

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

December 2, 2008

HAND DELIVERED

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

RECEIVED-FPSC  
08 DEC -2 PM 3:24  
COMMISSION  
CLERK

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

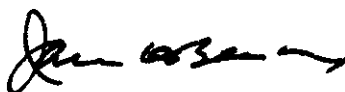
Dear Ms. Cole:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Response to the Florida Industrial Power Users Group's Motion to Compel Discovery Response.

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

Thank you for your assistance in connection with this matter.

Sincerely,



James D. Beasley

JDB/pp  
Enclosure

COM \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL 4 \_\_\_\_\_  
OPC \_\_\_\_\_  
RCP \_\_\_\_\_  
SSC 1 \_\_\_\_\_  
SGA 2 \_\_\_\_\_  
ADM \_\_\_\_\_  
CLK \_\_\_\_\_

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

DOCUMENT NUMBER-DATE

11095 DEC-2 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 080317-EI

FILED: December 2, 2008

**TAMPA ELECTRIC COMPANY'S RESPONSE TO  
THE FLORIDA INDUSTRIAL POWER USERS GROUP'S  
MOTION TO COMPEL DISCOVERY RESPONSE**

Tampa Electric Company ("Tampa Electric" or "the company") files this its response to the motion to compel filed on November 25, 2008 on behalf of the Florida Industrial Power Users Group ("FIPUG"), and says:

1. Tampa Electric objected to FIPUG's Interrogatories Nos. 27 and 28 and Request for Production of Documents Requests Nos. 26, 27 and 28 because they essentially requested that Tampa Electric perform legal research for FIPUG's benefit – something FIPUG's attorneys are fully capable of performing themselves. However, in the spirit of cooperation, Tampa Electric will provide FIPUG with all information responsive to these discovery requests that Tampa Electric has in its possession. However, given the time demands of discovery and other case preparation, Tampa Electric has yet to fully research precedent supportive of the company's proposed cost of service methodology and reserves the right to do so as this case progresses and to incorporate in the company's post-hearing brief any additional precedent in the form of decisions or orders that further research may disclose.

2. With respect to FIPUG's motion to compel relative to Interrogatory No. 22, Tampa Electric believes it fully responded to that interrogatory by providing a list of the variable cost components associated with the base and intermediate load units referred to in the direct testimony of witness Ashburn. FIPUG did not request that the information be provided on a

DOCUMENT NUMBER-DATE

11095 DEC-28

FPSC-COMMISSION CLERK

dollar per megawatt hour basis and any ambiguity or lack of clarity in FIPUG's interrogatory does not provide a proper basis for compelling answers to questions that were not asked.

WHEREFORE, Tampa Electric Company submits the foregoing response to FIPUG's motion to compel dated November 25, 2008.

DATED this 2<sup>nd</sup> day of December 2008.

Respectfully submitted,



---

LEE L. WILLIS  
JAMES D. BEASLEY  
KENNETH R. HART  
J. JEFFRY WAHLEN  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, Florida 32302  
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to FIPUG's Motion to Compel Discovery Response, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 2<sup>nd</sup> day of December 2008 to the following:

Keino Young/Martha Brown\*  
Jennifer Brubaker/Jean Hartman  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

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

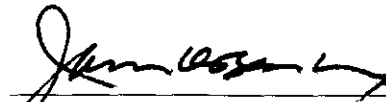
Robert Scheffel Wright  
John T. LaVia, III  
Young van Assenderp, P.A.  
225 South Adams Street, Suite 200  
Tallahassee, FL 32301

Vicki Gordon Kaufman  
Jon C. Moyle, Jr.  
Anchors Smith Grimsley  
118 North Gadsden Street  
Tallahassee, FL 32301

John W. McWhirter, Jr.  
McWhirter, Reeves & Davidson, P.A.  
Post Office Box 3350  
Tampa, FL 33601-3350

Michael B. Twomey  
Post Office Box 5256  
Tallahassee, FL 32314-5256

Cecilia Bradley  
Office of the Attorney General  
The Capitol – PL 01  
Tallahassee, FL 32399-1050

  
\_\_\_\_\_  
ATTORNEY