

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 930987-EI
Currently Authorized Return on) ORDER NO. PSC-94-0065-PHO-EI
Equity of Tampa Electric Company) ISSUED: January 20, 1994
_____)

Pursuant to Notice, a Prehearing Conference was held on January 12, 1994, in Tallahassee, Florida, before Commissioner Julia L. Johnson, as Prehearing Officer.

APPEARANCES:

Lee L. Willis, Esquire, and James D. Beasley, Esquire, Ausley, McMullen, McGehee, Carothers and Proctor, Post Office Box 391, Tallahassee, FL 32302

On Behalf of Tampa Electric Company

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

On behalf of the Citizens of the State of Florida.

Robert V. Elias, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863

On behalf of the Commission Staff.

Prentice P. Pruitt, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862

On behalf of the Commissioners.

PREHEARING ORDER

I. CASE BACKGROUND

Commission Staff (Staff) met with Tampa Electric Company (TECO or Company) on September 27, 1993 to discuss its currently authorized return on equity (ROE). The Office of Public Counsel (OPC) was represented at the meeting. At the meeting, Staff suggested that TECO's currently authorized ROE may need to be reduced given the current market conditions. Since the time the Commission approved the currently authorized ROE of 12.0% for TECO

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in Order No. PSC-93-0165-FOF-EI (Order No. 93-0165), capital costs have declined and Staff suggested that TECO's authorized ROE should be reduced to reflect the decline.

TECO filed a formal proposal on October 7, 1993 to reduce its ROE to 11.35% and implement a storm damage reserve of \$4 million a year for the next four years, both effective January 1, 1994. The Commission accepted TECO's proposal at the October 19, 1993 agenda conference and issued Proposed Agency Action (PAA) Order No. PSC-93-1570-FOF-EI (Order No. 93-1570) on October 27, 1993.

On November 12, 1993, OPC timely filed a petition to officially protest the Commission's action in Order No. 93-1570. In a separate petition filed on the same date, OPC filed a motion to hold an expedited hearing to set a new ROE for TECO, rescind TECO's 1994 rate increase and order a rate reduction, or, in the alternative, if a hearing cannot be held before January 1, 1994, order the 1994 rate increase to be held subject to refund pending the outcome of the hearing.

At the December 7, 1993 agenda conference the Commission voted to deny OPC's motion and scheduled this hearing for January 21, 1994.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
David C. Parcell	OPC	Fair return on equity.
Kimberly H. Dismukes	OPC	Revenue reduction associated with reduced return on equity.
Girard F. Anderson	TECO	Policy
Charles A. Benore	TECO	Fair return on equity
Samuel C. Hadaway	TECO	Fair return on equity
Alan D. Oak	TECO	Financial integrity
Elizabeth A. Townes	TECO	Accounting, Storm Reserve

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Rebuttal</u>		
David C. Parcell	OPC	Rebuttal to Oak, Benore and Hadaway
Kimberly H. Dismukes	OPC	Rebuttal to Oak and Townes
Stephen A. Stewart	OPC	Rebuttal to Townes, Benore and Hadaway
Charles A. Benore	TECO	Rebuttal to Parcell
Alan D. Oak	TECO	Rebuttal to Dismukes

V. BASIC POSITIONS

TECO: The review of a company's authorized return on equity is a very serious matter. It is a matter of primary concern to Tampa Electric, its Customers and investors. This Commission should take care to preserve the fairness and symmetry of its procedures. The continuity and consistency of regulation is essential. The decision the Commission makes in this docket will have a real time, real dollar effect on Tampa Electric's ability to serve its Customers.

This Commission recently determined Tampa Electric's allowed return on equity to be 12% within a zone of reasonableness of 11% to 13%. The last order in that proceeding was issued in May 1993, only a few months ago. That determination was made in a fully litigated case.

All of the evidence presented in this current proceeding shows that Tampa Electric's fair and reasonable return on equity, both actual and projected, remains within the zone of reasonableness of its currently authorized return. Tampa Electric's witnesses Hadaway and Benore in this docket support a return of 12.2% while Public Counsel's witness Parcell supports a midpoint return of 11%. The zone of reasonableness of all recommendations in this docket would encompass the currently allowed 12% midpoint.

The determination of a return on equity is not a precise process. There are no magic formulas - it is a matter of reasoned judgment. This is why the Commission's well established practice

has been to set a zone of reasonableness above and below a determined midpoint. The inescapable conclusion is that there has not been a significant enough change in the cost of equity or in the achieved or expected return to warrant an adjustment in the allowed return so recently determined in a fully litigated case.

The Commission should also take action in this docket to approve Tampa Electric's proposed storm damage accrual. The company, consistent with procedures previously approved for Florida Power Corporation, Florida Power & Light Company and Gulf Power, proposes to implement a self-insurance program effective January 1, 1994 for the cost of repairing and restoring its transmission and distribution lines, excluding substations, in the event of a hurricane, tornado or other damage due to destructive acts of nature. The proposed annual storm damage accrual of \$4 million replaces commercial insurance which is no longer available due to recent hurricane experience, most notably those from Hurricane Andrew, on the insurance industry. The use of accrual accounting for this necessary expense has the effect of leveling the impact on rates of our Customers as opposed to recognizing a very large expense at the time of a particular storm event. Tampa Electric is not requesting additional rate relief for this expense but plans to absorb this cost until its next rate proceeding.

Tampa Electric's historical and projected earnings show that the company is earning well within its last allowed zone of reasonableness for its return on equity. The company's 12 months ended November 1993 surveillance report adjusted to reflect recent changes in known items shows a return on equity of 11.79%. The company's expectations for calendar year 1994 show an expected return on equity of 11.52%. Consequently, Tampa Electric urges this Commission to enter its order approving the proposed storm damage reserve, confirming its last allowed return on equity, finding that none of its revenues should be held subject to refund and closing this docket.

OPC: In December, 1992, Tampa Electric Company was granted a 12% return on equity for 1994, apparently on the assumption that economic conditions would remain fairly constant through 1993 and 1994. Had the Commission foreseen the precipitous drop in interest rates during 1993, however, it would have authorized a return on equity of no more than 10.5% and realized that the company would also refinance its debt at lower rates. If the Commission had used a 10.5% equity return, it would have ordered a \$15 million reduction below 1993 revenue requirements (instead of a \$16 million increase) or a \$31 million reduction from current rate levels. Since interest coverage is above 3.75 times, there would have been no need for additional CWIP-eligible-for-AFUDC in rate base to meet

a financial integrity target. (Order No. 93-1840 is simply incorrect when it states, at page 4, that "[i]f the TIE ratio is considered, the revenue requirements do not change significantly until the maximum CWIP level is reached.") Rates should be reduced by at least \$31 million annually to reflect the declining cost of capital. Even at the 11.35% ROE proposed by the company and accepted by the Commission in Order No. 93-1570, rates should be reduced by \$3.5 million below 1993 levels and \$19.5 million below current levels.

STAFF: Staff takes no basic position pending discovery and the evidence developed at the Final Hearing scheduled in this matter.

VI. ISSUES AND POSITIONS

ISSUE 1: What is the appropriate return on equity (ROE) for Tampa Electric Company (TECO) for all regulatory purposes?

TECO: The Commission should affirm Tampa Electric's existing allowed return on equity of 12% within a zone of reasonableness of 11% - 13%.

OPC: Public Counsel recommends a range of 9.5% to 10.5% as a fair return on equity capital. In Tampa Electric's last rate case, the Commission set an ROE of 12%, which coincided with the upper end of the range recommended by Mr. Parcell. Changes in the financial markets since that time indicate that a fair return is now approximately 150 basis points lower, so the Commission should set a current ROE no higher than 10.5% to be consistent with its previous decision.

STAFF: No position at this time.

ISSUE 2: What is the appropriate amount, if any, that TECO should accrue for a storm damage reserve?

TECO: The appropriate amount that TECO should accrue for storm damage reserve is \$4 million annually for a period of two years or until the company's next full rate proceeding.

OPC: It is difficult to understand why this is even an issue. There is no petition pending before the Commission asking for a storm damage reserve. If there were, the petition would spell out the justification for a reserve in terms of actual historical experience or expected future expenditures. Florida Power

Corporation, for example, alleged in its petition in Docket No. 930867-EI that "[b]ased upon our average storm damage experience over a 20-year period of \$.7 million, and the most recent 10-year period of \$1.4 million, FPC believes its proposed annual expense will be adequate." FPC's petition was supported by the prefiled testimony and supporting exhibits of Mr. John Scardino. In this case, there is no data to evaluate. Tampa Electric has simply made an unsubstantiated proposal to record \$4 million annually to a storm damage reserve. Public Counsel does not believe the company has made any attempt to actually quantify or justify the \$4 million figure or any other amount. (There is apparently no relationship between the storm damage accrual and the 11.35% equity return Tampa Electric proposed and the Commission accepted in Order No. 93-1570.) As such, the appropriate amount is zero.

STAFF: No position at this time.

ISSUE 3: What amount of funds, if any, should be held subject to refund?

TECO: None of Tampa Electric's revenue should be held subject to refund.

OPC: The relevance of this issue is also difficult to understand. Public Counsel's request to hold the 1994 rate increase subject to refund pending the outcome of hearings was denied in Order No. 93-1840. Does the Commission now intend to hold a hearing solely to determine if rates should be held subject to refund pending some undisclosed future event? Public Counsel's Petition on Proposed Agency Action, at page 6, "request[ed] an expedited limited proceeding pursuant to Section 120.57(1) and Section 366.076(1), Florida Statutes (1991), to determine a fair return on equity for Tampa Electric Company and to establish new rates for 1994." (Emphasis added.) If the Commission decides that Tampa Electric's equity return should be set below 12%, rates should be adjusted accordingly. The utility's customers should not be required to pay rates designed to provide a 12% return on equity after a lower return has been found to be appropriate "for all regulatory purposes." Rates should be reduced commensurate with the magnitude of the change in the allowed return on equity. The rate reduction should not be affected by either a target interest coverage ratio or a related level of CWIP in rate base. Since a rate reduction is the appropriate action, it is unnecessary to condition any amount subject to refund.

STAFF: The amount to be held subject to refund, if any should be determined by the application of the interim statute.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Hadaway	TECO	(SCH-1)	
Benore	TECO	(CAB-1)	
Oak	TECO	(ADO-1)	
Townes	TECO	(EAT-1)	
Parcell	OPC	Schedule 1	Background and Experience Profile Changes in Interest Rates Capital Asset Pricing Model Analysis Discounted Cash Flow Analysis Standard & Poor's Financial Ratio Guidelines for AA Electric Utilities Pre-Tax Coverage
Dismukes	OPC	Schedule 1	Impact of Alternative Returns on Equity
<u>Rebuttal</u>			
Benore	TECO	CAB-2	Exhibit of Charles A. Benore

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

NO PROPOSED STIPULATIONS AT THIS TIME.

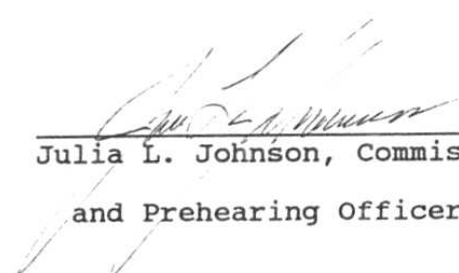
IX. PENDING MOTIONS

Public Counsel's Motion for Reconsideration of the Commission's ORDER DENYING PUBLIC COUNSEL'S MOTION TO HOLD EXPEDITED HEARINGS TO RESCIND TAMPA ELECTRIC COMPANY'S 1994 RATE INCREASE AND ORDER A RATE REDUCTION, OR, IN THE ALTERNATIVE, ORDER THE 1994 INCREASE TO BE HELD SUBJECT TO REFUND PENDING THE OUTCOME OF HEARINGS AND SCHEDULING HEARING TO DETERMINE APPROPRIATE RETURN ON EQUITY FOR TAMPA ELECTRIC COMPANY

It is therefore,

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 20th day of January, 1994.



Julia L. Johnson, Commissioner

and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative

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hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.