ORIGINAL

STATE OF FLORIDA

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September 29, 1997

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 970001-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of the Reply Brief of the Citizens of the State of Florida 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,

Stephen C. Burgess
Deputy Public Counsel

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Enclosures

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor.	)))))	Docket No. 970001-EI Filed: September 29, 1997

REPLY BRIEF
OF THE CITIZENS OF THE STATE OF FLORIDA

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INTRODUCTION

TECO and Gulf both argue that transmission revenues should be credited above-the-line in base rates. The Citizens will refute herein the following three erroneous arguments raised to support the base rate revenue credit:

(I) transmission revenues should be matched with transmission expenses which are accounted in base rates (see Gulf Power's Post-Hearing Brief, p. 2&3);

(II) to credit revenue to the fuel recovery clause would create a "double-dipping" against the selling utility (see Gulf Power's Post-Hearing Brief, p. 3, and Brief of Tampa Electric Company, p. 6);

(III) by crediting transmission revenue in base rates, TECO creates real and tangible benefits for its ratepayers (Brief of Tampa Electric Company, p. 7).

None of these arguments is compelling, and each will be addressed in turn.

ARGUMENTS

I. It cannot be overemphasized that each utility's base rates already fully compensate the utility for the entirety of its transmission costs. In other words, there is sufficient base rate revenue to <u>fully match</u> all the transmission expenses that are in base rates, so there are no further base rate expenses to be matched.

Aside from those already accounted for in base rates, a utility does not incur any incremental transmission expenses in making economy sales. The separate transmission charge is merely a reimbursement to the seller's customers for the costs they have already borne in their base rates. The selling utility already has been made whole and should merely act as conduit to assure the funds get to their customers through the most direct route. Clearly, the most direct route is the fuel cost recovery docket, where the true-up assures that the revenues reach those who are entitled to them.

II. Both TECO and Gulf argue that to credit economy energy transmission revenue to the retail fuel clause would create a "double dipping" against the utility because FERC will also credit the same revenues in establishing subsequent transmission rates. Curiously, then, both TECO and Gulf recommended a treatment that directly refutes their own claim of double-dipping. Both utilities recommend that the revenue be credited above-the-line in their base rates. Within the context of double-dipping, it makes no difference whether the second dip is through base rates or fuel adjustment. If it is a double dip in fuel adjustment, it will also be a double dip in base rates. Neither TECO nor Gulf, however, have voiced any qualms about double-dipping when they recommend a credit to base rates. They have no credibility in arguing that a revenue credit to fuel adjustment creates a double dip.

The second reason for rejecting TECO and Gulf's argument on double-dipping is that FERC's alleged treatment of economy energy transmission revenues is not relevant to the Commission's treatment of these retail revenues. FERC cannot take money rightfully belonging to retail customers and arbitrarily give it to wholesale customers.

Keep in mind that non-fuel costs associated with broker sales have not been separated. All of these costs are being paid by retail customers. A separate charge for transmission (whether added to the transaction price or subsumed within the transaction price) recoups costs that are being borne fully by retail customers. Wholesale ratepayers are entitled to none of these revenues. All the revenues belong to the retail customers and therefore must be credited in the retail jurisdiction.

Gulf and TECO, however, make the disingenuous argument that because FERC will credit the revenues in the wholesale jurisdiction, the PSC should be prohibited from properly crediting the revenue in the retail jurisdiction. (Although, as earlier pointed out, these utilities belie their own argument by suggesting a retail base rate credit of this revenue).

If in fact FERC does attempt to credit a wholesale revenue account with these retail revenues (a highly questionable allegation), these utilities should educate FERC to the fact that the revenues cover non-separated costs that are entirely in the retail jurisdiction. If utilities fail to convince FERC of the proper treatment of the revenues, then they should separate the currently non-separated costs and add those costs into the wholesale jurisdiction to prevent any double-dipping.

It is altogether absurd, however, for the PSC to refuse to rightfully credit the revenues to retail customers merely because these utilities claim FERC has commandeered the revenues into the wholesale jurisdiction.

III. TECO is currently under a stipulation and a PSC order which calls for the following:

(1) for 1997 and 1998, TECO will split 60/40 with its customers all base rate earnings above 11.75% but below 12.75%;

(2) there is to be a "refund" of all earnings above 12.75% (but see (5) below);

(3) before the 12.75% threshold is considered to be reached, however, the gap between 11.75% and 12.75% must be filled with the 40% ratio that is TECO's share of the earnings;

(4) effectively, then, the 60/40 sharing extends until TECO attains actual earnings of 14.25%;

(5) any refund stemming from 1997 operations will actually be deferred into 1998 as a revenue credit to that subsequent year;

(6) accordingly, over-earnings that fall within the 60% stratum for 1997 and are deferred into the same stratum for 1998 will be refunded at a 36% rate;

(7) there is an automatic $25 million refund to which TECO has already agreed;

(8) the $25 million refund will be used to reduce 1998 earnings for calculating a refund.

Considering the effects of the existing stipulation, TECO's base rate earnings would need to exceed 14.25% for 1997 and approximately 15.25% for 1998, before the customers would obtain the "dollar for dollar" revenue sharing that TECO claims the customers would enjoy (p. 7). More likely, if the customers obtain any share at all under TECO's approach (which is highly doubtful), it would be within the 36% threshold and deferred two years.

It is particularly instructive to look at TECO's recommended treatment when the shoe is on the other foot. TECO argues that a utility purchasing broker sales should recoup the total cost of the transmission charge through the fuel cost recovery clause. When TECO's money is at stake, the utility would collect through the fuel recovery every six months, with a true-up to assure full collection. When returning money that rightfully belongs to its retail customers, however, TECO describes as "full benefit" (p. 7) a method that <u>might</u> return 36% of the money two years later.

CONCLUSION

The obvious disparity and inequity should not be condoned by the Commission. Transmission revenues on broker sales should be credited within the same mechanism used to recover transmission charges on the same sales. Both should be reflected in the fuel cost recovery clause.

Respectfully submitted,

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CERTIFICATE OF SERVICE
DOCKET NO. 970001-EI

I HEREBY certify that a copy of the foregoing REPLY BRIEF OF THE CITIZENS OF THE STATE OF FLORIDA has been served by *hand delivery or U.S. Mail to the following parties of record on this 29th day of September, 1997.

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