

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of the Citizens of the ) State of Florida for a Limited Pro- ) ceeding to Reduce Tampa Electric ) Company's Authorized Return on Equity )	DOCKET NO. 891281-EI
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In re: Change in Allowance for Funds ) Used During Construction (AFUDC) Rates ) of Tampa Electric Company Effective ) January 1, 1990 )	DOCKET NO. 900072-EI
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In re: Minimum Filing Requirement ) Report of Tampa Electric Company in ) Compliance with Section 366.06(3), ) Florida Statutes )	DOCKET NO. 900295-EI ORDER NO. 23924 ISSUED: 12-24-90

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman  
THOMAS M. BEARD  
BETTY EASLEY  
GERALD L. GUNTER  
FRANK S. MESSERSMITH

NOTICE OF PROPOSED AGENCY ACTIONORDER DENYING PETITION AND REVISING AFUDC RATES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

In 1985 we issued Order No. 15451 in which we authorized a 14.5% return on equity ("ROE") for Tampa Electric Company ("TECO"). For 1987, TECO was ordered to use 13.6% for purposes of Rule 25-14.003, Florida Administrative Code, (the since-repealed tax rule). In 1988 and 1989, TECO was ordered to use 13.6% for all regulatory purposes including the tax rule, Allowance for Funds Used During Construction ("AFUDC"), and surveillance purposes. Beginning January 1, 1990, TECO's base rates were reduced by \$22,017,000 to remove the effect of its tax savings. This reduction was established using a 13.5% ROE, which is the floor of TECO's last authorized return on equity.

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ORDER NO. 23924  
DOCKETS NOS. 891281-EI, 900072-EI, 900295-EI  
PAGE 2

### RETURN ON EQUITY

On November 13, 1989, the Office of Public Counsel ("OPC") filed a petition in Docket No. 891281-EI on behalf of the citizens of Florida in which it requested that the Commission reduce TECO's ROE to 11.2%. In its petition, OPC stated six ways in which the citizens' interest is affected by TECO's ROE. We will discuss each one separately.

First, OPC argued that TECO's ratepayers pay rates based on an authorized ROE which substantially exceeds TECO's current cost of equity. While we agree that 14.5% is a higher authorized return on equity than that warranted by current market conditions, we do not necessarily conclude that TECO's rates are correspondingly high. Other items such as depreciation, tax rates and rate base have also changed since TECO's last rate case. We must consider TECO's overall earnings in order to determine whether its rates are unreasonable. This utility's overall earnings will be reviewed in Docket No. 900295-EI.

Second, OPC argued that TECO's AFUDC rate is based upon an outdated authorized ROE. A reduction in TECO's ROE would reduce accumulated carrying costs associated with the utility's construction program, which would reduce future additions to rate base. We will address OPC's AFUDC concern below.

Third, OPC stated that a current ROE would be necessary for interim rates for TECO's next rate case. However, whether TECO requests a rate increase or the Commission initiates an overearnings investigation, ratepayers will be protected against excessive interim rates. If a utility initiates a rate case, the interim statutes allow interim rates to be collected subject to refund. The amount of any interim increase to be retained by the utility would be judged against the final return on equity established after a full evidentiary hearing. Thus, ratepayers would be protected against a high ROE. If the Commission initiates an overearnings investigation, an evidentiary hearing could be held to hold money subject to refund pending the resolution of the case, as was done for United Telephone of Florida in Docket No. 891239-TL and Florida Power & Light in Docket No. 900038-EI. We do not believe it is necessary to set TECO's ROE now because in either case, ratepayers will be protected.

OPC's fourth argument was that a new ROE is needed for use in tax savings proceedings held pursuant to Rule 25-14.003, Florida Administrative Code. This rule was repealed after OPC's petition was filed, so this argument is now moot.

ORDER NO. 23924  
DOCKETS NOS. 891281-EI, 900072-EI, 900295-EI  
PAGE 3

For its fifth argument, OPC stated that the Commission's action in determining depreciation expense could be guided by the company's earnings level, and any change in ROE could have a corresponding effect on the depreciation expense borne by ratepayers. We believe that depreciation rates should be based upon appropriate lives and salvage value rather than ROE. Return on equity is considered when determining the appropriate write-off period for a nonlife related amortization schedule. We are not aware that any such write-offs are contemplated for TECO. To the extent that return on equity is considered, the achieved return on equity is germane, rather than the authorized return on equity. We do not believe that the level of depreciation expense is a factor when considering whether or not to change a utility's ROE.

Finally, OPC argues that a change in TECO's ROE would encompass any other ratemaking adjustments dependent upon the authorized return on equity. We do not know the specific adjustments to which OPC refers, however, such adjustments could be handled on a case-by-case basis.

We find that TECO's ROE should not be changed at this time. While we believe that TECO's authorized ROE is above that which current market conditions would suggest is appropriate, we find that TECO's achieved earnings should be the relevant focus of whether rates are unreasonable. TECO reported an achieved return on equity of 13.53% on the September, 1990 surveillance report. If the January 1, 1990 rate reduction is considered as a pro forma adjustment, the pro forma return on equity is 12.98%.

TECO filed its Modified Minimum Filing Requirements on October 1, 1990, in Docket No. 900295-EI. Commission Staff can review TECO's ROE along with the utility's earnings. If a review shows that TECO's rates may be too high, Staff will be able to address the issue of appropriate ROE to set rates. Because that docket is the appropriate forum in which to discuss TECO's ROE, we will deny OPC's petition to reduce TECO's ROE to 11.2%.

#### AFUDC RATES

For ratemaking purposes, AFUDC is unique. AFUDC guarantees a deferred return which represents the carrying costs of construction. Since the return is guaranteed and is a mathematically derived addition to rate base, it is especially important to calculate AFUDC using the most current cost rates.

Rule 25-6.041, Florida Administrative Code, allows the Commission to initiate a proceeding to revise a utility's AFUDC rate. We find that such a proceeding is appropriate at this time. According to Rule 25-6.041(2)(b), Florida Administrative Code, the

ORDER NO. 23924  
DOCKETS NOS. 891281-EI, 900072-EI, 900295-EI  
PAGE 4

"midpoint of the last allowed return on common equity" shall be used as the ROE for purposes of AFUDC. In its last rate case, TECO's midpoint was set at 14.5%. We find that 14.5% is too high, given current market conditions and considering our recent decision in Docket No. 891345-EI, Application of Gulf Power Company for a Rate Increase, wherein we set Gulf Power Company's ROE at 12.55%. As shown by its bond ratings, TECO is less risky than Gulf. Given these parameters, we find that TECO's ROE should be set at 12.5% for AFUDC purposes, effective January 1, 1991. We note that this ROE has not been determined after a full evidentiary proceeding, which would require a more thorough analysis. The use of 12.5% as the current ROE in the AFUDC calculation results in an AFUDC rate of 7.94%.

TECO should file schedules for a new AFUDC rate by March 31, 1991, based upon the utility's capital structure as of December 1990 and using the 12.5% ROE set herein.

It is therefore

ORDERED by the Florida Public Service Commission that the petition filed by the Office of Public Counsel in Docket No. 891281-EI for a limited proceeding to reduce Tampa Electric Company's authorized return on equity is hereby denied. It is further

ORDERED that Docket No. 891281-EI be closed if no petition for a formal proceeding is timely filed herein. It is further

ORDERED that Tampa Electric Company's AFUDC rate is hereby set at 12.5%. It is further

ORDERED that Tampa Electric Company shall file schedules for a new AFUDC rate by March 31, 1991, based upon the utility's capital structure as of December 1990 and using the 12.5% ROE set herein.

By ORDER of the Florida Public Service Commission, this 24th  
day of DECEMBER, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

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ORDER NO. 23924  
DOCKETS NOS. 891281-EI, 900072-EI, 900295-EI  
PAGE 5

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

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on January 15, 1991.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.