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on



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400
904-488-9330

ORIGINAL
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April 29, 1996

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket No. 960409-EI

Dear Ms. Bayo:

Enclosed please find the original and fifteen (15) copies of the Citizens' Response in Opposition to Tampa Electric Company's Motion for Protective Order for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

John Roger Howe
Deputy Public Counsel

- ACK
- ALA 3
- APP 1
- CAS JRH/bgm
- CMR Enclosures
- CRS
- EGG Handley
- ELG 1
- EMR 2
- ENR
- FRM
- SGR 1
- WAS
- GTH

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MAY 1 1996
LEGISLATIVE SERVICES DIVISION

DOCUMENT NUMBER-DATE
U4837 APR 29 1996
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Prudence Review to Determine)
Regulatory Treatment of Tampa Electric) Docket No. 960409-EI
Company's Polk Unit.) Filed: April 29, 1996

CITIZENS' RESPONSE IN OPPOSITION TO
TAMPA ELECTRIC COMPANY'S MOTION FOR PROTECTIVE ORDER

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to Rule 25-22.037(2)(b), Florida Administrative Code, respond in opposition to the motion for protective order filed by Tampa Electric Company on April 22, 1996, which should be denied for the following reasons:

1. We are mindful of the fast track this docket will be on if the Commission approves the stipulation between Tampa Electric, the Citizens, and the Florida Industrial Power Users Group (FIPUG) when it votes at its April 30, 1996, agenda conference. We construe Tampa Electric's objections to the request for production of documents to be concerned mostly with the volume and breadth of the requested discovery in light of this expedited schedule. The rapidity with which this case is likely to be processed, however, argues for, not against, broad discovery requests. Moreover, the interaction between Tampa Electric, its parent, and its affiliates which led to the utility's construction of Polk Unit 1 as an IGCC unit invite inquiry into all aspects of TECO Energy, Inc., and its subsidiaries' operations. However, without waiving any rights Citizens may have to compel discovery, Public Counsel commits to

work in good faith with Tampa Electric to amicably resolve discovery disputes.

2. Virtually all the information relevant to a determination of the issues in this proceeding is in the possession of Tampa Electric, its parent or its affiliates. Other parties must understand all the corporate interactions within TECO Energy, Inc., which led Tampa Electric to continue with plans to construct a coal gasification combined cycle unit even as Florida Power & Light Company (FPL) built Martin Units 3 and 4 in 1994 as natural gas-fired combined cycle units and as Florida Power Corporation (FPC) is currently building its own natural gas-fired combined cycle units in Polk County.

3. Tampa Electric's sister company, TECO Power Services Corporation, through a partnership known as Clean Power Cogeneration Limited Partnership, originally intended to build a coal gasification combined cycle unit for the City of Tallahassee to be located at the Arvah B. Hopkins Power Station. Clean Power Cogeneration Limited Partnership had, as its general partner, Clean Power Cogeneration, Inc., a subsidiary of TECO Power Services. The limited partners were TPS Clean Coal, Inc., Clean Power, Inc. (both also subsidiaries of TECO Power Services), and CRSS Power, Inc.

4. Some set of circumstances, involving some or many of the companies under TECO Energy, caused TECO Power Services, through Clean Power Cogeneration, Inc., to buy out CRSS Power, Inc., for \$1.2 million. Further interaction among TECO Energy and its subsidiaries then led Tampa Electric to purchase TECO Power

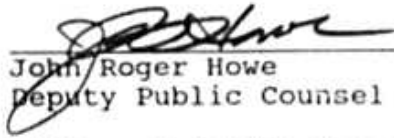
Service's interests for \$2.5 million and to site the IGCC project in Polk County. Tampa Electric and TECO Power Services agreed, in a "Project Management Agreement," that it was "in the best interests of Tampa Electric to receive the benefit of [TECO Power Service's] knowledge, information and relationships through the continued involvement of TPS in the IGCC Project." The agreement provided further that "TPS shall act as Tampa Electric's representative with respect to the management of the engineering, design, and the construction management and other services associated with the IGCC Project which encompass all of the components necessary to complete the IGCC technology as defined in the DOE [Department of Energy] cooperative agreement." TECO Power Services is the entity which will commercialize the IGCC technology developed at Polk Unit 1 in the future.

5. Public Counsel's First Request for Production of Documents to Tampa Electric Company (Nos. 1-24) is reasonably calculated to lead to the discovery of admissible evidence in the possession of TECO Energy and its affiliates which bear upon Tampa Electric's decision to construct Polk Unit 1 as an IGCC unit.

WHEREFORE, the Citizens of the State of Florida, through the Office of Public Counsel, move the Florida Public Service Commission to deny Tampa Electric Company's motion for a protective order.

Respectfully submitted,

JACK SHREVE
Public Counsel



John Roger Howe
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

(904) 488-9330

Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 960409-EI

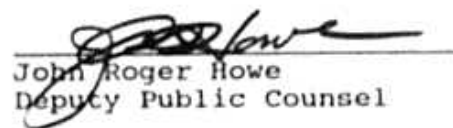
I HEREBY CERTIFY that a correct copy of the foregoing CITIZENS' RESPONSE IN OPPOSITION TO TAMPA ELECTRIC COMPANY'S MOTION FOR PROTECTIVE ORDER has been furnished by U.S. Mail or *hand-delivery to the following persons on this 29th day of April, 1996.

LEE L. WILLIS, ESQUIRE
JAMES D. BEASLEY, ESQUIRE
Macfarlane Ausley Ferguson
& McMullen
P.O. Box 391
Tallahassee, FL 32302

JOSEPH A. MCGLOTHLIN, ESQUIRE
VICKI GORDON KAUFMAN, ESQUIRE
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas
117 S. Gadsden Street
Tallahassee, FL 32301

ROBERT V. ELIAS, ESQUIRE*
Florida Public Service
Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

JOHN MCWHIRTER, ESQUIRE
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas
100 North Tampa St., Suite 2800
Tampa, FL 33602


John Roger Howe
Deputy Public Counsel