

**Marguerite McLean**

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**From:** Hayes, Annisha <AnnishaHayes@andrewskurth.com>  
**Sent:** Friday, August 23, 2013 12:12 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 130040-EI: HUA's Response in Opposition to TECO's Motion to Compel  
**Attachments:** HUA Response to TECO Motion.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Kenneth L. Wiseman  
Andrews Kurth LLP  
1350 I Street, NW  
Suite 1100  
Washington, DC 20005  
202-662-2715 (phone)  
202-662-2739 (fax)

b. Docket No. 130040-EI.

c. Document being filed on behalf of WCF Hospital Utility Alliance (HUA).

d. There are a total of 70 pages.

e. The document attached for electronic filing is HUA's Response in Opposition to TECO's Motion to Compel.

(See attached HUA Response to TECO Motion.pdf).

Thank you for your attention and cooperation to this filing.

Regards.

Annisha Hayes  
AndrewsKurth, LLP  
1350 I Street, NW  
Suite 1100  
Washington, DC 20005  
202-662-2783  
202-662-2739 (fax)  
[ahayes@andrewskurth.com](mailto:ahayes@andrewskurth.com)  
[www.andrewskurth.com](http://www.andrewskurth.com)

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Petition for rate increase by  
Tampa Electric Company**

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**Docket No.: 130040-EI**

**Dated: August 23, 2013**

**WCF HOSPITAL UTILITY ALLIANCE'S  
RESPONSE IN OPPOSITION TO  
TAMPA ELECTRIC COMPANY'S MOTION TO COMPEL**

Pursuant to Rule 28-106.204, Florida Administrative Code, the WCF Hospital Utility Alliance ("HUA") respectfully submits the following Response in Opposition to Tampa Electric Company's ("Tampa Electric") August 19, 2013 Motion to Compel Responses 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). In support hereof, HUA states as follows:

**Response in Opposition to Discovery Motion**

Tampa Electric's Motion to Compel asserts that "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." As a baseline premise, Tampa Electric's logic is seriously flawed. The hospitals that are members of HUA are not public utilities. Thus, the hospitals costs are not at issue in this case, nor do the hospitals put their costs at issue by their witnesses challenging the costs Tampa Electric claims as support for its request to increase rates. It is Tampa Electric that bears the burden to prove that its proposed rates are fair, just and reasonable under Florida law. It is Tampa Electric's expenses, as the regulated entity, that are at issue, not the expenses of its customers.

Moreover, Tampa Electric's insistence in support of its motion, that the discovery it seeks is appropriate because the hospitals and Tampa Electric allegedly conduct their business in similar ways, could not be farther from the truth. Hospital operations and regulated electric utility operations are completely disparate, and the reasons for which hospitals incur expenses, and the pattern under which they incur expenses, bear no relation to the reasons for, or manner in which, expenses arise for an electric utility. Thus, discovery of the hospitals' expenses will provide no assistance to the Commission in determining the legitimacy of the expenses Tampa Electric claims as support for its requested rate increase. Accordingly, no basis exists for Tampa Electric to request, let alone be provided, information about wholly irrelevant business expenses from the hospitals.

Tampa Electric's requests for information from HUA's member hospitals about their compensation systems also miss the mark. In the case of compensation expenses, the implicit predicate for Tampa Electric's discovery requests appears to be a position that HUA's witness, Mr. Kollen, has challenged the concept of paying bonuses and having incentive compensation plans. That is incorrect. Mr. Kollen has not challenged Tampa Electric's right to establish bonus and incentive compensation programs. Rather, he has asserted that: (1) Tampa Electric's historic spending is not in line with the costs it seeks to include in its revenue requirement in this case; and (2) the cost of stock compensation expenses related to financial performance should be borne by the financial shareholder TECO Energy, Inc., not by the ratepayers of Tampa Electric. Information about the compensation systems of the hospitals is not probative of those issues and will not assist the Commission in its determination of the level of compensation related costs that should be included in the determination of Tampa Electric's rates.

Production of the requested information also poses an overly broad and undue burden on the members of HUA in certain instances in which Tampa Electric would have the hospitals gather years of data back to the year 2000. In addition, Tampa Electric has requested attorney-client privileged information such as agreements and communications between HUA's members and its attorneys. There can be no justifiable basis for such a request.

What seems clear is that Tampa Electric's discovery requests that are at issue, and its motion to compel, reflect a strategy of harassment designed to discourage customers from challenging Tampa Electric's claimed revenue requirement. That is not a justifiable basis for discovery. Nor is Tampa Electric's claim "that HUA has pushed discovery in Commission proceedings to new limits." Such an accusation would be laughable if it were not offensive and demonstrably false. Each party to the proceeding was allowed three hundred (300) interrogatories, 300 requests for production of documents and 300 requests for admission. HUA has served a total of 443 discovery requests, *i.e.*, less than half of the 900 limit set by the Commission. Further, Tampa Electric has not claimed, nor could it, that any information HUA has sought is irrelevant. Accordingly, the Commission should, as HUA is sure it will, decide Tampa Electric's motion based on the substance of the information it is seeking and disregard Tampa Electric's histrionics.

Viewed in that context, there clearly is no merit to Tampa Electric's motion. Viewed in that contest, the legal standard upon which Tampa Electric itself relies for its motion requires denial of the motion.

Tampa Electric has asked the Commission to "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).” However, the issue of any future discovery is moot because the procedural deadline for discovery has passed. Therefore, while Tampa Electric is correct in identifying the baseline standard for requesting information, even if the requested information could lead to the discovery of admissible evidence, which it doesn’t as the requested information is immaterial to any issue in this case, it cannot lead to the discovery of admissible evidence for the reason that no additional discovery opportunity exists in this case. Accordingly, Tampa Electric’s Motion to Compel should be denied.

HUA responds below to each of the specific assertions from Tampa Electric’s August 19, 2013 Motion to Compel.<sup>1</sup>

#### **Requests for Admission**

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

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

Tampa Electric argues that HUA placed Tampa Electric’s compensation at issue in this case. (Issue Nos. 37, 38, and 38A). Tampa Electric argues that if a member hospital of HUA uses the same company as Tampa Electric to advise on compensation, the use by an HUA member hospital bears on the credibility of the compensation advisor. Tampa Electric states that

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<sup>1</sup> For ease of reference, HUA includes as attachments hereto Exhibit A: HUA’s Objections to Tampa Electric Company’s First Set of Interrogatories (Nos. 1-2) and First Request for Production of Documents (Nos. 1-8) (July 29, 2013); Exhibit B: HUA’s Objections 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) (Aug. 15, 2013).

it "is entitled to HUA's admission that Hospital A uses Towers Watson as its compensation advisor."

**Response:** HUA has not challenged Tampa Electric's right to compensate executives. It is the amount of compensation that TECO proposes to include in the determination of rates that HUA Witness Kollen has addressed in his testimony. In particular, HUA has pointed out that Tampa Electric has projected compensation expenses in excess of historic levels. Additionally, HUA has argued that stock compensation expense and should be borne by Tampa Electric's shareholder, TECO Energy, Inc. Whether Tampa Electric has received sound advice from Towers Watson has nothing to do with the factual issues Mr. Kollen raised which relate to the fact that there is a disconnect between amounts that Tampa Electric includes as potential payments under its compensation plans and the amounts it actually spends. Further, whether Towers Watson provides sound advice has no bearing on the policy issue of whether shareholders or ratepayers should bear the cost of stock compensation as reward for financial performance. Thus, this request for admission is not probative and will provide no assistance to the Commission in determining the legitimacy of the expenses Tampa Electric claims as support for its requested rate increase. Accordingly, Tampa Electric's request to compel an answer to Request for Admission No. 1 should be denied.

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.

Tampa Electric argues that HUA "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)." Tampa Electric asserts "that employees of Hospital A receive bonus and/or incentive

compensation (a fact that Tampa Electric has verified from publicly information)" and that such 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." Tampa Electric has purported to justify this request for admission as having "a bearing upon the appropriateness of any large company providing bonus and/or incentive compensation to its officers and key employees."

**Response:** See Response to Request for Admission No. 1. For similar reasons, information responsive to Request for Admission No. 2 will not be probative of the matters in dispute. In particular, whether Hospital A has provided bonus or incentive compensation to 30 officers and key personnel, or 3 officers and key personnel, or 3000 officers or other personnel, that information will not assist the Commission in resolving whether: (1) Tampa Electric should be authorized to include in rates the amount it has requested (which is based on the maximum incentive/bonus amounts under its compensation plan) when historic data show that Tampa Electric has not provided incentive compensation at those levels, or (2) as a matter of policy, shareholders or ratepayers should be responsible for stock compensation for financial performance. Accordingly, Tampa Electric's motion to compel a response to Request for Admission No. 2 should be denied.

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.

Tampa Electric's motion argues that a member hospital of HUA has a bonus and incentive compensation program based on achieving certain financial targets and that Tampa Electric also has a bonus and incentive compensation program based on achieving certain

financial targets. Tampa Electric asserts that its request for admission “has a bearing on the appropriateness of corporations in general basing their bonus and compensation programs on achieving certain financial targets.”

**Response:** *See* Responses to Requests for Admission Nos. 1 and 2. Again, whether Hospital A provides bonus compensation based on financial performance is not probative of whether: (1) Tampa Electric should be authorized to include in rates the amounts it has requested (which is based on the maximum incentive/bonus amounts under its compensation plan) when historic data show that Tampa Electric does not provide incentive compensation at those levels, or (2) as a matter of policy, shareholders or ratepayers should be responsible for stock compensation for financial performance. Accordingly, Tampa Electric’s motion to compel a response to Request for Admission No. 3 should be denied.

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.

Tampa Electric’s motion argues “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).”

**Response:** *See* Responses to Requests for Admission Nos. 1 and 2. Particularly as shown regarding Request for Admission No. 2, information about Hospital B providing bonus and/or incentive compensation to officers and key employees is not probative of whether: (1) Tampa Electric should be authorized to include in rates the amount it has requested (which is based on the maximum incentive/bonus amounts under its compensation plan) when historic data show

that Tampa Electric has not provided incentive compensation at those levels, or (2) as a matter of policy, shareholders or ratepayers should be responsible for stock compensation for financial performance. Accordingly, Tampa Electric's motion to compel a response to Request for Admission No. 4 should be denied.

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.

Tampa Electric provides no additional justification for this request other than to reiterate its request that HUA be compelled to answer for the same reason in Requests Nos. 3 and 4.

**Response:** See Responses to Requests for Admission Nos. 1, 2 and 4. For the same reasons, Tampa Electric's motion to compel a response to Request for Admission No. 5 should be denied.

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.

Tampa Electric provides no additional justification for this request other than to reiterate its request that HUA be compelled to answer for the same reason in Requests Nos. 3 and 4.

**Response:** See Responses to Requests for Admission Nos. 1, 2 and 4. For the same reasons, Tampa Electric's motion to compel a response to Request for Admission No. 6 should be denied.

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.

**Response:** See Responses to Requests for Admission Nos. 1, 2 and 4. For the same reasons, Tampa Electric's motion to compel a response to Request for Admission No. 7 should be denied.

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.

In support of its request to compel a response to this request, Tampa Electric states "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."

**Response:** Litigation expenses are separable from general legal expenses. For instance, hospitals incur legal expenses associated with compliance with any number of Federal and State healthcare related laws. These legal expenses do not necessarily have anything to do with litigation costs. Tampa Electric's request for admission fails to recognize the distinction between these two types of legal fees. Further, the reasons why legal expenses arise for hospitals and electric utilities, and the patterns under which they arise, are completely different. However, as a general matter, HUA will stipulate that large businesses are involved in litigation from time to time.

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.

Tampa Electric characterizes “HUA’s objection to this request [as] almost the equivalent of objecting to a request to admit that the sun comes up in the east.” Tampa Electric argues that “[t]he fact in question has a direct bearing upon ... the appropriateness of legal expenses, including litigation, incorporated into Tampa Electric's 2014 test year expenses. (Issue No. 45).”

**Response:** This request for admission does not seek information that is probative of whether a penny of Tampa Electric’s claimed revenue requirement should be approved. However, HUA’s counsel will stipulate that hospitals in general incur legal expenses, including expenses for litigation. However, that acknowledgement does not support the inclusion of any legal expenses in Tampa Electric’s revenue requirement as the healthcare industry as hospitals face vastly different regulatory schemes and litigation risks than those faced by electric utilities.

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.

Tampa Electric argues that HUA should be compelled to respond to this request for the same reasons in Request No. 9. (Issue No. 45).

**Response:** HUA objects to this request for admission because the legal expenses and types of litigation faced by a hospital (*e.g.*, medical malpractice litigation, medicare, insurance, etc.) bear no relation to the legal expenses faced by Tampa Electric. *See* Response to 9. Accordingly, Tampa Electric’s motion to compel a response to Request for Admission No. 10 should be denied.

### **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.

Tampa Electric's motion argues that "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)." Tampa Electric's only justification for this interrogatory is that "[w]hether 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."

**Response:** A response to this interrogatory is irrelevant because it makes no difference whether a hospital is for-profit or not-for-profit. Other than making its conclusory statement, Tampa Electric has provided no information that would demonstrate how a response to this interrogatory would lead to discovery of admissible evidence. Furthermore, Mr. Kollen's testimony challenges Tampa Electric proposed revenue requirement based on evidence that shows the proposed amount is excessive as compared to amounts Tampa Electric has spent historically. Discovery of whether a hospital is for profit or not will provide no assistance to the Commission in determining the legitimacy of the expenses Tampa Electric claims as support for its requested rate increase. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 3 should be denied.

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.

Tampa Electric argues that "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)."

**Response:** Nowhere does HUA challenge the percentage of employees that are eligible for incentive compensation. HUA has asserted that: (1) Tampa Electric's historical spending is not in line with the amount it has included in its proposed revenue requirement in this case; and (2) the cost of stock compensation expenses related to financial performance should be borne by the financial shareholder TECO Energy, Inc., not by the ratepayers of Tampa Electric. Information about the percentage of employees eligible for incentive under the hospitals' plans is not probative of those issues and will not assist the Commission in its determination of the level of compensation related costs that should be included in the determination of rates. Nor has there been any showing that a utility industry's circumstances are comparable to those of the healthcare industry. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 4 should be denied.

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

Tampa Electric argues that "[t]he information sought in this interrogatory has a direct bearing upon the credibility of HUA's witnesses' testimony concerning the appropriate structure of incentive compensation."

**Response:** See Response regarding Interrogatory No. 4.

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?

Tampa Electric asserts that "[t]he information sought in this interrogatory has a direct bearing on the credibility of HUA's position concerning rate case expense. (Issue No. 46)."

**Response:** This interrogatory requests privileged information and clearly was posed for harassment purposes only. HUA has not challenged Tampa Electric's rate case expenses. Further, discovery of the hospitals' litigation expenses in this case will provide no assistance to the Commission in determining the legitimacy of the expenses Tampa Electric claims in support of its requested rate increase. The expenses an intervenor incurs in participating in a utility's rate case simply are not probative of the utility's rate case expenses. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 6 should be denied.

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?

Tampa Electric attempts to relate the O&M costs of HUA's member hospitals to the O&M costs at issue in this docket (*i.e.*, the costs of the regulated electric utility that is petitioning the Commission for a rate increase). Tampa Electric attempts to justify this request by stating that "[t]he 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)."

**Response:** O&M expenses and spending patterns for hospitals have nothing to do with the reasons a regulated electric utility incurs O&M expenses. Thus, this interrogatory does not seek information that would be probative of the appropriate level of Tampa Electric's O&M expenses. Hospital operations and regulated electric utility operations are completely disparate, and the reasons for which hospitals incur expenses and the pattern under which they incur expenses bear no relation to the reasons for, or manner in which, expenses arise for an electric utility. Thus, discovery of the hospitals expenses will provide no assistance to the Commission in determining the legitimacy of the expenses Tampa Electric claims as support for its requested

rate increase. Further, this discovery request is unduly burdensome. Gathering the requested data back to the year 2000 simply is unreasonable. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 7 should be denied.

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?

As above, Tampa Electric attempts to relate the uncollectable accounts of HUA's member hospitals to the Tampa Electric's uncollectable accounts. Tampa Electric claims that "[t]he 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."

**Response:** See Response to Interrogatory No. 7. There is no support for the conjecture that the uncollectable accounts of HUA's member hospitals are in any way probative of the appropriate level of uncollectable accounts at issue in this docket. Indeed, given the existence of insurance, Medicare and Medicaid, and the fact that hospitals from time-to-time provide medical care for which they are unreimbursed or are under-reimbursed, it is unreasonable to suggest that an answer to this interrogatory would be of any probative value. Further, this discovery request is unduly burdensome. Gathering the requested data back to the year 2000 simply is unreasonable. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 8 should be denied.

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?

Tampa Electric argues that "HUA should be required to answer this interrogatory for the same reasons set forth above in connection with Interrogatories Nos. 6 and 7."

**Response:** See Responses concerning Requests for Admission Nos. 9 and 10 and Interrogatory Nos. 7 and 8. There is no support for the conjecture that information concerning the legal expenses of HUA's member hospitals is in any way probative of the amounts claimed by Tampa Electric that are at issue in this docket. Litigation expenses as a percentage of O&M expenses for a hospital are not comparable to the litigation expenses as a percentage of O&M expenses for a regulated electric utility. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 9 should be denied.

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?

Tampa Electric argues that "HUA should be required to answer this interrogatory for the same reasons set forth above in connection with Interrogatories Nos. 6 and 7."

**Response:** Tampa Electric's motion to compel response to Interrogatory No. 10 should be denied. See Response concerning Request for Admission Nos. 9 and 10 and to Interrogatory No. 9.

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?

Tampa Electric justifies this interrogatory by stating that "[t]he information sought in this interrogatory will place Tampa Electric's O&M expenses in context with businesses in general including HUA members [and that the] answer to this interrogatory has a direct bearing upon the credibility of HUA's witnesses who address Tampa Electric's O&M."

**Response:** This interrogatory is both unduly burdensome and another example of harassment because O&M expenses at a hospital have nothing to do with a regulated utility. As repeatedly noted herein, hospital operations and regulated electric utility operations are

completely disparate, and the reasons for which hospitals incur expenses and the pattern under which they incur expenses bear no relation to the reasons for, or manner in which, expenses arise for an electric utility. Thus, discovery of the hospitals expenses will provide no assistance to the Commission in determining the legitimacy of the expenses Tampa Electric claims as support for its requested rate increase. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 11 should be denied.

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?

Tampa Electric justifies the request for total compensation information by stating that such information "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)."

**Response:** Tampa Electric asserts that this interrogatory is probative of HUA witnesses credibility and will provide a gauge of reasonableness for total compensation for corporations. It does not. HUA has asserted that: (1) Tampa Electric's historic spending is not in line with the amount it has included in its proposed revenue requirement in this case; and (2) the cost of stock compensation expenses related to financial performance should be borne by the financial shareholder TECO Energy, Inc., not by the ratepayers of Tampa Electric. Information about the compensation systems of the hospitals is not probative of those issues and will not assist the Commission in its determination of the level of compensation related costs that should be included in the determination of rates. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 12 should be denied.

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

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

Tampa Electric states that it "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)."

**Response:** A party responding to discovery requests does not have to conduct legal research where such research is as readily available from the requesting party.<sup>2</sup> As noted in HUA's objection, the information sought in the request "is as readily accessible to Tampa Electric as it is to HUA, because Commission orders, where such information would lie, are a matter of public record." This interrogatory also is overbroad. It contains no time limit and more than likely, there are hundreds perhaps thousands of cases, in which the Commission has found that the amount a company proposed to recover an O&M expense was excessive. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 15 should be denied.

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.

Tampa Electric justifies Interrogatory No. 16 (Issue No. 22) for the reasons given in relation to Interrogatory No. 15 (Issue No. 21).

**Response:** See Response concerning Interrogatory No. 15, *i.e.*, a party responding to a discovery request is not required to do legal research.<sup>3</sup>

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<sup>2</sup> See, e.g. *David Wellman, et al. v. Ameritech Ohio*, 2002 Ohio PUC Lexis 554, at 17 (Ohio P.U.C. June 21, 2002) (denying a motion to compel discovery of interrogatories on the grounds that the PUC's examiner could not order a one party to conduct legal research for an opposing party).

<sup>3</sup> *Supra* note 2.

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.

Tampa Electric justifies this interrogatory for the reasons given in relation to Interrogatory No. 15, *supra*.

**Response:** HUA objected to Interrogatory No. 19 because: (1) it calls for HUA to conduct legal research on behalf of Tampa Electric; (2) such information is readily accessible to Tampa Electric; and (3) the request calls for a legal conclusion. See Response regarding Interrogatory No. 15. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 19 should be denied.

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 Kollen's [sic] proposed incentive to reduce common equity by allowing a pro-forma adjustment to incentive compensation.

Tampa Electric justifies this interrogatory for the reasons given in relation to Interrogatory No. 15, *supra*.

**Response:** See Response concerning Interrogatory No. 15. Accordingly, Tampa Electric's motion to compel a response to Interrogatory No. 20 should be denied.

#### **Requests for Production of Documents**

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.

Tampa Electric attempts to draw similarities between HUA's hospital members and potential issues relating to officer compensation, key employees and the workforce in general. It claims that "[t]he 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."

**Response:** A lack of relevance and a lack of any probative value is again an issue here. HUA is not challenging Tampa Electric's right to have a compensation program. Rather, HUA has challenged the amounts that are claimed by Tampa Electric. HUA has asserted that: (1) Tampa Electric's historic spending is not in line with the amount it proposes to include in its revenue requirement; and (2) the cost of stock compensation expenses related to financial performance should be borne by the financial shareholder TECO Energy, Inc., not by the ratepayers of Tampa Electric. Information about the compensation systems of the hospitals is not probative of those issues and will not assist the Commission in its determination of the level of compensation related costs that should be included in the determination of rates. The compensation and benefits program for each of HUA's member hospitals is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. Accordingly, Tampa Electric's motion to compel a response to Request for Production of Documents No. 9 should be denied.

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.

Tampa Electric states that the requested information bears on "HUA's true goals ... and whether those goals are consistent with the best interest of all Tampa Electric customers."

Tampa Electric does concede that "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." However, Tampa Electric argues that a blanket objection is not an appropriate way to raise the privilege.

**Response:** This production request seeks privileged documents that will not lead to the discovery of admissible evidence. As noted in HUA's August 15, 2013 objection, "[a]greements between HUA and its attorneys and consultants are not included in Tampa Electric's cost of service." It is hard to imagine that this request was posed for any reason other than for the purpose of harassment. Further, the entirety of the agreement between HUA and its attorneys is privileged and proprietary. Accordingly, Tampa Electric's motion to compel a response to Request for Production of Documents No. 10 should be denied.

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.

Tampa Electric argues that the requested information has a direct bearing on the credibility of HUA's positions. Tampa Electric opines that it is a shallow distinction to differentiate hospitals from utility companies and 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)."

**Response:** The documents sought by this request are not relevant to any aspect of this case. The supposed justification by Tampa Electric for this request, that hospitals' operations are related to those of a regulated monopolist electric utility, is simply untrue and there is no evidence presented to suggest that it is true. Hospital operations and regulated electric utility

operations are completely disparate, and the reasons for which hospitals incur expenses and the pattern under which they incur expenses bear no relation to the reasons for, or manner in which, expenses arise for an electric utility. Thus, discovery of the hospitals expenses will provide no assistance to the Commission in determining the legitimacy of the expenses Tampa Electric claims as support for its requested rate increase. Accordingly, Tampa Electric's motion to compel a response to Request for Production of Documents No. 11 should be denied.

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.

Tampa Electric reiterates their request for agreements and contracts based on Request for Production of Documents No. 10, *supra*. (Issue Nos. 48, 52, 37, 38 and 38A).

**Response:** The Commission should reject Tampa Electric's request because it is not probative and amounts to nothing more than harassment. Tampa Electric has not even attempted to theorize how this request may be related to any argument being made before this Commission. Accordingly, Tampa Electric's motion to compel a response to Request for Production of Documents No. 12 should be denied.

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.

Tampa Electric reiterates their request for agreements and contracts based on Request for Production of Document No. 10, *supra*. (Issue Nos. 48, 52, 37, 38 and 38A).

**Response:** As a baseline, this request seeks privileged documents, and to the extent such documents might not be privileged, no requested production could lead to the discovery of

admissible evidence nor could any requested document be probative of the issues before this Commission. In essence, Tampa Electric is seeking information about HUA's litigation strategy. Such discovery is clearly improper. Accordingly, Tampa Electric's motion to compel a response to Request for Production of Documents No. 13 should be denied.

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.

Tampa Electric states that the no basis exists for the objection to this Production of Documents request, because of the Non-Disclosure Agreement between HUA and Tampa Electric.

**Response:** HUA had submitted a cautionary objection to this request. However, upon further review, there are no confidential materials and the requested information is being produced on August 23, 2013.

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.

Tampa Electric states that HUA "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." (Issue No. 46).

**Response:** HUA has not challenged Tampa Electric's rate case expenses. This request amounts to harassment and an attempt to gain confidential proprietary information. Accordingly, Tampa Electric's motion to compel a response to Request for Production of Documents No. 15 should be denied.

**Conclusion**

WHEREFORE, HUA respectfully submits the foregoing response in opposition to the August 19, 2013 Motion to Compel filed on behalf of Tampa Electric and requests that the Motion be denied.

Respectfully submitted,

/s/ Kenneth L. Wiseman.

Kenneth L. Wiseman  
Mark F. Sundback  
Lisa M. Purdy  
William M. Rappolt  
Blake R. Urban  
Allison E. Hellreich  
Andrews Kurth LLP  
1350 I Street NW  
Suite 1100  
Washington, D.C. 20005  
Ph: (202) 662-2700  
Fax: (202) 662-2739

Attorneys for WCF Hospital Utility Alliance

Dated: August 23, 2013

**Exhibit A:**  
**HUA's Objections to Tampa Electric Company's First  
Set of Interrogatories (Nos. 1-2) and First Request for  
Production of Documents (Nos. 1-8)  
(July 29, 2013).**



**Eric Fryson**

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**From:** Hayes, Annisha <AnnishaHayes@andrewskurth.com>  
**Sent:** Monday, July 29, 2013 2:41 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 130040-EI: HUA's Objections to TECO's First Sets of Interrogatories (Nos. 1-2) and Document Requests (Nos. 1-8)  
**Attachments:** HUA's Objections to TECO's 1st Sets of ROGs and PODs.pdf

**Electronic Filing**

a. Person responsible for this electronic filing:

Kenneth L. Wiseman  
Andrews Kurth LLP  
1350 I Street, NW  
Suite 1100  
Washington, DC 20005  
202-662-2715 (phone)  
202-662-2739 (fax)

b. Docket No. 130040-EI.

c. Document being filed on behalf of WCF Hospital Utility Alliance (WCF HUA).

d. There are a total of 15 pages.

e. The document attached for electronic filing is HUA's Objections to TECO's First Sets of Interrogatories (Nos. 1-2) and Document Requests (Nos. 1-8).  
(See attached HUA's Objections to TECO's 1st Sets of ROGS and PODs.pdf)

Thank you for your attention and cooperation to this request.

Regards.

Annisha Hayes  
AndrewsKurth, LLP  
1350 I Street, NW  
Suite 1100  
Washington, DC 20005  
202-662-2783  
202-662-2739 (fax)  
[ahayes@andrewskurth.com](mailto:ahayes@andrewskurth.com)  
[www.andrewskurth.com](http://www.andrewskurth.com)

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Petition for rate increase by Florida  
Power & Light Company**

§  
§  
§  
§  
§  
§

**Docket No.: 130040-EI**

**Dated: July 29, 2012**

**WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)**

Pursuant to Rule 28-106.206 of the Florida Administrative Code and Rules 1.340 and 1.350 of the Florida Rules of Civil Procedure, the WCF Hospital Utility Alliance ("HUA"), by and through its undersigned representatives, hereby submits the following objections to Tampa Electric Company's ("Tampa Electric") First Set of Interrogatories (Nos. 1-2) and First Request for Production of Documents (Nos. 1-8) dated July 9, 2013.

**I. Preliminary Nature of Objections**

A. HUA's objections stated herein are preliminary in nature. HUA is furnishing its objections consistent with the timeframe set forth in the Florida Public Service Commission's ("Commission") Order Establishing Procedure, Order No. PSC-13-0150-PCO-EI, and Rule 1.190(e) of the Florida Rules of Civil Procedure. Should HUA discover additional grounds for objection as it develops its responses, HUA reserves the right to supplement or modify its objections. Should HUA determine that a protective order is necessary regarding any of the information requested of HUA, HUA reserves the right to file a motion with the Commission seeking such an order.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 2 OF 13

**II. General Objections**

A. HUA objects to each Tampa Electric request that requires information pertaining to periods that date back to 2006 or beyond. Information from such distant chronological periods is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. In addition, it would be unduly burdensome to require HUA to research and produce information and documents from periods prior to January 1, 2007.

B. HUA objects to each Tampa Electric request that requires information in the possession of other entities. HUA will provide relevant materials in its possession and control and will not be responsible for obtaining materials from other entities.

C. HUA objects to each discovery request that calls for information protected by the attorney-client privilege, the work product doctrine, the common interests privilege, joint defense 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. HUA in no way intends to waive such privilege or protection. HUA objects to Tampa Electric's instructions to the extent they purport to require HUA to provide more information, with respect to withheld privileged documents, than required under applicable rules and law. The nature of the withheld privileged document(s), if any, responsive to a Tampa Electric discovery request will be described in a privilege log prepared by HUA.

D. HUA objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. HUA in no way intends to waive claims of confidentiality.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 3 OF 13

E. HUA objects to each discovery request that seeks information that is duplicative, or not relevant to the subject matter of this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. HUA expressly reserves and does not waive any and all objections to the admissibility, authenticity or relevancy of the information provided in its responses to the discovery requests.

F. HUA objects to each and every discovery request that calls for the production of documents and/or disclosure of information from HUA that does not deal with Tampa Electric's justification for claims of changes in rates for services provided by Tampa Electric. Documents and/or information, aside from those involving justification for Tampa Electric's claim of changed rates, do not affect Tampa Electric's rates or cost of service. Further, the information thus elicited is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Moreover, such requests are by their very nature unduly burdensome and overly broad. Subject to and without waiving any other objections, HUA will respond to the extent the discovery request pertains to Tampa Electric's claimed justification for changes in rates and services.

G. Responsive documents may be located in a variety of different cities. Thus, it is possible that not every relevant document may have been consulted in developing HUA's responses. The responses given by HUA will, however, provide all the documents and/or information that HUA obtained after a reasonable and diligent search conducted in connection with a discovery request. To the extent that discovery requests propose to require more, HUA objects on the ground that compliance would impose either an undue burden or expense on HUA.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 4 OF 13

H. HUA objects to any production location other than their attorneys' office at 1350 I Street, NW, Washington, DC 20005 or such other location of HUA's choosing.

I. HUA objects to any definition and/or instruction in any interrogatory or request to the extent they purport to impose upon HUA any obligations that HUA does not have under the law.

J. HUA objects to each request that is vague, ambiguous, or overly broad, imprecise, or utilizes terms subject to multiple interpretations, but not properly defined or explained for purposes of such discovery requests. Any responses provided by HUA to any Tampa Electric discovery request will be provided subject to, and without waiver of the foregoing objection.

K. HUA objects to each request that requires HUA to prepare information in a particular format, to create new data, documents or studies, to perform legal research, or to perform calculations or analyses not previously prepared, created or performed by HUA. HUA will provide material in existing formats, but will not be required to create new data or documents, conduct new studies, perform new calculations or analyses, or acquire new software to respond to requests.

L. HUA objects to providing information that is already in the public record or that is as easily accessible to Tampa Electric as to HUA or already is in Tampa Electric's possession or is readily accessible through legal search engines.

M. HUA objects to each discovery request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Sections 90.506 and 366.093(3)(a) of the Florida Statutes. HUA also objects to provision of any document that

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 5 OF 13

would expose them to claims of copyright or other intellectual-property based claims, or any other adverse claim or exposure based upon provisions of licensing or other agreements.

N. HUA objects to discovery requests that are intended to harass HUA and/or its members.

O. HUA reserves its right to count discovery requests and their sub-parts, as permitted under the applicable rules of procedure, in determining whether it is obligated to respond to additional requests served by any party. HUA objects to any attempt by the party seeking discovery to evade any numerical limitations set on interrogatories or requests by asking multiple independent discovery requests within a single individual discovery request and subparts thereof.

P. By making these general objections at this time, HUA does not waive or relinquish its right to assert additional general and specific objections to the subject discovery at the time HUA's response is due.

**III. Specific Objections**

Without prejudice to or waiver of the application of HUA's General Objections to these and/or other requests, HUA supplements such objections as follows:

A. HUA objects to POD No. 1, which reads as follows:

1. With respect to each person whom HUA expects to call as an expert witness in this proceeding, identify the witness and produce the following in hard copy and to thee [*sic*] extent it exists in the following format, in EXCEL or EXCEL compatible format with all formulae intact and unlocked:
  - (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, 2008 to date.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 6 OF 13

- (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.
- (c) Copies of all decisions and orders of regulatory agencies from January 1, 2005 to date referring to testimony presented or positions taken by the witness in the proceeding that gave rise to such decision or order.
- (d) Copies of all orders or decisions reflecting or supporting your answer to Interrogatory 2(b).

**Basis for Objection:** HUA objects to POD No. 1(a) on the grounds that this request is overbroad and unduly burdensome as propounded. Further, HUA objects to this request to the extent that the request seeks documents that are publicly available, are as easily accessible to Tampa Electric as to HUA, are already in Tampa Electric's possession, or are readily accessible through legal search engines. The testimonies and exhibits submitted by HUA's witnesses in other "utility regulatory proceedings in Florida and in all other regulatory jurisdictions from January 1, 2008 to date" are publicly available documents. Each of HUA's witnesses list their appearances in their *curriculum vitae* filed with their testimony in this proceeding. HUA also objects to this request to the extent that the requested testimonies and exhibits are confidential. HUA only will provide these testimonies and exhibits in redacted format. HUA also objects to POD No. 1(b) to the extent it requests all "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." In addition, each of HUA's witnesses has decades of experience regarding the subject matter covered by their testimony, and each has reviewed voluminous

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 7 OF 13

materials over the years which contribute to the bases for their testimony here. HUA objects to providing any such documents unless specifically relied upon in the course of a witness preparing his testimony here further, as propounded, this request would include all of Tampa Electric's materials provided in this proceeding. HUA objects to producing any such materials that are already in Tampa Electric's possession. HUA additionally objects to POD No. 1(c) and (d) because they call upon HUA to conduct legal research on all regulatory agency decisions where one of HUA's witnesses presented testimony to identify, and potentially speculate, whether the regulatory agency decision or order from January 1, 2005 to date adopted or took the position of HUA's witness that gave rise to its decision or order. The decisions and orders of the regulatory agencies in which HUA witnesses presented testimony are publicly available for Tampa Electric's review and HUA objects to producing these decisions and orders to Tampa Electric as requested in POD No. 1(c) and (d).

B. HUA objects to POD No. 2, which reads as follows:

2. Provide complete copies of all documents, data and other information requested formally or informally by any Party to HUA in this proceeding, including the Commission Staff, identifying material by reference to the original request from the Party or Commission Staff.

**Basis for Objection:** HUA objects to POD No. 2 on the grounds that such communications among counsel, inclusive of Commission Staff, in this proceeding are irrelevant to any issue presented in this case and not reasonably calculated to lead to the discovery of admissible evidence. *See* General Objection No. F and N. Further, HUA objects to this request to the extent that this request calls for HUA to provide a copy of

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 8 OF 13

any document, data or other information that is publicly available, is already in the possession of Tampa Electric, or is protected by the attorney work product doctrine, the common interests privilege, joint defense privilege or any other applicable privilege or protection afforded by law. *See* General Objection Nos. C and L.

C. HUA objects to POD No. 3, which reads as follows:

3. With respect to any testimony HUA plans to file in this proceeding addressing jurisdiction separation, class cost of service or rate design issues, provide a working copy of any jurisdictional and class cost -of-service studies utilized by the HUA witness to support that testimony in this proceeding in hard copy and in EXCEL or EXCEL compatible format with all formulae intact and unlocked.

**Basis for Objection:** HUA objects to POD No. 3 to the extent that the request calls for "plans to file." HUA will limit its response to what has been filed in this proceeding. Further, HUA objects to POD No. 3 to the extent that the request calls for HUA to provide the requested studies in hard copy and to convert such studies into EXCEL or EXCEL compatible format. HUA will provide the requested documents in native format and will not convert any such studies into EXCEL or EXCEL compatible format. Requiring HUA to convert any such studies into the format requested would impose an undue burden upon HUA, requiring potentially hundreds of hours and/or the purchase of software that HUA does not currently possess. *See* General Objection No. K. Further, to the extent that the requested studies are voluminous, HUA objects to providing such studies in hard copy. HUA will provide responsive documents to Tampa Electric electronically in native format, which will permit Tampa Electric to print such documents at its own choosing and expense. Where Tampa Electric already possesses the requested

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 9 OF 13

documents (e.g., Tampa Electric's class cost of service study), HUA objects to providing such documents and will not provide a copy to Tampa Electric.

D. HUA objects to POD No. 4, which reads as follows:

4. With respect to any testimony HUA plans to file in this proceeding addressing jurisdiction separation, class cost of service or rate design issues, provide a copy of all documents referenced in that testimony not otherwise provided as a separate exhibit to the testimony.

**Basis for Objection:** HUA objects to POD No. 4 to the extent that the request calls for "plans to file." HUA will limit its response to what has been filed in this proceeding. Further, HUA objects to POD No. 4 to the extent that the request calls for HUA to provide a copy of any document that is publicly available or is already in the possession of Tampa Electric. *See* General Objection No. L.

E. HUA objects to POD No. 5, which reads as follows:

5. With respect to any testimony HUA plans to file in this proceeding addressing jurisdiction separation, class cost of service or rate design issues, provide a copy of all work papers underlying that testimony in hard copy and in EXCEL or EXCEL compatible format (if such format is relevant to such work papers), with all formulae intact and unlocked.

**Basis for Objection:** HUA objects to POD No. 5 to the extent that the request calls for "plans to file." HUA will limit its response to what has been filed in this proceeding. Further, HUA objects to POD No. 5 to the extent that the request calls for HUA to provide the requested studies in hard copy and to convert such studies into EXCEL or EXCEL compatible format. HUA will provide the requested documents in native format and will not convert any such studies into EXCEL or EXCEL compatible format. Requiring HUA to convert any such studies into the format requested would

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 10 OF 13

impose an undue burden upon HUA, requiring potentially hundreds of hours and/or the purchase of software that HUA does not currently possess. *See* General Objection No. K. Further, to the extent that the requested studies are voluminous, HUA objects to providing such studies in hard copy. HUA will provide responsive documents to Tampa Electric electronically in native format, which will permit Tampa Electric to print such documents at its own choosing and expense. Where Tampa Electric already possesses the requested documents (*e.g.*, Tampa Electric's class cost of service study), HUA objects to providing such documents and will not provide a copy to Tampa Electric.

F. HUA objects to POD No. 6, which reads as follows:

6. With respect to any testimony HUA plans to file in this proceeding addressing jurisdiction separation or class cost of service issues, provide a copy of all documents reviewed by the witness in reaching any conclusions that witness proposes regarding the Commission adopting a particular cost of service methodology or rejecting the Company's proposed cost of service methodology in this proceeding.

**Basis for Objection:** HUA objects to POD No. 6 to the extent that the request calls for "plans to file." HUA will limit its response to what has been filed in this proceeding. Further, HUA objects to POD No. 6 to the extent that the request calls for HUA to provide "all documents reviewed by the witness in reaching any conclusion" in this proceeding. This request is overbroad as HUA's witnesses have many years of experience in utility analysis, including in analyzing jurisdiction separation or class cost of service issues, and it would be impossible to identify all documents that HUA's witnesses may have reviewed over the course of their long careers in connection to the

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 11 OF 13

testimony offered. Any attempt by HUA to respond to this request would be unduly burdensome.

G. HUA objects to POD No. 7, which reads as follows:

7. With respect to any testimony HUA plans to file in this proceeding addressing rate design issues, provide a copy of all documents reviewed by the witness in reaching any conclusions that witness proposes regarding the Commission adopting a particular rate design or rejecting the Company's proposed rate design in this proceeding.

**Basis for Objection:** HUA objects to POD No. 7 to the extent that the request calls for HUA to provide "all documents reviewed by the witness in reaching any conclusion" in this proceeding. This request is overbroad as HUA's witnesses have many years of experience in utility analysis, including in analyzing rate design issues, and it would be impossible to identify all documents that HUA's witnesses may have reviewed over the course of their long careers in connection to the testimony offered. Any attempt by HUA to respond to this request would be unduly burdensome.

H. HUA objects to POD No. 8, which reads as follows:

8. With respect to any testimony HUA plans to file in this proceeding addressing jurisdiction separation, class cost of service or rate design issues, provide a copy of any testimony given by the HUA witness in prior cases (before the Florida Public Service Commission, or any other United States state regulatory commission, as part of a proceeding dealing with electric utility matters) on behalf of any party, that addresses the issues of:
  - a) Appropriate energy allocation of cost in class cost of service studies;
  - b) Appropriate determination of classes in class cost of service studies;
  - c) Appropriate allocation of cost to classes for large customers (e.g. industrial customer classes, classes for large demand customers);
  - d) Appropriate allocation of cost to interruptible classes in class cost of service studies;

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 12 OF 13

- e) Rate design for classes for large customers (e.g. industrial rates, large demand rates);
- f) Rate design for interruptible customers; and
- g) "Gradualism" as a word or concept when applied to electric rate design, however the witness defines it.

**Basis for Objection:** HUA objects to POD No. 8 on the grounds that the request is overbroad and unduly burdensome. HUA's witnesses have many years of experience in utility analysis and have testified in numerous electric utility matters before state regulatory commissions, including the Florida Public Service Commissions, over their long careers. Requiring HUA to review each piece of testimony that spans several decades to identify which testimonies include responsive information would require potentially hundreds of hours to complete. HUA further objects to this request to the extent that the requested testimonies and exhibits are confidential.

**WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST SET OF INTERROGATORIES (NOS. 1-2) AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-8)  
PAGE 13 OF 13**

**Respectfully submitted,**

**/s/ Kenneth L. Wiseman**

**Kenneth L. Wiseman**

**Mark F. Sundback**

**Lisa M. Purdy**

**William M. Rappolt**

**Blake R. Urban**

**Allison E. Hellreich**

**Andrews Kurth LLP**

**1350 I Street NW**

**Suite 1100**

**Washington, DC 20005**

**Phone: (202) 662-2700**

**Fax: (202) 662-2739**

**Qualified Representatives for the  
WCF Hospital Utility Alliance**

**DATED: July 29, 2013**

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 130040-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by  
electronic mail, U.S. Mail, or Federal Express, this 29th day of July, 2013, to the following:

**Tampa Electric Company**  
Gordon L. Gillette  
Paula K. Brown  
P.O. Box 111  
Tampa, FL 33601-0111  
Phone: (813) 228-1444  
Fax: (813) 228-1770  
Email: [Regdept@tecoenergy.com](mailto:Regdept@tecoenergy.com)

**Office of Public Counsel**  
J.R. Kelly  
P. Christensen  
J. McGlothlin  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32393-1400  
Phone: (850) 488-9330  
Email: [Christensen.patty@leg.state.fl.us](mailto:Christensen.patty@leg.state.fl.us)

**Florida Public Service Commission**  
Office of the General Counsel  
Martha Barrera  
Martha Brown  
Suzanne Brownless  
2450 Shumard Oak Boulevard  
Tallahassee, FL 32399

**Florida Retail Federation**  
100 East Jefferson Street  
Tallahassee, FL 32301  
Phone: (850) 222-4082  
Fax: (850) 226-4082

**Florida Industrial Power Users Group**  
Jon C. Moyle, Jr.  
c/o Moyle Law Firm  
118 North Gadsden Street  
Tallahassee, FL 32301  
Phone: (850) 681-3828  
Fax: (850) 681-8788  
Email: [jmoyle@kagmlaw.com](mailto:jmoyle@kagmlaw.com)

**Ausley Law Firm**  
James D. Beasley  
P.O. Box 391  
Tallahassee, FL 32302  
Phone: (850) 224-9115  
Fax: (850) 222-7560  
Email: [jbeasley@ausley.com](mailto:jbeasley@ausley.com)

**Charles Misted**  
AARP, Associate State Director  
200 West College Avenue  
Tallahassee, FL 32301  
Phone: (850) 577-5190  
Email: [CMilsted@aarp.org](mailto:CMilsted@aarp.org)

**Florida Consumer Action Network**  
Bill Newton  
3006 W. Kennedy Blvd Suite B  
Tampa, FL 33609  
Phone: (813) 877-6712  
Email: [billn@fcan.org](mailto:billn@fcan.org)

**Macquarie Capital (USA) Inc.**  
Sunny Kwak  
Andrew Weisel  
125 West 55th Street, Level 23  
New York, NY 10019  
Phone: (212) 231-1683  
Email: [Sunny.Kwak@macquarie.com](mailto:Sunny.Kwak@macquarie.com)

**Gardner Law Firm**  
Robert Scheffel Wright  
John T. La Via  
1300 Thomaswood Drive  
Tallahassee, FL 32308  
Phone: (850) 385-0070  
Fax: (850) 385-5416  
Email: [schef@gbwlegal.com](mailto:schef@gbwlegal.com)

**Federal Executive Agencies**  
Lt. Col. Gregory J. Fike  
AFLOA/JACL-ULFSC  
139 Barnes Drive, Suite 1  
Tyndall Air Force Base, Florida 32403  
Phone: (850) 283-6347  
Fax: (850) 283-6279  
Email: [Gregory.fike@tyndall.af.mil](mailto:Gregory.fike@tyndall.af.mil)

*/s/ Kenneth L. Wiseman*  
Kenneth L. Wiseman

**Exhibit B:**  
**HUA's Objections 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)  
(Aug. 15, 2013).**

**Shawna Senko**

**From:** Hayes, Annisha <AnnishaHayes@andrewskurth.com>  
**Sent:** Thursday, August 15, 2013 3:28 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 130040-EI: HUA's Objections to Tampa Electric Company's First Request for Admissions (Nos. 1-10)  
**Attachments:** HUA Objections to TECO Requests.pdf

Electronic Filing.

a. Person responsible for this electronic filing:

Kenneth L. Wiseman  
Andrews Kurth LLP  
1350 I Street, NW  
Suite 1100  
Washington, DC 20005  
202-662-2715 (phone)  
202-662-2739 (fax)

b. Docket No. 130040-EI.

c. Document being filed on behalf of WCF Hospital Utility Alliance (HUA).

d. There are a total of 24 pages.

e. The document attached for electronic filing is HUA's Objections 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)

(See attached HUA Objections to TECO Request.pdf)

Thank you for your attention and cooperation to this filing.

Regards.  
Annisha Hayes  
AndrewsKurth, LLP  
1350 I Street, NW  
Suite 1100  
Washington, DC 20005  
202-662-2783  
202-662-2739 (fax)  
[ahayes@andrewskurth.com](mailto:ahayes@andrewskurth.com)  
[www.andrewskurth.com](http://www.andrewskurth.com)

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Shawna Senko

1

8/15/2013 4:01 PM

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Petition for Rate Increase by  
Tampa Electric Company**

§  
§  
§  
§  
§  
§

**Docket No.: 130040-EI**

**Dated: August 15, 2013**

**WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS 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)**

Pursuant to Rule 28-106.206 of the Florida Administrative Code and Rules 1.340 and 1.350 of the Florida Rules of Civil Procedure, the WCF Hospital Utility Alliance ("HUA"), by and through its undersigned representatives, hereby submits the following objections to Tampa Electric Company's ("Tampa Electric") First Request for Admissions (Nos. 1-10), Second Set of Interrogatories (Nos. 3-21), and Second Request for Production of Documents (Nos. 9-15), all dated July 26, 2013.

At the outset, we note that many of these requests seek information that would be unduly burdensome to produce, are irrelevant to the issues being litigated in this proceeding, are not reasonably calculated to lead to the discovery of admissible evidence, and, as such, constitute harassment.

**I. Preliminary Nature of Objections**

A. HUA's objections stated herein are preliminary in nature. HUA is furnishing its objections consistent with the timeframe set forth in the Florida Public Service Commission's ("Commission") Order Establishing Procedure, Order No. PSC-13-0150-PCO-EI, and Rule 1.190(e) of the Florida Rules of Civil Procedure. Should HUA discover additional grounds for

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

PAGE 2 OF 22

objection as it develops its responses, HUA reserves the right to supplement or modify its objections. Should HUA determine that a protective order is necessary regarding any of the information requested of HUA, HUA reserves the right to file a motion with the Commission seeking such an order.

**II. General Objections**

Any responses provided by HUA to any Tampa Electric discovery request will be provided subject to, and without waiver of, the following objections:

A. HUA objects to each Tampa Electric request that requires information pertaining to periods that date back to 2006 or beyond. Information from such distant chronological periods is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. In addition, it would be unduly burdensome to require HUA to research and produce information and documents from periods prior to January 1, 2007.

B. HUA objects to each Tampa Electric request that requires information in the possession of other entities. HUA will provide relevant materials in its possession and control and will not be responsible for obtaining materials from other entities.

C. HUA objects to each discovery request that calls for information protected by the attorney-client privilege, the work product doctrine, the common interests privilege, joint defense 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. HUA in no way intends to waive such privilege or protection. HUA objects to Tampa Electric's instructions to the extent they purport to require HUA to provide more

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 3 OF 22

information, with respect to withheld privileged documents, than required under applicable rules and law.

D. HUA objects to providing information that is proprietary, confidential business information without adequate provisions in place to protect the confidentiality of the information. HUA in no way intends to waive claims of confidentiality.

E. HUA objects to each discovery request that seeks information that is duplicative, or not relevant to the subject matter of this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. HUA expressly reserves and does not waive any and all objections to the admissibility, authenticity or relevancy of the information provided in its responses to the discovery requests.

F. HUA objects to each and every discovery request that calls for the production of documents and/or disclosure of information from HUA that does not deal with the costs, revenues, or billing determinants used to derive Tampa Electric's justification for claims of changes in rates for services provided by Tampa Electric. Documents and/or information, aside from those involving justification for Tampa Electric's claim of changed rates, do not affect Tampa Electric's rates or cost of service. Further, the information thus elicited is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Moreover, such requests are by their very nature unduly burdensome and overly broad. Subject to and without waiving any other objections, HUA will respond to the extent the discovery request pertains to Tampa Electric's claimed justification for changes in rates and services.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 4 OF 22

G. Responsive documents may be located in a variety of different cities. Thus, it is possible that not every relevant document may have been consulted in developing HUA's responses. The responses given by HUA will, however, provide all the documents and/or information that HUA obtained after a reasonable and diligent search conducted in connection with a discovery request. To the extent that discovery requests propose to require more, HUA objects on the ground that compliance would impose either an undue burden or expense on HUA.

H. HUA objects to any production location other than their attorneys' office at 1350 I Street, NW, Washington, DC 20005 or such other location of HUA's choosing, during regular business hours upon reasonable advance notice.

I. HUA objects to any definition and/or instruction in any interrogatory or request to the extent they purport to impose upon HUA any obligations that HUA does not have under the law.

J. HUA objects to each request that is vague, ambiguous, or overly broad, imprecise, or utilizes terms subject to multiple interpretations, but not properly defined or explained for purposes of such discovery requests.

K. HUA objects to each request that requires HUA to prepare information in a particular format, to create new data, documents or studies, to perform legal research, to provide a legal conclusion, or to perform calculations or analyses not previously prepared, created or performed by HUA. HUA will provide material in existing formats, but will not be required to

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 5 OF 22

create new data or documents, conduct new studies, perform new calculations or analyses, or acquire new software to respond to requests.

L. HUA objects to providing information that is already in the public record or that is as easily accessible to Tampa Electric as to HUA or already is in Tampa Electric's possession or is readily accessible through legal search engines.

M. HUA objects to each discovery request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Sections 90.506 and 366.093(3)(a) of the Florida Statutes. HUA also objects to provision of any document that would expose them to claims of copyright or other intellectual-property based claims, or any other adverse claim or exposure based upon provisions of licensing or other agreements.

N. HUA objects to discovery requests that appear intended to harass HUA and/or its members.

O. HUA reserves its right to count discovery requests and their sub-parts, as permitted under the applicable rules of procedure, in determining whether it is obligated to respond to additional requests served by any party. HUA objects to any attempt by the party seeking discovery to evade any numerical limitations set on interrogatories or requests by asking multiple independent discovery requests within a single individual discovery request and subparts thereof.

P. By making these general objections at this time, HUA does not waive or relinquish its right to assert additional general and specific objections to the subject discovery at the time HUA's response is due.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 6 OF 22

**III. Specific Objections**

Without prejudice to or waiver of the application of HUA's General Objections to these and/or other requests, HUA supplements such objections as follows:

A. HUA objects to Request for Admissions 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 Objection:** HUA objects to Request for Admissions No. 1 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. Whether or not Hospital A uses Towers Watson as its compensation advisor does not affect Tampa Electric's cost of service or any other issue being litigated in this proceeding. The fact that a customer of Tampa Electric owns a Chevrolet pickup does not demonstrate that Tampa Electric was prudent with regard to purchasing such a pickup for use in response to its circumstances, rather than the Tampa Electric customer's needs, much less that the price paid for such pickup by Tampa Electric was reasonable or that the purpose to which it was put was necessary for the provision of jurisdictional services. Indeed, this transparent tactic could ultimately bog down rate cases as the utility attempts to deflect attention from its own actions, looking instead to those of potentially thousands of its customers. *See* General Objection Nos. E and F.

B. HUA objects to Request for Admissions 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.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 7 OF 22

**Basis for Objection:** HUA objects to Request for Admissions No. 2 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and bonus and/or incentive compensation in the healthcare industry does not reflect utility industry structure. *See* General Objection Nos. E and F. Circumstances concerning compensation in the healthcare industry are not pertinent to circumstances concerning compensation in the utility industry. Further, there has been no showing or even an allegation that utility industry's circumstances are comparable to those of the healthcare industry.

C. HUA objects to Request for Admissions 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 Objection:** HUA objects to Request for Admissions No. 3 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and bonus and incentive compensation programs in the healthcare industry do not reflect utility industry structure. Circumstances concerning compensation in the healthcare industry are not pertinent to circumstances concerning compensation in the utility industry. Further, there has been no showing or even an allegation that utility industry's circumstances are comparable to those of the healthcare industry. *See* General Objection Nos. E and F.

D. HUA objects to Request for Admissions No. 4, which reads as follows:

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

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 8 OF 22

**Basis for Objection:** HUA objects to Request for Admissions No. 4 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and bonus and incentive compensation in the healthcare industry does not reflect utility industry structure. Circumstances concerning compensation in the healthcare industry are not pertinent to circumstances concerning compensation in the utility industry. Further, there has been no showing or even an allegation that utility industry's circumstances are comparable to those of the healthcare industry. *See* General Objection Nos. E and F.

E. HUA objects to Request for Admissions 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 Objection:** HUA objects to Request for Admissions No. 5 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and bonus and incentive compensation in the healthcare industry does not reflect utility industry structure. Circumstances concerning compensation in the healthcare industry are not pertinent to circumstances concerning compensation in the utility industry. Further, there has been no showing or even an allegation that utility industry's circumstances are comparable to those of the healthcare industry. *See* General Objection Nos. E and F.

F. HUA objects to Request for Admissions 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.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 9 OF 22

**Basis for Objection:** HUA objects to Request for Admissions No. 6 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and bonuses paid in the healthcare industry does not reflect utility industry structure. Circumstances concerning compensation in the healthcare industry are not pertinent to circumstances concerning compensation in the utility industry. Further, there has been no showing or even an allegation that utility industry's circumstances are comparable to those of the healthcare industry. See General Objection Nos. E and F.

G. HUA objects to Request for Admissions No. 7, which reads as follows:

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

**Basis for Objection:** HUA objects to Request for Admissions No. 7 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and stock based compensation systems in the healthcare industry do not reflect utility industry structure. Circumstances concerning compensation in the healthcare industry are not pertinent to circumstances concerning compensation in the utility industry. Further, there has been no showing or even an allegation that utility industry's circumstances are comparable to those of the healthcare industry. See General Objection Nos. E and F.

H. HUA objects to Request for Admissions No. 8, which reads as follows:

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 10 OF 22

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 Objection:** HUA objects to Request for Admissions No. 8 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. Whether HUA hospital members are subject to litigation on a continuing basis does not affect Tampa Electric's cost of service or any other issue being litigated in this proceeding, and litigation in the healthcare industry does not reflect utility industry structure. HUA also objects to this request on the grounds that it calls for speculation. HUA has no basis for knowing whether "most large businesses . . . are subject to litigation on a continuing basis" and further objects to this request to the extent that it calls for HUA to research and conduct a broad analysis examining the extent that "large businesses . . . are subject to litigation on a continuing basis." See General Objection Nos. E, F, J, and K.

- I. HUA objects to Request for Admissions 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 Objection:** HUA objects to Request for Admissions No. 9 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and litigation expenses in the healthcare industry do not reflect utility industry structure. See General Objection Nos. E and F.

- J. HUA objects to Request for Admissions No. 10, which reads as follows:

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 11 OF 22

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 Objection:** HUA objects to Request for Admissions No. 10 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and legal expenses in the healthcare industry do not reflect utility industry structure. Legal expenses in the healthcare industry are not pertinent to legal expenses in the utility industry. See General Objection Nos. E and F.

K. HUA objects to Interrogatory No. 3, which reads as follows:

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

**Basis for Objection:** HUA objects to Interrogatory No. 3 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. Whether an HUA member hospital is a for-profit or non-profit entity does not affect Tampa Electric's cost of service or any other issue being litigated in this proceeding. See General Objection Nos. E and F.

L. HUA objects 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 Objection:** HUA objects to Interrogatory No. 4 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and incentive compensation in the healthcare industry does not reflect utility industry structure. Circumstances concerning compensation in the healthcare industry are not pertinent to circumstances concerning compensation in the

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 12 OF 22

utility industry. Further, there has been no showing or even an allegation that utility industry's circumstances are comparable to those of the healthcare industry. *See* General Objection Nos. E and F.

M. HUA objects 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 compensation
  - c. Other non-salary compensation

**Basis for Objection:** HUA objects to Interrogatory No. 5 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and incentive compensation in the healthcare industry does not reflect utility industry structure. *See* General Objection Nos. E and F.

N. HUA objects 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 Objection:** HUA objects to Interrogatory No. 6 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. The amount of compensation that HUA has paid its attorneys and consultants for this base rate proceeding does not affect Tampa Electric's cost of service or any other issue being litigated in this proceeding and does not reflect utility industry structure. HUA also objects to this request to the extent that it calls for HUA to produce information that is proprietary, confidential business information without provisions in

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 13 OF 22

place to protect the confidentiality of the information. See General Objection Nos. D, E, F, and M.

O. HUA objects 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 Objection:** HUA objects to Interrogatory No. 7 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and O&M costs in the healthcare industry do not reflect utility industry structure. Healthcare facility O&M costs (e.g., repair of x-ray machines, other medical equipment) do not shed any light on utility O&M expenses (e.g., coal handlers, rail cars, linemen, tree-trimming). HUA also objects to this request on the grounds that it would be unduly burdensome for HUA to obtain records from each member hospital on O&M costs dating back to periods over 13 years ago to respond to this request. See General Objection Nos. A, E, and F.

P. HUA objects 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 Objection:** HUA objects to Interrogatory No. 8 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and uncollectable account expenses in the healthcare industry do not reflect utility industry structure. Uncollectible accounts in the healthcare industry do not shed any light on utility uncollectible accounts. HUA also objects to this request on the

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 14 OF 22

grounds that it would be unduly burdensome for HUA to obtain records from each member hospital on uncollectable account expenses dating back to periods over 13 years ago to respond to this request. *See* General Objection Nos. A, E, and F.

Q. HUA objects to Interrogatory No. 9, which reads as follows:

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

**Basis for Objection:** HUA objects to Interrogatory No. 9 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and legal costs in the healthcare industry do not reflect utility industry structure. HUA also objects to this request on the grounds that it would be unduly burdensome for HUA to obtain records from each member hospital on legal costs dating back to periods over 13 years ago to respond to this request, and to perform the requested study. HUA will not perform any new studies in response to this request. *See* General Objection Nos. A, E, F, and K.

R. HUA objects 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 Objection:** HUA objects to Interrogatory No. 10 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. Whether an HUA member hospital's legal costs are recurring or non-recurring does not affect Tampa Electric's cost of service or any other issue being litigated in this proceeding, and legal costs in the healthcare industry do not reflect utility

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 15 OF 22

industry structure. HUA also objects to this request on the grounds that it would be unduly burdensome for HUA to study all legal costs for each member hospital and ascertain which costs are recurring vs. non-recurring. HUA will not perform any new studies in response to this request. *See* General Objection Nos. E, F, and K.

S. HUA objects to Interrogatory No. 11, which reads as follows:

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

**Basis for Objection:** HUA objects to Interrogatory No. 11 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. HUA member hospitals' O&M costs are not at issue in this proceeding nor do they affect Tampa Electric's cost of service or any other issue being litigated in this proceeding. HUA also objects to this request on the grounds that it would be unduly burdensome for HUA to obtain records from each member hospital on O&M costs expenses and perform analyses comparing those costs to the change in electric costs on an annual basis for 13 years to respond to this request. *See* General Objection Nos. A, E, F, and K.

T. HUA objects 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 Objection:** HUA objects to Interrogatory No. 12 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and total compensation in the healthcare industry does not reflect

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 16 OF 22

utility industry structure. HUA also objects to this request on the grounds that it would be unduly burdensome for HUA to obtain records from each member hospital regarding the various methods of compensation that each member hospital may have provided from 2007 to the present and to perform analyses on those records to determine total compensation and the percentage change in total compensation for each member hospital from 2007 to the present. *See* General Objection Nos. A, E, F, and K.

U. HUA objects to Interrogatory No. 15, which reads as follows:

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

**Basis for Objection:** HUA objects to Interrogatory No. 15 to the extent that this request calls for HUA to conduct legal research on behalf of Tampa Electric. HUA also objects to this request on the grounds that the information sought in this request, *i.e.*, Commission references to the Company's O&M request was "excessive," is as readily accessible to Tampa Electric as it is to HUA because Commission orders, where such information would lie, are a matter of public record. HUA also objects to this request on the grounds that this request calls for a legal conclusion. *See* General Objection Nos. K and L.

V. HUA objects 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.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 17 OF 22

**Basis for Objection:** HUA objects to Interrogatory No. 16 to the extent that this request calls for HUA to conduct legal research on behalf of Tampa Electric. HUA also objects to this request on the grounds that the information sought in this request, *i.e.*, Commission decisions adopting the "top-down" approach in setting O&M levels for projected test years, is as readily accessible to Tampa Electric as it is to HUA because Commission orders, where such information would lie, are a matter of public record. HUA also objects to this request on the grounds that this request calls for a legal conclusion. *See* General Objection Nos. K and L.

W. HUA objects to Interrogatory No. 19, which reads as follows:

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

**Basis for Objection:** HUA objects to Interrogatory No. 19 to the extent that this request calls for HUA to conduct legal research on behalf of Tampa Electric. HUA also objects to this request on the grounds that the information sought in this request, *i.e.*, Commission decisions adopting the "bottoms-up" approach in setting O&M levels for projected test years, is as readily accessible to Tampa Electric as it is to HUA because Commission orders, where such information would lie, are a matter of public record. HUA also objects to this request on the grounds that this request calls for a legal conclusion. *See* General Objection Nos. K and L.

X. HUA objects 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 Kollen's proposed incentive to

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 18 OF 22

reduce common equity by allowing a pro-forma adjustment to incentive compensation.

**Basis for Objection:** HUA objects to Interrogatory No. 20 to the extent that this request calls for HUA to conduct legal research on behalf of Tampa Electric. HUA also objects to this request on the grounds that the information sought in this request, *i.e.*, Commission decisions adopting witness Kollen's proposed incentive to reduce common equity, is as readily accessible to Tampa Electric as it is to HUA because Commission orders, where such information would lie, are a matter of public record. HUA also objects to this request on the grounds that this request calls for a legal conclusion. See General Objection Nos. K and L.

Y. HUA objects to Production of Documents Request ("POD") No. 9, which reads as follows:

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

**Basis for Objection:** HUA objects to POD No. 9 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence, and compensation and benefits programs in the healthcare industry do not reflect utility industry structure. Circumstances concerning compensation and benefits in the healthcare industry are not pertinent to circumstances concerning compensation and benefits in the utility industry. Further, there has been no showing or even an allegation that utility industry's circumstances are comparable to those of the healthcare industry. See General Objection Nos. E and F.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 19 OF 22

Z. HUA objects to POD 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 Objection:** HUA objects to POD No. 10 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. Agreements between HUA and its attorneys and consultants are not included in Tampa Electric's cost of service. HUA also object to this request on the grounds that it calls for HUA to produce information protected by the attorney-client privilege. See General Objection Nos. C, E and F.

AA. HUA objects to POD 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 Objection:** HUA objects to POD No. 11 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. Annual financial statements and budgets for each HUA member hospital does not affect Tampa Electric's cost of service or any other issue being litigated in this proceeding, and annual financial statements and budgets in the healthcare industry for HUA member hospitals do not reflect utility industry structure. HUA also objects to this request on the grounds that this request calls for documents dating back over 11 years ago and thus would be unduly burdensome to produce. See General Objection Nos. A, E, and F.

BB. HUA objects to POD No. 12, which reads as follows:

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 20 OF 22

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

**Basis for Objection:** HUA objects to POD No. 12 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. HUA also objects to this request on the grounds that it calls for HUA to produce information protected by the attorney-client privilege, and to the extent that it calls for HUA to produce information that is proprietary, confidential business information without adequate provisions in place to protect the confidentiality of the information. See General Objection Nos. C, D, E, F, and M.

CC. HUA objects to POD 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 Objection:** HUA objects to POD No. 13 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. HUA also objects to this request on the grounds that it calls for HUA to produce information protected by the attorney-client privilege or the work product doctrine, and to the extent that it calls for HUA to produce information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. See General Objection Nos. C, D, E, F, and M.

DD. HUA objects to POD 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 at [sic] 6, lines 7 -9 and Exhibit SJB -6. Please provide such work papers

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 21 OF 22

and the cost of service study itself, electronically in Excel, with all formulas and calculations intact and unlocked.

**Basis for Objection:** HUA objects to POD No. 14 to the extent that this request calls for HUA to produce information that is proprietary and/or confidential without adequate provisions in place to protect the confidentiality of the information. HUA also objects to this request to the extent that it requires HUA to transform documents into any format other than native format. *See* General Objection Nos. D, K, and M.

EE. HUA objects to POD 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 Objection:** HUA objects to POD No. 15 on the grounds that this request is not relevant, nor is it reasonably calculated to lead to the discovery of admissible evidence. HUA also objects to this request on the grounds that it calls for HUA to produce information protected by the attorney-client privilege or the work product doctrine, and to the extent that it calls for HUA to produce information that is proprietary, confidential business information without adequate provisions in place to protect the confidentiality of the information. *See* General Objection Nos. C, D, E, F, and M.

WCF HOSPITAL UTILITY ALLIANCE'S  
OBJECTIONS TO TAMPA ELECTRIC COMPANY'S  
FIRST REQUESTS FOR ADMISSIONS (NOS. 1-10),  
SECOND SET OF INTERROGATORIES (NOS. 3-21), AND  
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 9-15)  
PAGE 22 OF 22

Respectfully submitted,

/s/ Kenneth L. Wiseman  
Kenneth L. Wiseman  
Mark F. Sundback  
Lisa M. Purdy  
William M. Rappolt  
Blake R. Urban  
Allison E. Hellreich  
Andrews Kurth LLP  
1350 I Street NW  
Suite 1100  
Washington, DC 20005  
Phone: (202) 662-2700  
Fax: (202) 662-2739

Qualified Representatives for the  
WCF Hospital Utility Alliance

DATED: August 15, 2013

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 130040-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by electronic mail, U.S. Mail, or Federal Express, this 15th day of August, 2013, to the following:

**Tampa Electric Company**

Gordon L. Gillette  
Paula K. Brown  
P.O. Box 111  
Tampa, FL 33601-0111  
Phone: (813) 228-1444  
Fax: (813) 228-1770  
Email: [Regdept@tecoenergy.com](mailto:Regdept@tecoenergy.com)

**Florida Industrial Power Users Group**

Jon C. Moyle, Jr.  
c/o Moyle Law Firm  
118 North Gadsden Street  
Tallahassee, FL 32301  
Phone: (850) 681-3828  
Fax: (850) 681-8788  
Email: [jmoyle@kagmlaw.com](mailto:jmoyle@kagmlaw.com)

**Office of Public Counsel**

J.R. Kelly  
P. Christensen  
J. McGlothlin  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32393-1400  
Phone: (850) 488-9330  
Email: [Christensen.patty@leg.state.fl.us](mailto:Christensen.patty@leg.state.fl.us)

**Ausley Law Firm**

James D. Beasley  
P.O. Box 391  
Tallahassee, FL 32302  
Phone: (850) 224-9115  
Fax: (850) 222-7560  
Email: [jbeasley@ausley.com](mailto:jbeasley@ausley.com)

**Florida Public Service Commission**

Office of the General Counsel  
Martha Barrera  
Martha Brown  
Suzanne Brownless  
2450 Shumard Oak Boulevard  
Tallahassee, FL 32399

**Charles Misted**

AARP, Associate State Director  
200 West College Avenue  
Tallahassee, FL 32301  
Phone: (850) 577-5190  
Email: [CMilsted@aarp.org](mailto:CMilsted@aarp.org)

**Florida Retail Federation**

100 East Jefferson Street  
Tallahassee, FL 32301  
Phone: (850) 222-4082  
Fax: (850) 226-4082

**Florida Consumer Action Network**

Bill Newton  
3006 W. Kennedy Blvd Suite B  
Tampa, FL 33609  
Phone: (813) 877-6712  
Email: [billn@fcan.org](mailto:billn@fcan.org)

**Gardner Law Firm**  
Robert Scheffel Wright  
John T. La Via  
1300 Thomaswood Drive  
Tallahassee, FL 32308  
Phone: (850) 385-0070  
Fax: (850) 385-5416  
Email: [schef@gbwlegal.com](mailto:schef@gbwlegal.com)  
[jlavia@gbwlegal.com](mailto:jlavia@gbwlegal.com)

**Federal Executive Agencies**  
Lt. Col. Gregory J. Fike  
AFLOA/JACL-ULFSC  
139 Barnes Drive, Suite 1  
Tyndall Air Force Base, Florida 32403  
Phone: (850) 283-6347  
Fax: (850) 283-6279  
Email: [Gregory.fike@tyndall.af.mil](mailto:Gregory.fike@tyndall.af.mil)

/s/ Kenneth L. Wiseman  
Kenneth L. Wiseman

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 130040-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by electronic mail, U.S. Mail, or Federal Express, this 23rd day of August, 2013, to the following:

**Tampa Electric Company**

Gordon L. Gillette  
Paula K. Brown  
P.O. Box 111  
Tampa, FL 33601-0111  
Phone: (813) 228-1444  
Fax: (813) 228-1770  
Email: [Regdept@tecoenergy.com](mailto:Regdept@tecoenergy.com)

**Florida Industrial Power Users Group**

Jon C. Moyle, Jr.  
c/o Moyle Law Firm  
118 North Gadsden Street  
Tallahassee, FL 32301  
Phone: (850) 681-3828  
Fax: (850) 681-8788  
Email: [jmoyle@kagmlaw.com](mailto:jmoyle@kagmlaw.com)

**Office of Public Counsel**

J.R. Kelly  
P. Christensen  
J. McGlothlin  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32393-1400  
Phone: (850) 488-9330  
Email: [Christensen.patty@leg.state.fl.us](mailto:Christensen.patty@leg.state.fl.us)

**Ausley & McMullen Law Firm**

James D. Beasley  
P.O. Box 391  
Tallahassee, FL 32302  
Phone: (850) 224-9115  
Fax: (850) 222-7560  
Email: [jbeasley@ausley.com](mailto:jbeasley@ausley.com)

**Florida Public Service Commission**

Office of the General Counsel  
Martha Barrera  
Martha Brown  
Suzanne Brownless  
2450 Shumard Oak Boulevard  
Tallahassee, FL 32399

**Charles Misted**

AARP, Associate State Director  
200 West College Avenue  
Tallahassee, FL 32301  
Phone: (850) 577-5190  
Email: [CMilsted@aarp.org](mailto:CMilsted@aarp.org)

**Florida Retail Federation**

100 East Jefferson Street  
Tallahassee, FL 32301  
Phone: (850) 222-4082  
Fax: (850) 226-4082

**Florida Consumer Action Network**

Bill Newton  
3006 W. Kennedy Blvd Suite B  
Tampa, FL 33609  
Phone: (813) 877-6712  
Email: [billn@fcan.org](mailto:billn@fcan.org)

**Federal Executive Agencies**

Lt. Col. Gregory J. Fike , USAF  
AFLOA/JACL-ULFSC  
139 Barnes Drive, Suite 1  
Tyndall Air Force Base, Florida 32403  
Phone: (850) 283-6347  
Fax: (850) 283-6279  
Email: [Gregory.Fike@tyndall.af.mil](mailto:Gregory.Fike@tyndall.af.mil)

**Gardner Law Firm**

Robert Scheffel Wright  
John T. La Via  
1300 Thomaswood Drive  
Tallahassee, FL 32308  
Phone: (850) 385-0070  
Fax: (850) 385-5416  
Email: [schef@gbwlegal.com](mailto:schef@gbwlegal.com)

/s/ Kenneth L. Wiseman  
Kenneth L. Wiseman