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September 24, 2001

HAND DELIVERED

Ms. Blanca S. Bayo, Director
Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Calculation of gains and appropriate regulatory treatment for non-separated wholesale energy sales by investor-owned electric utilities;
FPSC Docket No. 010283-EI

Dear Ms. Bayo:

Enclosed for filing in the above styled docket are the original and fifteen (15) copies of Tampa Electric Company's Brief and Post-Hearing Statement.

Also enclosed is a diskette containing the above filing generated in Word and saved in Rich Text format for use with WordPerfect.

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
Enclosures

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

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Calculation of gains and appropriate regulatory treatment for non-separated wholesale energy sales by investor-owned electric utilities.	)))))	DOCKET NO. 010283-EI FILED: September 24, 2001

TAMPA ELECTRIC COMPANY'S
BRIEF AND POST-HEARING STATEMENT

Tampa Electric Company ("Tampa Electric" or "the company") submits the following Brief and Post-Hearing Statement in the above referenced matter:

Case Background

In part III of Order No. PSC-00-1744-PAA-EI ("Order No. 00-1744" or "the PAA Order"), issued September 26, 2000, in Docket No. 991779-EI ("the incentives docket"), the Commission approved, as proposed agency action, a method for calculating gains on non-separated wholesale power sales and the appropriate regulatory treatment of the revenues and expenses associated with those sales. The Florida Industrial Power Users Group ("FIPUG") and Gulf Power Company ("Gulf Power"), in separate filings, protested specific portions of the action proposed by the Commission in part III of the Order. Pursuant to these protests a hearing was conducted on August 31, 2001. Jurisdiction over this matter is vested in the Commission through several provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05 and 366.06, Florida Statutes.

This Brief and Post-Hearing Statement sets forth argument on three key points addressed during the course of this proceeding, followed by Tampa Electric's post-hearing statement of positions on the four issues set out in the Prehearing Statement. Issue 1, concerning the appropriate regulatory treatment for SO_2 emission allowances associated with non-separated

wholesale energy sales has been stipulated among all parties and, thus, will not be addressed in the arguments below.

References herein to the transcript of the hearing conducted on August 31, 2001 will be designated (Tr. (page number), lines ____ through ____).

ARGUMENT ON KEY ISSUES

Summary of Tampa Electric's Position

The Commission should reaffirm, as a matter of final agency action, the regulatory treatment it proposed in Order No. 00-1744 for the cost of fuel and purchased power associated with non-separated wholesale sales. FIPUG's alternative proposal is premised upon a distorted and self-serving incremental cost analysis designed to benefit interruptible customers at the expense of all retail customers. The Commission should also reaffirm its proposed regulatory treatment for variable O&M expenses associated with non-separated wholesale sales. Finally, the Commission should approve the incentive implementation plan described in the Staff's September 20, 2000 Memorandum to the parties in the fuel docket. (Exhibit No. 3 in this proceeding).

I. The Commission Should Adhere to its Previously Proposed Regulatory Treatment for the Costs of Fuel and Purchased Power Associated with Non-Separated Wholesale Energy Sales and Reject as Inappropriate the Alternative Treatment Proposed by FIPUG.

All parties, with the exception of FIPUG and OPC, have recognized the appropriateness of the regulatory treatment of the cost of fuel and purchased power associated with non-separated wholesale energy sales that was proposed by the Commission in its Order No. 00-1744. (Tr. 30, line 9 through Tr. 31, line 8; Tr. 61, line 17 through Tr. 63, line 13; Tr. 137, line 19 through Tr.

138, line 8; See also, Gulf Power's position on Issue No. 2 in the Prehearing Statement.) That Commission proposal was for each investor-owned utility to credit its fuel and purchased power cost recovery clause for an amount equal to the incremental fuel costs of generating the energy for each such sale.

It was made clear at the hearing that the utilities favor using the true incremental cost of making a non-separated sale. It was equally clear that FIPUG and OPC favored using an artificially inflated cost as a proxy for incremental cost because that distorted approach produces a lower calculated gain, or perhaps no gain at all, from non-separated sales.

FIPUG's witness, Gerard Kordecki, testified during his deposition that he prepared and submitted his testimony in this proceeding solely to address:

> . . .the size of the incentive pot, so to speak, or what's eligible for the incentive. Nothing else. (Exhibit 1, p. 47, lines 19-21)

Mr. Kordecki differentiated his proposed regulatory treatment from that proposed earlier by the Commission by saying that his methodology "shrinks the incentive pot." (Tr. 189, lines 3-6; Exhibit 1, p. 39, lines 6-7) His methodology accomplishes this by actually ignoring the true incremental cost of a sale at any time a utility might be prudently utilizing firm purchased power at a higher cost. Mr. Kordecki would force that higher cost of purchased power into the incremental cost equation as Mr. Kordecki's proxy or surrogate for the true incremental cost of the sale. (Tr. 189, lines 7-11; Exhibit 2, p. 37, line 24 – p. 38, line 3) FIPUG would burden each non-separated sale with the higher purchased power cost without regard to the prudency of the firm purchase, when it was made, why it was made and whether it bears any relationship to the sale.

Mr. Kordecki admitted that under his methodology there could be instances when there is no relationship whatsoever between the higher cost he uses as a proxy or surrogate for incremental cost and the utility's true incremental cost of a sale. (Tr. 193, line 19 through Tr. 194, line 1; Exhibit 1, p. 38, line 17-25)

It is abundantly clear that FIPUG's approach to calculating the incremental cost of a non-separated wholesale sale simply is a forced and internally inconsistent charade that ignores the utility's true incremental cost of making the sale. It is equally clear that FIPUG's development of its proposed regulatory treatment was a goal oriented exercise. First FIPUG determined its goal which, in Mr. Kordecki's terminology, was to "shrink the incentives pot." Next, FIPUG set about to craft a regulatory treatment methodology that would achieve its predetermined goal.

What would be the effect of adopting FIPUG's proposed regulatory treatment? As discussed earlier, FIPUG's approach would arbitrarily overstate a utility's incremental cost and thereby understate the calculation of gains from non-separated wholesale sales. This would lessen the utility's chances of sharing in a portion of its gains from non-separated sales and thus reduce the utility's incentive to make such sales. All of these results would be entirely consistent with what FIPUG has been trying to bring about since the inception of the incentives docket.

Moreover, FIPUG's approach would prevent utilities from making some sales they otherwise would make using the regulatory treatment proposed by the Commission. Tampa Electric's witness, Lynn Brown, responded at hearing to a hypothetical in which a utility had within its power resource portfolio a must-take block of firm purchased power priced at $80/mwh, base load generation at $25/mwh and combustion turbine generation at $75/mwh. The hypothetical further assumed that the utility had an opportunity to sell 5 megawatts of power to a neighboring utility at $50/mwh during a time when its incremental generation for the sale would

come from the $25/mwh base load unit. Mr. Brown indicated the utility would make the sale in order to secure a $25/mwh gain for its general body of retail customers. However, if the utility were forced to use the $80/mwh price of the must-take purchased power as its incremental cost to make the sale, the utility would not make the sale because the cost of the sale ($80/mwh) would be greater than the revenues ($50/mwh). (Tr. 130, line 15 - Tr. 132, line 5)

Under the above-referenced hypothetical the net effect of using FIPUG's regulatory treatment alternative would be to deprive all retail customers the benefit of the $25/mwh gain the utility otherwise would have derived from the sale using the regulatory treatment proposed by the Commission and supported by the utilities who are parties to this proceeding. (Tr. 132, lines 9-15; Tr. 134, lines 2-8)

FIPUG's proposed regulatory treatment, echoed by OPC, is nothing more than a collateral attack on the incentive mechanism the Commission adopted as a matter of final agency action in Order No. 00-1744 to encourage investor-owned electric utilities to make non-separated wholesale sales in order to reduce the overall cost their retail customers must bear. FIPUG would accomplish this through a distorted concept of incremental costing intentionally designed to "shrink the incentives pot."

The distorted incremental costing approach FIPUG favors is entirely consistent with that organization's opposition to having <u>any</u> incentives at all for utilities to make non-separated sales. FIPUG opposed the concept of incentives from the inception of the incentives docket, tried again unsuccessfully, on reconsideration, to place limitations on wholesale sales, and is using this PAA proceeding in one last attempt to create a disincentive for utilities to make non-separated wholesale sales.

The motive is clear. If FIPUG can successfully discourage utilities from making these wholesale sales, it can free up generation to serve interruptible customers. The greater amount of idle generating capacity a utility has, the better chance its interruptible customers have to receive what essentially amounts to firm service, but at the significantly lower and non-cost effective rates that apply to interruptible customers. While this may be to the financial liking of interruptible customers, it would be severely detrimental to the interests of a utility's general body of retail customers.

In adopting an incentive mechanism in Order No. 00-1744 the Commission did not vote to incent utilities to make non-separated wholesale sales only in some circumstances but not in others. A one dollar gain a utility is able to derive from a non-separated sale made at a time when it happens to be receiving a prudently acquired block of firm purchased power is just as valuable to the utility's general body of retail customers as a dollar gain the utility earns from such a sale when it is not receiving any firm purchased power. FIPUG has demonstrated nothing to the contrary. FIPUG's arbitrary, distorted and self-serving incremental cost methodology should be rejected and the Commission should reaffirm the regulatory treatment initially proposed in Order No. 00-1744.

II. The Commission Should Reaffirm the Regulatory Treatment for Operating and Maintenance ("O&M") Expenses Associated with Non-Separated Wholesale Energy Sales Proposed in Order No. 00-1744.

In Docket No. 991779-EU and in this proceeding, Tampa Electric has agreed with the Commission's proposal that investor-owned utilities should credit their operating revenues for an amount equal to the incremental O&M cost of generating the energy for each non-separated wholesale energy sale. This has been the consensus among the parties to this proceeding with

the exception of FIPUG. OPC takes the position that incremental O&M expense is a base rate component that should be excluded from the calculation of the gain or non-separated wholesale energy sales for fuel adjustment purposes. (Prehearing Order, page 11) Even FIPUG's own witness, Mr. Kordecki, conceded that if O&M costs are incremental, "it may be appropriate to charge the sales with the cost and credit the utility's operating revenues." (Tr. 181, lines 2-3)

As Tampa Electric's witness Denise Jordan explained, crediting variable O&M associated with a sale to the company's operating revenue account would match the O&M expense, a base rate cost component, with the variable O&M related revenues derived from the sale. Ms. Jordan agreed with Florida Power Corporation's witness, Javier Portuondo, that this would ensure consistency in the accounting treatment, matching costs with revenues. (Tr. 145)

Ms. Jordan described Tampa Electric's methodology for determining the variable O&M costs of making non-separated wholesale sales. That methodology was researched, developed and published by the Electric Power Research Institute ("EPRI") and Tampa Electric has used this methodology since the early 1980's. (Tr. 146)

Ms. Jordan (Tr. 157) and the other utility witnesses (Tr. 75, lines 13-18; Tr. 47, line 24 through Tr. 48, line 12) testified that a Commission order requiring the utilities to credit operating revenues with an amount equal to the variable O&M expenses of a non-separated wholesale energy sale would not create a double recovery of those expenses. Ms. Jordan went on to state that such a requirement would not have any effect on Tampa Electric's non-separated wholesale sales, (Tr. 158, lines 12-19) Instead, such a requirement would have the appropriate effect of lining up the company's revenues with its expenses. (Tr. 158, lines 20-25) In so doing, there would be no problem with <u>not</u> having an O&M pass through in the fuel clause. (Tr. 159, lines 1-5)

In opposing the Commission's proposed regulatory treatment of variable O&M expenses, FIPUG and OPC presented no testimony and offered nothing beyond mere speculation about the difficulty of establishing an amount of variable O&M expense. They didn't even examine the way the IOU's calculate variable O&M. The only witness offered in opposition to the regulatory treatment proposed in the Commission's PAA order, Mr. Kordecki, conceded that he did not look at the utilities' methodologies for determining variable O&M expenses prior to preparing his testimony in this proceeding. (Tr. 205, lines 18 through Tr. 206, line 5)

Electric utilities are obligated by statute[1] to purchase power from cogenerators and small power producers who are qualifying facilities ("QFs") at rates equal to the purchasing utility's "full avoided costs." In implementing this requirement, the Commission's rules[2] obligate the utilities to include an O&M cost component in their avoided cost payments to QFs using the same methodology the Commission and the utilities have proposed for non-separated wholesale sales in this docket. Mr. Kordecki conceded on cross-examination that the concept this Commission has used with respect to variable O&M in connection with utility purchases from QFs is that by avoiding the necessity to generate itself the utility is avoiding an O&M cost. (Tr. 209, lines 13-18) All FIPUG members who are qualifying facilities have been and remain beneficiaries of that concept. Mr. Kordecki went on to concede that if a utility generates power to make an off-system sale, the utility is incurring a variable cost. (Tr. 209, lines 18-22)

Mr. Kordecki stated his belief that the utilities are collecting O&M costs when they make a non-separated sale. (Tr. 207, lines 2-3) His only two concerns were that the utilities 1) needed to support the calculation and 2) should not already be collecting the O&M dollars in question

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[1] Section 366.051, Florida Statutes

[2] Rule 25-17.0825 and 25-17.0832, Florida Administrative Code

through base rates. (Tr. 207, lines 3-9) No evidence was presented to suggest the utilities had failed either of Mr. Kordecki's criteria. To the contrary, as discussed earlier, each utility testified that no double recovery would result from the regulatory treatment of variable O&M costs proposed in the Commission's PAA order and supported by the utilities in this proceeding.

The record in this proceeding supports a reaffirmation of the variable O&M expense treatment the Commission proposed in Order No. 00-1744. Tampa Electric urges the Commission to do just that.

III. The Commission Approved Incentive Plan Should be Implemented in the Manner Set Out in Staff's Memorandum Dated September 20, 2000 (Exhibit 3 in this Proceeding).

The utilities who are parties to this proceeding and the Commission's Staff all share the view that the Commission should adopt the Staff's proposed implementation plan set forth in the September 20, 2000 Staff Memorandum to All Parties in the fuel adjustment proceeding (Exhibit 3). FIPUG has not suggested any different implementation methodology and OPC only criticized the use of a blend of historical and projected data. All of the Commission's cost recovery clauses rely on a blending of historical and projected data. Those cost recovery mechanisms work well and have stood the test of time. The utilities have already begun applying the recommended methodology when they filed testimony in Docket No. 000001-EI in September 2000.

OPC has offered no evidence adverse to the implementation plan proposed by the Staff in Exhibit 3. That implementation plan is reasonable and should be adopted.

POST-HEARING STATEMENT OF ISSUES AND POSITIONS

ISSUE 1: What is the appropriate regulatory treatment for SO_2 emission allowances associated with non-separated wholesale energy sales?

Stipulated Position of All Parties:

For non-separated wholesale energy sales that contain an SO_2 emission allowance component, that portion of the sales price associated with the SO_2 emission allowance should be credited to either the fuel cost recovery clause or the environmental cost recovery clause.

ISSUE 2: What is the appropriate regulatory treatment for the cost of fuel and purchased power associated with non-separated wholesale energy sales?

TECO: *Each IOU should credit its fuel and purchased power cost recovery clause for an amount equal to the incremental fuel cost of generating the energy for each such sale. FIPUG's alternative proposal would impose a disincentive to make these sales in order to benefit interruptible customers at the expense of all retail customers.*

ISSUE 3: What is the appropriate regulatory treatment for the operation and maintenance (O&M) expenses associated with non-separated wholesale energy sales?

TECO: *Each IOU should credit its operating revenues for an amount equal to the incremental O&M cost of generating the energy for each such sale. The only evidence of record supports the Commission's reaffirmation of this regulatory treatment, as originally proposed in Order No. 00-1744.*

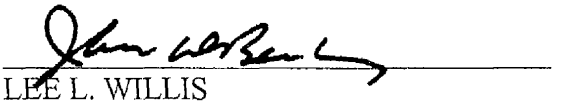
ISSUE 4: How should the Commission implement Part II of Order No. PSC-00-1744-PAA-EI, in Docket No. 991779-EI, issued September 26, 2000 concerning the application of incentives to wholesale energy sales?

TECO: *The Commission should approve the implementation methodology set forth in the Commission Staff's September 20, 2000 memorandum issued in Docket No. 000001-EI (identified as Exhibit 3 in this proceeding. No reasonable criticism of that methodology and no reasonable alternative to that methodology have been offered by any party.*

WHEREFORE, Tampa Electric Company respectfully urges the Commission to adopt as a matter of final agency action the regulatory treatment for fuel and purchased power costs and incremental O&M expense associated with each non-separated wholesale power sale as proposed in Section III of the Commission's proposed agency action Order No. PSC-00-1744, and to approve the incentive implementation plan described in the September 20, 2000 Staff Recommendation identified as Exhibit 3 in this proceeding.

DATED this 24th day of September, 2001.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Brief and Post-Hearing Statement, filed on behalf of Tampa Electric Company, has been furnished by hand delivery (*) or U. S. Mail on this 24 day of September 2001 to the following:

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