen at 9, lines15-24. Please provide all Commission references where the Commission stated the company's O&M request was "excessive"?

Basis for Compelling a Response: Witness Kollen is the individual who referenced Commission statements that Tampa Electric's O&M request was "excessive".

HUA should be compelled to answer this interrogatory as to which statements the witness is referring. Tampa Electric has no obligation to do legal research in an effort to speculate as to the basis for witness Kollen's reference. If witness Kollen knows what he is talking about, it would be easy for him to provide the information in question. (Issue No. 48).

22. HUA has objected to Interrogatory No. 16, which reads as follows:

16. Regarding Kollen. Please list all commission decisions that have specifically adopted his proposed "top-down" approach in setting O&M levels for projected test years.

Basis for Compelling a Response: HUA should be required to provide the information requested for the same reasons set forth in response to HUA's objection to Interrogatory No. 15. (Issue No. 48).

23. HUA has objected to Interrogatory No. 19, which reads as follows:

19. Regarding Kollen. Please List all Commission decisions that have specifically adopted his proposed "bottom-up" approach in setting O&M levels for projected test years.

Basis for Compelling a Response: HUA should be required to provide the information requested for the same reasons set forth in response to HUA's objections to Interrogatory No. 15. (Issue No. 48).

24. HUA has objected to Interrogatory No. 20, which reads as follows:

20. Regarding Kollen at 23 lines 1-8. Please list all Commission decisions that have specifically adopted witness Killen's proposed incentive to reduce common equity by allowing a pro-forma adjustment to incentive compensation.

Basis for Compelling a Response: HUA should be required to provide the information requested for the same reasons set forth in response to HUA's objections to Interrogatory No. 15. (Issue No. 48).

Production of Documents Requests

25. HUA has objected to Production of Documents Request No. 9, which reads as follows:

9. Please provide the compensation and benefits program for each member hospital.

Basis for Compelling a Response: HUA's has raised issues regarding the compensation benefits program of Tampa Electric. (Issues Nos. 37, 38 and 38A). HUA's hospital members are large corporations with similar compensation issues relating to officers, key employees and a general workforce. The credibility of HUA's witnesses and HUA's positions regarding compensation and benefits programs are directly affected, credibility wise, by the information sought in this production request. HUA should be compelled to answer.

26. HUA's has objected to Production of Documents Request No. 10, which reads as follows:

10. Please provide all agreements between HUA and its attorneys and consultants in this rate case proceeding.

Basis for Compelling a Response: The information sought in this production of document has a direct bearing upon HUA's true goals relative to its intervention in this case and whether those goals are consistent with the best interests of all Tampa Electric customers. HUA is free to raise the attorney-client privilege with respect to any of the information contained in the answer to this production of document request. There are appropriate ways to do that, but a blanket objection is not one of them. HUA should be required to respond to this production of document request. (Issue Nos. 48, 52, 37, 38 and 38A).

27. HUA has objected to Production of Documents Request No. 11, which reads as follows:

11. Please provide annual financial statements and budgets for each member hospital by year from 2002 to present.

Basis for Compelling a Response: HUA has raised issues concerning the financial statements and budgets for Tampa Electric. The same information is sought in Request for Production of Documents No. 11 regarding HUA's member hospitals. The information sought has a direct bearing on the credibility of HUA's positions. Although HUA attempts to differentiate hospitals from utility companies, that is a shallow distinction that ignores the fact that there are many similarities in the operation, costs, compensation and other details of operating large businesses whether they be hospitals, utility companies, banks, or box stores. (Issue Nos. 48, 52, 37, 38 and 38A).

28. HUA has objected to Production of Documents Request No. 12, which reads as follows:

12. Please provide any contract or agreement between HUA and its member hospitals regarding this base rate proceeding.

Basis for Compelling a Response: HUA should be required to answer this Production of Documents Request No. 12 for the same reasons set forth above regarding Production of Documents Request No. 10. (Issue Nos. 48, 52, 37, 38 and 38A).

29. HUA has objected to Production of Documents Request No. 13, which reads as follows:

13. Please provide all documents, notes or memoranda between member hospitals and HUA regarding this base rate proceeding.

Basis for Compelling a Response: HUA should be required to answer this Production of Documents Request No. 13 for the same reasons set forth above regarding Production of Documents Request No. 10. (Issue Nos. 48, 52, 37, 38 and 38A).

30. HUA has objected to Production of Documents Request No. 14, which reads as follows:

14. Please provide any and all work papers used to produce the "12 CP and 1/13th AD methodology that incorporates MDS methodology for allocating distribution costs referenced in Witness Baron's testimony page 6, lines 7-9 and Exhibit SFB-6. Please provide such work papers and the cost of service study itself, electronically in Excel, with all formulas and calculations intact and unlocked.

Basis for Compelling a Response: Tampa Electric is certainly entitled to see the backup for witness Baron's 12 CP and 1/13th AD methodology that incorporates MDS methodology as this is the proposal put forth by witness Baron in this case. There exists a Non-Disclosure Agreement between HUA and Tampa Electric and there is absolutely no basis for HUA's objection to this Production of Documents Request. (Issue No. 56).

31. HUA has objected to Production of Documents Request No. 15, which reads as follows:

15. Please provide copies of all invoices received from each witness who submitted pre-filed testimony or who will testify on behalf of HUA.

Basis for Compelling a Response: HUA has raised issues concerning the appropriateness of amounts included in Tampa Electric's rate case expense. The information requested in this Production of Documents Request has a direct bearing on the credibility of HUA's position concerning rate case expense. HUA should be required to provide the information asked for in this Production of Documents Request. (Issue No. 46).


Conclusion

Considering the foregoing, and the fact that HUA has pushed discovery in Commission proceedings to new limits, it should be obvious that HUA's litigation strategy is to propound aggressive and overwhelmingly time consuming discovery, while objecting nearly across-the-board to relevant discovery inquiries that directly relate to issues HUA has raised or addressed in this proceeding. HUA should not be allowed to prevail with this strategy.

WHEREFORE, Tampa Electric submits the foregoing in support of its request that HUA be compelled to respond to the above discovery requests.

DATED this 19th day of August 2013.

Respectfully submitted,



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ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CORRECTED CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Compel, has been furnished by electronic mail*, overnight delivery**, hand delivery*** or U. S. Mail**** on this 19th day of August 2013 to the following:

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