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From: Flora Taylor [ftaylor@mac-law.com]
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Subject: Docket No. 031033-EI, Joint Prehearing Statement of the Citizens of the State of Florida and the Florida Industrial Power Users Group



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Submitted for electronic filing is Joint Prehearing Statement of the Citizens of the State of Florida and the Florida Industrial Power Users Group in docket No. 031033-EI. The document has 6 pages.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Tampa Electric Company's 2004-2008 waterborne Transportation contract with TECO Transport and associated Benchmark.

Docket No. 031033-EI
Filed: May 10, 2004

JOINT PREHEARING STATEMENT OF
THE CITIZENS OF THE STATE OF FLORIDA AND
THE FLORIDA INDUSTRIAL POWER USERS GROUP

The Citizen's of the State of Florida (OPC) and the Florida Industrial Power Users Group (FIPUG), pursuant to Order No. PSC-03-1398-PCO-EI, hereby file their Joint Prehearing Statement.

A. APPEARANCES:

HAROLD MCLEAN, Public Counsel, **ROBERT D. VANDIVER**, Associate Public Counsel, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400

On Behalf of the Citizens of the State of Florida.

JOHN W. MCWHIRTER, JR., McWhirter Reeves McGlothlin Davidson Kaufman & Arnold, P.A., 400 North Tampa Street, Suite 2450, Tampa, Florida 33601-3350 and **VICKI GORDON KAUFMAN and TIMOTHY J. PERRY**, McWhirter Reeves McGlothlin Davidson Kaufman & Arnold, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301.

On Behalf of the Florida Industrial Power Users Group.

B. WITNESSES:

<u>Witness</u>	<u>Proffered by</u>	<u>Issues</u>
H. G. (Pat) Wells	OPC and FIPUG	1 - 2
Michael J. Majoros	OPC and FIPUG	1 - 3

C. EXHIBITS:

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
Exhibit No. __ (HGW-1)	H.G. Wells	Resume of H.G. Wells

Exhibit No. __ (HGW-2)	H.G. Wells	Letter from Staff to TECo regarding RFP
Exhibit No. __ (HGW-3)	H.G. Wells	Platts' article regarding TECo RFP
Exhibit No. __ (HGW-4)	H.G. Wells	Letter from barge company to TECo
Exhibit No. __ (HGW5)	H.G. Wells	Letter from barge company to TECo
Exhibit No. __ (Appdx A)	M. Majoros	Majoros Resume
Exhibit No. __ (MJM-1)	M. Majoros	Commission fuel procurement policy
Exhibit No. __ (MJM-2)	M. Majoros	Backhaul information
Exhibit No. __ (MJM-3)	M. Majoros	Backhaul calculation
Exhibit No. __ (MJM-4)	M. Majoros	JEA data
Exhibit No. __ (MJM-5)	M. Majoros	Rate Matrix

D. STATEMENT OF BASIC POSITION:

The rates which TECo has committed to pay to its sister company for the next five years to provide TECo with waterborne transportation service, and which it seeks to recover from ratepayers, are excessive and unreasonable. Such rates should be rejected.

As a preliminary matter, the Request for Proposals (RFP) which TECo issued was flawed. Therefore, it failed to elicit representative bids from the marketplace. In fact, potential bidders said they would not bid because it was clear that TECo's sister company was the preordained winner of the bid. This perception of bias was exacerbated because the affiliate did not even have to bid but rather simply was able to sit back, await the bids, and then just meet them, rather than having to provide its own bid. Such a process cannot result in a competitive response. Among other flaws, the RFP stated a preference for integrated service and provided an unreasonably short period for response. When a few bids were received (one from a railroad carrier was unsolicited), TECo inappropriately evaluated the bids and predictably chose its affiliate. This process cannot be said to have really tested the market.

TECo then turned to an expert it retained to derive the rates it would pay its affiliate. However, Mr. Dibner's rates are flawed and should be rejected. The rates identified in Mr. Majoros' testimony should be the rates used instead

Mr. Majoros makes two significant adjustments to the rates TECo proposes, both of which must be recognized to arrive at reasonable rates. First, Mr. Majoros adjusts the rates TECo proposes to account for the substantial backhaul traffic TECO Transport carries on its

return trips. TECo's proposed rates ignore all backhaul traffic and exclude it from the proposed rates.

Second, Mr. Majoros eliminates the "premium" by which TECo increases the rates it pays TECO Transport to account for preference trade traffic. TECo claims TECO Transport forgoes these "opportunities" to serve TECo. As Mr. Majoros testifies, neither of these items is appropriate to consider when setting a competitive market price. Mr. Majoros makes the appropriate adjustments which the Commission should adopt.

E. STATEMENT OF ISSUES AND POSITIONS:

ISSUE 1: Is Tampa Electric's June 27, 2003, request for proposals sufficient to determine the current market price for coal transportation?

OPC/FIPUG: No. The RFP was flawed in numerous respects as was the evaluation of the few bids received. Thus, it cannot be used to determine the current market price for coal transportation.

ISSUE 2: Are Tampa Electric's projected coal transportation costs for 2004 through 2008 under the winning bid to its June 27, 2003, request for proposals for coal transportation reasonable for cost recovery?

OPC/FIPUG: No. TECo's proposed charges are excessive and inflated. They fail to consider backhaul revenue and provide an unwarranted premium for opportunity costs. The Commission should adopt the rates set forth in Mr. Majoros' testimony.

ISSUE 3: Should the Commission modify or eliminate the waterborne coal transportation benchmark that was established for Tampa Electric by Order No. PSC-93-0443-FOF-EI, issued March 23, 1993, in Docket No. 930001-EI?

OPC/FIPUG: Yes. The benchmark is out of date and highly overstated. This was illustrated by Mr. McNulty's testimony in Docket No. 030001-EI. The benchmark should be eliminated.

F. STIPULATED ISSUES:

None.

G. PENDING MOTIONS:

FIPUG has the following motions pending:

Motion to Strike Tampa Electric Company's "Rebuttal Comments," filed February 18, 2004.

In addition, OPC and FIPUG have a number of objections pending to TECo's attempt to seek confidentiality of certain information:

Joint Response in Opposition to Tampa Electric Company's Motion for Temporary Protective Order for Portions of the Deposition Transcript of Michael J. Majoros, Jr., filed May 5, 2004.

Joint Response in Opposition to TECo's Request for Confidential Classification of Portions of the Testimony and Exhibits of Intervenor Witnesses, filed April 26, 2004.

Joint Response in Opposition to TECo's Motion for Temporary Protective Order filed, April 6, 2004.

FIPUG's Response in Opposition to TECo's Requests for Confidential Classification, filed February 9, 2004.

FIPUG's Motion for Protective Order Regarding Citizens of the State of Florida's Responses to Tampa Electric Company's First Request for Production of Documents No. 6, filed January 26, 2004.

H. OTHER MATTERS:

None at this time.

S/ Vicki Gordon Kaufman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Joint Prehearing Statement of the Citizens of the State of Florida and the Florida Industrial Power Users Group has been furnished by (*) electronic mail and U.S. Mail this 10th day of May 2004, to the following:

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S/ Vicki Gordon Kaufman

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