BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Florida Power Corporation Petition to reverse reserve transfers.	DOCKET NO. 920096-EI ORDER NO. PSC-92-0680-FOF-EI ISSUED: 7/21/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING FLORIDA POWER CORPORATION'S PETITION TO REVERSE THE TRANSFER OF RESERVE ACCOUNT SURPLUSES

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.

Florida Power Corporation (FPC) filed its last depreciation study on November 29, 1989 in Docket No. 891335-EI. At the December 18, 1990 agenda conference, the Commission approved revised depreciation rates and reserve transfers effective December 1, 1990. Order No. 23957 was issued on January 4, 1991, and became final on January 28, 1991, absent a petition for a formal proceeding on the proposed agency action. On January 31, 1992, FPC filed a petition with the Commission requesting approval to reverse the reserve transfers ordered in Docket No. 891335-EI, Order No. 23957 and to represcribe the depreciation rates. Since the Commission has rules regarding the material to be submitted for a represcription of depreciation rates, staff advised FPC on February 7, 1992 that this required information would be needed. Subsequently on May 1, 1992, FPC filed an amended petition (Petition) focusing only on the reversal of the ordered reserve transfers and not requesting a change in depreciation rates. This Order will specifically address the FPC Petition and not general policy with regard to reserve transfers. Staff is currently studying the effect of reserve transfers on cost allocations between regulated and non-regulated operations.

In its Petition, FPC is concerned that revenue rates of certain customer groups are determined from a rate base limited to specific plant accounts. While this may be correct, it is also correct for other electric companies as well as the telephone and gas utilities. The Commission has been ordering corrective reserve transfers for over a decade. Regardless, the Commission does not prescribe depreciation rates by customer class or by revenue rate class. What we ordered, which is in line with our policy regarding reserve-sensitive depreciation methodology, was a reallocation of reserves among accounts to bring the reserves more in line with the now expected life and salvage patterns.

We realize that customer class revenue rates can be affected by reserve transfers. However, reserve transfers should not be considered in isolation, but in the context of a full depreciation study. In FPC's next depreciation study, FPC should present information demonstrating any impact reserve transfers may have on FPSC jurisdictional accounts and FPSC nonjurisdictional accounts.

Also, FPC argues that reserve transfers are inequitable and are unnecessary because of the remaining life mechanism. It has been a standard practice that upon implementation of remaining life methodology, staff reviews the reserve position and reserve transfers or reallocations may be recommended. Rules 25-6.0436(6)(d) and (7)(b), Florida Administrative Code, refer to the review for possible reserve transfers. The last depreciation review for FPC marked the initial implementation of reserve-sensitive depreciation rate methodology (remaining life). In other words, for the first time, the reserve position was used in the design of the resultant rates. Also, for the first time, the reserve was reviewed for reasonableness. Reserve imbalances typically had been brought about by such things as growth, incorrect estimates of life and salvage and unforeseen early retirements. It should be noted that reserves by account or by plant site typically represent a reallocation or transfer from a reserve maintained for some time on a function basis and probably for some time on a total plant basis.

It is also important to note that FPC, itself, proposed certain reserve reallocations as part of its depreciation review. In fact, we approved corrective reallocations within the Transmissions, Distribution and General Plant accounts, with the exception of Communications Equipment, that FPC had proposed. In addition, FPC had calculated a net reserve surplus for its Production Plants and had proposed that the bottom-line net surplus (the net of all accounts) be applied against the dismantlement expense calculation. Based on staff's calculations, a net reserve deficit existed for the Production Plants. In Order No. 23957, the net reserve surplus derived from the Transmission, Distribution and General Plant accounts was applied as offsets against the perceived deficits in Production Plants.

In a letter dated August 16, 1991, FPC sought an interpretation from the Federal Energy Regulatory Commission (FERC) with respect to the reserve transfers ordered by this Commission. FERC's response indicates that these transfers could be viewed as restatements of previously recorded depreciation expense and cited two cases that FERC had concluded that such restatements were inappropriate. (Attachment 1).

These two cases are irrelevant to the decision in the depreciation case. The first case cited is a 1976 decision involving a request by Equitable Gas Company to transfer an amount from its reserve to retained earnings. Equitable Gas Company, Docket No. RP75-70, Order Affirming and Adopting Initial Decision, 56 FPC 1655 (1976); rehearing denied 56 FPC 3109 (1976). The company stated that the restatement represented the difference reflected between the book reserve and the calculated theoretical reserve. FERC found that this transfer was inappropriate and inconsistent with the Uniform System of Accounts and denied the request. In addition, the FERC staff position in this matter states that "the proper method to correct the overaccrual is by prospective adjustment through amortization." (id. at 1659). This is precisely what was accomplished by our ordered reserve reallocations for FPC. The total reserve was not restated, and there was no transfer to retained earnings. If each account's surplus or deficit is amortized over one-year, the result is the same as moving or transferring a surplus from one account to another. The same amount is reallocated: it is just a matter of moving out of one and into another, and the account reserve position is corrected immediately rather than taking years to correct. For example:

	Book Reserve	Reallocated Reserve	Amount	1-Year Amortization
Account X	$4,000	$2,500	$(1,500)	$(1,500)
Account Y	1,800	3,300	1,500	1,500
	5,800	5,800	0	0

As illustrated above, the net effect to the total reserve is zero whether the reserve is reallocated from one account to another or whether the imbalances are amortized. What we approved in FPC's depreciation study was not a transfer of reserve dollars to retained earnings but consistent with what FERC was stating as its policy in this 1976 case. Therefore, referring to this case as a support for FPC's request for the Commission to reverse the ordered reserve reallocations does not relate.

The second case cited by FERC is a 1984 decision involving Eastern Edison Company (Eastern Edison). Eastern Edison Company, Docket No. FA84-2-000, 28 FERC 61,022 (1984). A reading of that decision shows that this case involved a company that had its depreciation rates increased at two different times. At no time during this period was a case for revenue relief requested. When Eastern Edison did seek rate relief, the Commission (Massachusetts Department of Public Utilities) allowed the company to decrease its total reserve by the increase in its expenses accumulated since depreciation rates were increased and place that amount into a Miscellaneous Deferred Debit account to be amortized. FERC's decision was to deny this restatement of reserve. In our opinion, this case is not germane to the ordered reserve reallocations for FPC. There was no restatement of the total reserve and certainly no use of a deferred debit account.

One FERC opinion appears to be in direct conflict with the referenced cites given to FPC. Attachment 2 to this Order is a copy of a letter from FERC to Tampa Electric Company (TECO), stamped December 5, 1991, regarding an interpretation of the appropriate accounting treatment for the credit acquisition adjustment resulting from its purchase of generating facilities of Sebring Utilities Commission. TECO had purchased these facilities at less than net book value resulting in the credit acquisition adjustment. Referring to paragraph three of this letter, FERC's opinion is that TECO should actually "restate" the reserve of these purchased facilities rather than considering this credit as an acquisition adjustment. This is truly a restatement of reserve because the book reserve associated with the purchased facilities is being increased. The FERC opinion given to TECO appears to contradict its opinion given to FPC. In TECO's case, FERC is actually advocating a restatement of reserve.

In summary, this Commission does not establish depreciation rates by customer class or by jurisdiction. FERC's opinion to FPC could be used to conclude that the FPSC-ordered reserve transfers represent a restatement of the reserve position, and therefore, FERC views this action as inappropriate. In support of its opinion, FERC cites two cases, neither of which relates to the nature of Commission action in Order No. 23957. The ordered reserve allocations in Order No. 23957 do not represent a "restatement" of reserve, do not involve a transfer to retained earnings, and do not involve a transfer to a deferred debit account. They simply represent a reallocation among accounts in accord with the currently perceived life and salvage patterns.

We believe that FPC's petition represents a reconsideration of Order No. 23957. It does not allege that the Commission made an error that would justify an amended order, and the opportunity for hearing has elapsed since the order is final. Therefore, any change in the Company's position regarding reserve transfers should be addressed in its next depreciation review.

It is, therefore,

ORDERED by the Florida Public Service Commission that the amended petition of Florida Power Corporation to reverse the transfer of reserve account surplus is denied, as discussed within the body of this Order. It is further

ORDERED that this Order shall become final and the docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By Order of the Florida Public Service Commission this 21st day of July, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

DLC:bmi

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 Augist 11, 1992.

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 wastewater 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.

ATTACHMENT 1
ORDER NO. PSC-92-0680-FOF-EI
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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OCA-AD
Docket No. AC91-96-000
NOV 22 1991

RECEIVED
DEC 12 8 35 AM '91
ADMINISTRATION
MAIL ROOM

Bruder, Gentile & Marcoux
Attn: Albert R. Simonds, Jr.
1350 New York Avenue, N.W.
Suite 600
Washington, DC 20005-4702

Dear Mr. Simonds:

By letter dated August 16, 1991, you filed a request on behalf of Florida Power Corporation (Florida Power) asking that we confirm your understanding of the FERC's accounting policy concerning the elimination of surpluses and deficiencies in the depreciation reserves.

In the letter you state that a recent depreciation study showed that Florida Power's book depreciation reserves in some accounts were either over or under accrued. The Florida Public Service Commission (FPSC) ordered "corrective transfers" of Florida Power's reserves in the overaccrued accounts to offset deficiencies in the reserves of the underaccrued accounts. Florida Power subsequently informed the staff of the FPSC that it believed the FERC would not permit the transfers of depreciation reserves under its depreciation accounting policies. You ask that I provide you guidance on whether the FERC would permit the "corrective transfers" under its depreciation accounting policies.

You did not provide any specific details explaining what "corrective transfers" were at issue in the Florida Power case. Therefore, the following response is intended to provide you with general policy guidance and not an answer to Florida Power's situation.

Under the Commission's Uniform System of Accounts, depreciation is viewed as an allocation process. It allocates the costs of depreciable property in a systematic and rational manner over the property's estimated service life. There are several acceptable methods that can be used to allocate the cost of an asset over the period expected to benefit from its use, but the method most widely used by utilities and the one most readily accepted by the Commission is the straight-line remaining life method. Under this method, over and under accruals of depreciation recorded in past accounting periods are corrected over the remaining life of the related property by adjusting the book depreciation rates prospectively.

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The Uniform System of Accounts does not explicitly address the question of transferring overaccrued amounts of depreciation in certain accounts to offset underaccrued amounts recorded in certain other accounts. However, such transfers could, and in my view should be viewed as restatements of the previously recorded depreciation expense applicable to both accounts. The Commission has addressed the question of restatements of depreciation expense in at least two cases. One was a 1976 decision involving Equitable Gas Company and the other was a 1984 decision involving Eastern Edison Company. In both cases the Commission concluded that restatements of previously recorded depreciation expense was inappropriate. Copies of those decisions are enclosed.

Authority to act on this matter is delegated to the Chief Accountant pursuant to § 375.303 of the Commission's regulations. This letter order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this letter order, pursuant to 18 C.F.R. § 385.713.

On June 28, 1991, the Commission issued a "Notice Designating New Docket Prefixes for Letters issued by the Chief Accountant". As part of this notice, the Commission informed applicants to file an original and seven copies of each request for an approval or an interpretation from the Chief Accountant. Accordingly for all future filings, please submit an original and seven copies of your request.

Sincerely Yours,

Russell E. Faudree, Jr.
Chief Accountant

Enclosures

in future cases and outlined basic ground rules which would apply in formulating any future prudence standard. The Commission also held that a prudence standard would not be applied to preliminary projects such as Dunn County and Kalingas in any event, but might be applied to "projects which have been carried beyond the stage of preliminary survey and investigation and where the pipeline's investments are proportionately greater." (Opinion 218, p. 9.) Furthermore, any prudence standard which might be developed in future cases would not apply to the Gas Arctic project. The Commission has ruled in prior cases as well as in this case that losses sustained in that project may not be recovered by the participating pipelines from their ratepayers. The Gas Arctic issue is closed.

The Commission orders:

Natural's request for rehearing of Opinion No. 218 is denied.

[¶ 61,021]

Billy Bridewell, William J. Cobb, Burt E. Cobb, Eugene Jellers and G. Vernon Whyte, Docket No. RO82-72-001

Order Granting Reconsideration and Affirming Proposed Order

(Issued July 5, 1984)

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa and Oliver G. Richard III.

On December 6, 1983, the presiding officer issued his proposed order which affirmed the remedial order issued by the Office of Hearings and Appeals of the Department of Energy. 25 FERC ¶ 62,343. No comments were filed in response to the proposed order and the Commission, on March 23, 1984, issued an order affirming the proposed order. 26 FERC ¶ 61,355. By pleading, petitioner's counsel alleges that he did not receive a copy of the proposed order and therefore was unable to comment upon it. He requests that the Commission's order be set aside and that the Commission permit him to file comments in opposition to the proposed order.

For reasons stated by petitioner, the Commission grants reconsideration of its March 23, 1984 order and accepts the comments filed by petitioner. We find, however, that petitioner's comments present no arguments which have not been raised previously and adequately discussed in the proposed order. Consequently, upon reconsideration, we again affirm and adopt the proposed order.

[¶ 61,022]

Eastern Edison Company, Docket No. FA84-2-000

Order on Account Adjustment

(Issued July 5, 1984)

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A. G. Sousa and Oliver G. Richard III.

Pursuant to Part 41 of the Commission's regulations, Eastern Edison Company (Eastern) and the Commission staff have filed initial and reply briefs concerning a dispute over a staff audit of Eastern's records and books for the period January 1, 1979 through December 31, 1981. At issue is whether, for accounting purposes, Eastern properly reduced its depreciation reserve by $1,415,000 and increased its net plant-in-service included in rate base by the same amount, on the basis that certain book depreciation amounts had not been recovered through retail rates. We conclude that Eastern improperly restated its depreciation expense for accounting purposes.

Background

Eastern Edison Company was formed in 1979 by the merger of Brockton Edison Company and Fall River Electric Company. It is a wholly owned subsidiary of Eastern Utility Associates, a holding company under the Public Utility Holding Company Act of 1935. Almost all of its service is provided at the retail level to 22 communities in Southeastern Massachusetts, including the cities of Brockton and Fall River, and its retail rates are regulated by the Massachusetts Department of Public Utilities (MDPU).

Prior to the 1979 merger, the depreciation rate on distribution properties owned by Fall River was increased twice. In 1975, Fall River increased the rate from 2.5% to 3.0%. In 1976, it increased the rate from 3.0% to 3.5%. However, according to Eastern, the company did not file any retail rate increases to recover the increased depreciation costs. In 1980, Eastern made a rate filing with the MDPU which reflected the 3.5% depreciation rate. The MDPU allowed Eastern to restate its accumulated depreciation such that subsequent balance sheets have reflected an accumulated depreciation reserve that is $1.4 million lower than if the restatement had not been made. [1]

The staff does not dispute that the MDPU has ratemaking jurisdiction over Eastern, but argues that the issue here is one of accounting—how to account for a special asset created by the MDPU in the ratemaking process. It maintains that Eastern's accounting produces a distortion by reporting a negative depreciation expense for Fall River properties in 1980. The staff proposes to put the $1.4 million into Account 186:

186 Miscellaneous deferred debits.

A. This account shall include all debits not elsewhere provided for, such as miscellaneous work in progress, and unusual or extraordinary expenses, not included in other accounts, which are in process of amortization and items the proper final disposition of which is uncertain. 18 C.F.R. Part 101.

Amounts in Account 186 would be amortized over the period of recovery permitted by the MDPU. According to the staff, this would be consistent with the Uniform System of Accounts, and would properly classify the amount as a special asset without impairing Eastern's ability to maintain its records consistent with the ratemaking process in Massachusetts.

Eastern proposes to classify the restated amount as net plant-in-service under Account 108, Accumulated provision for depreciation of electric utility plant, and argues that it is simply restating its depreciation reserve to follow the MDPU rate orders. It claims the Financial Accounting Standards Board requires a regulated enterprise to capitalize a cost as an asset if, as shown here, it is "probable" that the asset will be recovered in rates. [2] Eastern further contends its proposal satisfies the Commission's responsibilities of maintaining the uniformity of its System of Accounts, and ensuring that utilities' financial statements properly recognize the economic impact of the ratemaking decisions that affect them.

Discussion

Our reasons for denying Eastern's proposed restatement are that the adjustment of depreciation reserves through use of Account 108 results in retroactive accounting, and is contrary to general accounting principles and Commission regulations. [3] As pointed out by staff, Eastern's restatement distorted its net earnings in the year of restatement and made it appear more profitable than it actually was. [4] One of the purposes of the Uniform System of Accounts is to provide to the public and regulatory authorities reliable information as to a utility's financial condition. To allow Eastern's proposed restatement would frustrate this purpose.

We have reviewed the actions of the MDPU, and circumstances indicate that Eastern will likely recover the restated depreciation amount through ratemaking at the retail level. However, as recognized by the courts, this Commission's accounting requirements take precedence over the actions of state regulators for books of account and published financial statements of utilities subject to our jurisdiction. [5] In order to reflect the MDPU actions and at the same time be consistent with our accounting requirements, we find it appropriate to allow Edison to include the restated depreciation amount in Account 186. This comports with our recent treatment of carrying charges (AFUDC) accrued under state guidelines, but in excess of the amount allowed under our regulations. [6]

Lastly, we will address Eastern's reliance on *Nantahala Power and Light Co.*, Opinion Nos. 139 and 139-A, 19 FERC ¶ 61,152 (1982) and 20 FERC ¶ 61,430 (1982), in support of its position. In *Nantahala*, the Commission's chief accountant permitted the company to restate its depreciation reserve by reducing the accumulated depreciation in Account 108, which is what Eastern seeks to do here. That case, however, was a special situation involving a restatement of accelerated wartime depreciation, which had been taken during years when the company was not subject to our jurisdiction. The approval by the chief accountant noted that the adjustment appeared consistent with the intent of certain prior Commission orders permitting adjustment to Account 108 for companies newly subject to Commission jurisdiction. The adjustment was disallowed for ratemaking purposes in Opinion Nos. 139 and 139-A. Eastern's factual situation clearly is distinguishable. Its arguments in this regard therefore are dismissed.

The Commission orders:

(A) Eastern Edison Company is directed to state its accounts in accordance with this order.

(B) Eastern Edison's May 10, 1984 motion for leave to file supplemental brief is denied, and its May 10, 1984 supplemental brief is rejected.[7]

— Footnotes —

[1] The events before the MDPU were as follows:

(1) The MDPU initially disallowed Eastern a depreciation rate above 2.5%, because of inadequate evidentiary support. Accordingly, it reduced Eastern's depreciation expense of 3.5%. D.P.U. 243 (Nov. 26, 1980).

(2) The MDPU then amended its decision in D.P.U. 243, concluding that its disallowance of the 3.5% depreciation rate necessitated corresponding adjustments to the depreciation reserve for the prior years when the higher depreciation rates were booked: Eastern was allowed to reduce its depreciation reserve and increase its rate base. Adjusting depreciation rates since 1975 to reflect a 2.5% charge resulted in a $706,156 reduction in the depreciation reserve over this period. D.P.U. 243-A (Feb. 11, 1981).

(3) On February 24, 1981, Eastern asked the MDPU for accounting approval to record on its December 1980 books an adjustment to lower its depreciation reserve by $1.24 million and increase net plant-in-service by the same amount.

(4) On March 3, 1981, Eastern informed the MDPU of computational errors indicating that the restated amount should be $1.4 million.

(5) By letter order dated March 11, 1984, the MDPU approved the company's request to reflect in its 1980 and 1981 financial statements the requested reduction in depreciation reserve and increase in net plant-in-service.

(6) According to Eastern, it has been allowed to treat the $1.4 million addition to net plant-in-service as rate base in a series of MDPU orders: D.P.U. 837 (Feb. 26, 1982); D.P.U. 1130 (Jan. 24, 1983); D.P.U. 1580 (Jan. 31, 1984). In D.P.U. 1580, the MDPU also approved an increase in depreciation rates to 4.05%, which incorporates the restated depreciation.

[2] Statement of *Financial* Accounting Standards No. 71, December 1982, at 2.

[3] Eastern's proposal conflicts with two of our accounting requirements. Paragraph B of Electric Plant Instruction 1, 18 C.F.R. Part 101, provides:

> B. . . . *Adjustments shall not be made to record in utility plant accounts amounts previously charged to operating expenses* or to income deductions in accordance with the uniform system of accounts in effect at the time *or in accordance with the discretion of management* as exercised under a uniform system of accounts; or under accounting practices previously followed. (Emphasis added.)

General Instruction No. 7.1, Paragraph B, 18 C.F.R. Part 101, provides:

> Treatment as a prior period adjustment should not be applied to the normal, recurring corrections and adjustments which are the natural result of the use of estimates inherent in the accounting process. For example, changes in the estimated remaining lives of fixed assets affect the computed amounts of depreciation, but these changes should be considered prospective in nature and not prior period adjustments.

[4] According to the staff, Eastern reported that its Fall River properties had a negative depreciation expense of $255,000 in 1980.

[5] In *Appalachian Power Co. v. F.P.C.*, 328 F.2d 237, 246 (4th Cir. 1964), the court stated:

> We agree with the Commission's determination that it, rather than state agencies, has the power to regulate the basic accounts which a company subject to its jurisdiction must use for financial reporting purposes.

The court further cited to the Supreme Court's finding in *Northwestern Electric Co. v. F.P.C.*, 321 U.S. 119, 125 (1944), that state regulatory accounting actions are subordinate to Congress' appropriate exercise of the commerce power.

[6] *Central Louisiana Electric Co.*, 27 FERC ¶61,297 (1984).

[7] Commission regulations pertaining to Part 41 procedures do not permit the filing of supplemental briefs, and no good cause has been shown to justify a waiver of our regulations.

EQUITABLE GAS COMPANY, DOCKET NO. RP75-70

ORDER AFFIRMING AND ADOPTING INITIAL DECISION

(Issued September 13, 1976)*

Syllabus

1. Petitioner's reliance on decisions of Pennsylvania and West Virginia state commissions interpreting the Uniform System of Accounts to approve a transfer of sums from Accumulated Depreciation Account to the Adjustment to Retained Earnings Account is in error. Commission, as promulgator of Uniform System of Accounts is sole arbiter of its meaning. P. 1656.
2. Commission *affirms* and *adopts* initial decision on proposed accounting system.

Augustine A. Mazzei, Jr. for Equitable Gas Company
Patricia A. Curran for the Staff of the Federal Power Commission

Before Commissioners: John H. Holloman III, Acting Chairman; Don S. Smith and James G. Watt.

This proceeding involves a request by Equitable Gas Company to transfer on its books of account the sum of $11,576,206 from Account 108, Accumulated Provision for Depreciation,[1] to Account 439, Adjustments to Retained Earnings.[2] This sum represents the difference reflected in Account 108 as of December 31, 1971, and the reserve requirement as of that date developed by a depreciation study of the company's plant accounts.

On June 7, 1976, Presiding Administrative Law Judge Ernst Liebman issued his Initial Decision finding that the proposed transfer was not appropriate and should be denied. Instead of permitting the proposed transfer, the Initial Decision requires Equitable to reduce its depreciation rate over the remaining life of its property. The Initial Decision notes that Account 439 lists four requirements necessary for Commission approval of an entry into that account and five sample items which comply with the requirements and are therefore proper entries. The decision concludes that the requirements which must be met to qualify for an Account 439 entry have not been met in this proceeding.

Having held that the proposed transfer from Account 108 to Account 439 is inconsistent with the Uniform System of Accounts, the Initial Decision next concludes that a waiver of the Commission's Regulations in this proceeding would be equally inappropriate. The proposed transfer would not have any measurable impact on Equitable's financial condition. The decision finds that Equitable is in a relatively strong and stable financial condition and that the proposed transfer is not necessary to enable the company to obtain additional financing.

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* Initial decision appears on p. 1657. Rehearing denied by order issued November 11, 1976, 56 FPC 3109.

[1] 18 CFR 201.108.

[2] 18 CFR 201.439.

56 FPC 1655

In general, because of the estimates inherent in depreciation accounting, it is the Commission's policy that over or under provisions for depreciation are corrected prospectively by an upward or downward adjustment in the depreciation rate rather than by transfers to or from the accumulated provision for depreciation. We are not persuaded that we should depart from that policy * * *.[9]

The Commission finds:

The Initial Decision of June 7, 1976, should be affirmed and adopted.

The Commission orders:

The Initial Decision of June 7, 1976, in this proceeding is affirmed and adopted as the decision of the Commission.

INITIAL DECISION

OF THE PRESIDING ADMINISTRATIVE LAW JUDGE ON A PROPOSED ACCOUNTING ADJUSTMENT

(Issued June 7, 1976)

LIEBMAN: *Presiding Administrative Law Judge:*

NATURE OF THE CASE

The single issue in this case is whether Equitable Gas Company (Equitable) should be permitted to transfer on its books of account an amount of $11,576,206 from Account 108, Accumulated Provision for Depreciation,[1] to Account 439, Adjustments to Retained Earnings.[2] Equitable has the burden of proof on the issue.[3]

The proposed transfer is neither reasonable, necessary, nor appropriate, and is denied. Instead of allowing the proposed transfer, this Initial Decision requires Equitable to eliminate the $11,576,206 excess in Account 108 by appropriately reducing its depreciation rate over the remaining life of its property.

PROCEDURAL BACKGROUND

In a letter dated December 14, 1973, to the Commission's Chief Accountant, Equitable requested approval to transfer $11,576,206 from its Account 108 to Account 215, Appropriated Retained Earnings.[4] Equitable informed the Chief Accountant that the $11,576,206 represented the difference between the balance reflected in the Company's books of account for Account 108 as of December 31, 1971, and a depreciation reserve requirement as of that date developed by a depreciation study of the Company's plant accounts.

[9] *Equitable Gas Company*, 52 FPC 291, 292–3 (1974).
[1] 18 CFR 201.108 (1975).
[2] 18 CFR 201.439 (1975), reproduced in the Appendix hereto.
[3] 15 U.S.C. 717g(a) (1963).
[4] 18 CFR 201.215 (1975).

Equitable stated that this difference resulted from an overstatement in depreciation by the former Pittsburgh and West Virginia Gas Co., prior to that company's merger with Equitable in 1951.

By a letter-order of June 11, 1974, the Commission informed Equitable that its request for transfer was denied. On July 8, 1974, Equitable filed an application for rehearing. By an order issued August 8, 1974, 52 FPC 291, the Commission denied the application for rehearing.

On January 6, 1975, Equitable sent another letter to the Commission's Chief Accountant requesting that it be permitted to transfer the $11,576,206 from Account 108 to Account 439, Adjustments to Retained Earnings.

By order issued March 10, 1975, the Commission set the matter for hearing, stating, "It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the reasonableness of the accounting entries proposed herein by Equitable Gas Company."

In accordance with the Commission's direction, a hearing was held on June 17, 1975. Initial briefs were filed on September 19, 1975, and reply briefs on October 10, 1975. The only parties are Equitable and Staff.

FACTUAL BACKGROUND

Equitable is a public utility corporation engaged in the purchase, production, transmission, storage and distribution of natural gas to approximately 236,000 retail customers in Pennsylvania, approximately 10,700 retail customers in West Virginia, and approximately 3,700 retail customers in Kentucky. Its transmission facilities extend from West Virginia to Pennsylvania. Equitable makes one sale for resale pursuant to tariffs on file with the FPC. This sale accounts for less than two-tenths of one per cent of Equitable's total sales. Equitable is thus engaged in the transportation of natural gas in interstate commerce and in the sale in interstate commerce of such gas for resale, and Equitable is therefore a "natural-gas company" within the meaning of the Natural Gas Act.

The $11,576,206 proposed to be transferred represents the difference reflected in Account 108 as of December 31, 1971, and the reserve requirement as of that date developed by a depreciation study of the company's plant accounts (Exh. No. 10). Of the $11,576,206 requested to be transferred, $10,709,084 applies to a gas plant physically located in West Virginia which was acquired by Equitable in 1951 in a merger with the former Pittsburgh and West Virginia Gas Co. The reason for Equitable's excessive reserve is allegedly the inconsistent and arbitrary method of providing for depreciation used by the former Pittsburgh and West Virginia Gas Co. in the period from 1920–1939. The plant installed in West Virginia and remainining in service in 1971 had an original cost of $13,639,916. Against this original cost there is a reserve on the books of $19,885,417. This reserve is made up of the reserve requirement as of 1971 (developed by the depreciation study) of

$9,176,333 and the excess reserve applicable to the plant of $10,709,084 (Tr. 35).

On September 6, 1967, the West Virginia Public Service Commission approved the transfer of $11,576,206 from Accumulated Provision for Depreciation, Amortization, and Depletion to Appropriated Retained Earnings (Exh. No. 2). On December 5, 1973, the Pennsylvania Public Utilities Commission approved an identical transfer (Exh. No. 1). The rate base and the resulting rates in Pennsylvania are and have been based on a computed reserve for depreciation and not on the book reserve.

EQUITABLE'S POSITION

In support of its request to transfer $11,576,206 from Account 108 to Account 439, Equitable argues that the proposed transfer will benefit 250,000 retail gas utility customers over which the FPC has no direct jurisdiction; that both the West Virginia Public Service Commission and the Pennsylvania Public Utilities Commission have approved a similar transfer; that the proposed transfer will result in a more favorable debt-equity ratio, thus allowing the Company to more easily obtain add· ional debt financing; that the effect of the proposed transfer will be to bring the financial statements more closely in accord with the data upon which rates are based and provide the most meaningful information to investors; that the proposed transfer is not prohibited by the Uniform System of Accounts, general principles of accounting, or current Commission policy; that the proposed transfer will not be detrimental to the investor or ratepayer; and that prospective amortization cannot be used to correct the overaccrual in Account 108.

STAFF'S POSITION

Staff takes the position that Equitable's request to transfer the amount of $11,576,206 should be denied. In support of this position, Staff argues that the proposed transfer is inconsistent with the Uniform System of Accounts, generally recognized accounting principles, and current Commission policy; that the proposed transfer will not significantly improve Equitable's capital attractiveness; that Equitable's financial health compares favorably with other distribution companies; that the proposed transfer will be detrimental to the investor and possibly to the ratepayer; and that the proper method to correct the overaccrual is by prospective adjustment through amortization.

DISCUSSION

I

The proposed transfer of $11,576,206 from Account 108 to Account 439 is inconsistent with the Uniform System of Accounts, generally recognized accounting principles, and current Commission policy.

A. Account 439 of the Unifc-m System of Accounts, "Adjustments to Retained Earnings," was prescribed on October 9, 1969, in FPC Order No.

389, 42 FPC 831. It lists four requirements necessary for Commission approval of an entry to the account, and five "items" which comply with the requirements and are therefore proper entries.[3] The Commission noted, in promulgating Order No. 389, that the prior period items in Account 439 are "unique" items that will be "few in number." (Order No. 389 at 834). I conclude that the requirements which must be met to qualify for an Account 439 entry have not been met. Specifically, there is no evidence of compliance with requirement A(d), 18 CFR 439A.(d), which limits entries to adjustment which "were not susceptible of reasonable estimation prior to such determination."[4] I agree with Staff that the overaccumulation in the depreciation reserve was susceptible to reasonable estimation. Indeed, Equitable admits that the excess was accumulated as a result of arbitrary accounting practices employed before 1951 (Exh. No. 5; Equitable Initial Brief at 3). Moreover, Equitable notes that the recent depreciation study (Exh. No. 10) "is similar to many others made for Equitable and used in rate determinations in Pennsylvania since 1951, all of which have indicated the book reserve to be excessive in substantially the same magnitude." (Initial Brief at 2–3). Thus the overaccumulation had developed and was known to the Company 25 years ago. There is no evidence that Equitable made any attempt to correct the overaccrual in subsequent years.

Furthermore, I disagree with Equitable's assertion that Item 4 of Account 439 would permit the proposed transfer. Item 4 specifies "Significant adjustments to plant in service depreciation and amortization as a result of Commission direction". To state that Item 4 applies to the specific transfer requested here begs the question, which is whether the Commission should allow the adjustment. Moreover, the question of whether Item 4 would allow the transfer is largely irrelevant once it is decided that the proposed transfer has not met the four requirements specified in the text of the account. The General Instructions to the Uniform System of Accounts (18 CFR Part 201, No. 6, at 120), state: "The appearance of an item in a list warrants the inclusion of the item in the account only when the text of the account also indicates inclusion * * *". Finally, I find specious Equitable's argument that the Pennsylvania and West Virginia State Commission's decisions should be interpreted as "Commission direction" under Item 4. "Commission" in Item 4 means the Federal Power Commission. 18 CFR Part 201, Definitions, No. 7, at 116.

B. Opinion No. 9, entitled Reporting the Results of Operations, issued in

[3] The sixth general instruction to the Uniform System of Accounts (18 CFR Part 201, No. 6, at 120) notes that "Lists of 'items' appearing in the texts of the accounts or elsewhere herein are for the purpose of more clearly indicating the application of the prescribed accounting. The lists are intended to be representative, but not exhaustive."

[4] "Such determination" in A(d) refers to A(c), which specifies that entries are limited to those adjustments which "depend primarily on determinations by persons other than the management." See Appendix.

December, 1966 by the Accounting Principles Board (APB) of the American Institute of Certified Public Accountants (now the Financial Accounting Standards Board) furnished the basic language for Account 439. The Opinion recites generally accepted accounting policy concerning the transfer of sums relating to events of prior periods. In paragraph 23, it states in part:

Criteria for prior period adjustments

> 23. Adjustments related to prior periods—and thus excluded in the determination of net income for the current period—are limited to the material adjustments which (a) can be specifically identified with and directly related to the business activities of particular prior periods, and (b) are not attributable to economic events occurring subsequent to the date of the financial statements for the prior period, and (c) depend primarily on determinations by persons other than management and (d) *were not susceptible of reasonable estimation prior to such determination.* Such adjustments are rare in modern financial accounting. They relate to events or transactions which occurred in a prior period, the accounting effects of which could not be determined with reasonable assurance at that time because of some major *uncertainty* then existing * * *. [Emphasis provided.]

Further, paragraph 24 states in part:

> 24. Treatment as prior period adjustments should not be applied to the normal, recurring corrections and adjustments which are the natural result of the use of estimates inherent in the accounting process. *For example, changes in the estimated lives of fixed assets affect the computed amounts of depreciation, but these changes should be considered prospective in nature and not prior period adjustments.* [Emphasis provided.]

of course

Thus, Opinion No. 9 would appear to prohibit the transfer proposed by Equitable.

Equitable argues in its Reply Brief that APB Opinion No. 20 shows that a change in an accounting estimate may be corrected prospectively, while an error in the financial statement is corrected by a prior period adjustment. Equitable argues that a correction of an error is involved here. I disagree.

Opinion No. 20, issued in July, 1971, defines various types of accounting changes and establishes guides for determining the manner of reporting each type. However, Opinion No. 20 does not supersede paragraphs 23 and 24 of Opinion No. 9.

Opinion No. 20, paragraph 10, states, "Changes in estimates used in accounting are necessary consequences of periodic presentations of financial statements * * *. Examples of items for which estimates are necessary are uncollectible receivables, inventory obsolescence, service lives and salvage values of depreciable assets * * *. Future events and their effects cannot be perceived with certainty; estimating, therefore, requires the exercise of judgment. Thus accounting estimates change as new events occur, as more experience is required, or as additional information is obtained." Opinion No. 20, paragraph 31, concludes that "* * * a change in accounting estimate should be accounted for in (a) the period of change if the change affects that period only or (b) the period of change and future periods if the change affects both. A change in an estimate should not be accounted for by restating amounts reported in financial statements of prior periods or by reporting pro forma amounts for prior periods." Footnote 9 to paragraph 31 adds: "Financial statements of a prior period should not be restated for a change in estimate resulting from later resolution of an uncertainty which may have caused the auditor to qualify his opinion on previous financial statements unless the change meets all the conditions for a prior period adjustment (paragraph 23 of APB Opinion No. 9)."

Paragraph 13 of Opinion No. 20 defines errors in previously issued financial statements as those resulting "from mathematical mistakes, mistakes in the application of accounting principles, or oversight or misuse of facts that existed at the time the financial statements were prepared. In contrast, a change in accounting estimate results from new information or subsequent developments and accordingly from better insight or improved judgment." Paragraph 36 of Opinion No. 20 states "that correction of an error in the financial statements of a prior period discovered subsequent to their issuance (paragraph 13) should be reported as a prior period adjustment. (Paragraph 18 of APB Opinion No. 9 covers the manner of reporting prior period adjustments.)"

Reviewing the above language in Opinion No. 20, I conclude that the Opinion would not permit the transfer proposed by Equitable. This case involves a change in an accounting estimate and not an error. The overaccumulation resulted from allegedly "arbitrary" accounting practices and stemmed more from a poor "exercise of judgement" than from "mathematical mistakes" or a "mistake in the application of accounting principles." The fact that the overaccumulation seems to have occurred gradually over a 20 year period, and then was not corrected for another 25 years, argues against the proposition that a mere "error" was involved.

My reluctance to sustain a prior period adjustment here is fortified by the language of Opinion No. 9, which is referred to in paragraph 36 of Opinion No. 20. As noted *supra*, paragraph 24 of Opinion No. 9 states, "Treatment as prior period adjustments should not be applied to the normal, recurring corrections and adjustments which are the natural result of the use of estimates inherent in the accounting process * * *. [T]he Board believes that prior period adjustments will be rare."

C. I also conclude that current Commission policy favors prospective adjustment to correct excesses in the depreciation reserve as opposed to the transfer of these sums to the retained earnings account. In *Municipal Light Boards of Reading and Wakefield, Mass.* v. *Boston Edison Company*, Opinion No. 729 (May 13, 1975, 53 FPC 1545), the Commission, finding a $28,049,176 excess in the depreciation reserve of Boston Edison, ruled that

"* * * the initial decision should be modified to provide that the $16,884,089 annual depreciation expense be reduced by $965,789, the amount necessary to amortize the $28,049,176 over the remaining life of the related plant." (at 1558–1559).

On rehearing, the Commission found:[7]

> * * * less confusion will result if the theory of amortization of excess depreciation is discarded, and instead, that part of the original investment as yet undepreciated be depreciated over the remaining life of the property. While the rate result will be the same, use of this method will simplify computation and minimize confusion.
>
> Accordingly, Opinion No. 729 is hereby modified to eliminate the amortization of excess depreciation reserve ordered therein and to require in substitution a computation of depreciation expense applicable to this rate period using the remaining life method.

Both Staff and Equitable cite numerous cases, decided in the 1940's and 1950's, to support their respective arguments concerning Commission policy.[8] However, since APB Opinion No. 9 was issued in 1966, and Account 439, Adjustments to Retained Earnings, was added to the Uniform System of Accounts in 1969, I find the earlier cases to have little precedential value. Equitable does not cite a case after 1954 in which the Commission allowed a transfer from the depreciation reserve to earned surplus. Moreover, the older cases it does cite are all brief Commission orders offering little if any rationale for the Commission's action. I hold that the instant case is governed by Commission policy in effect today, as enunciated in *Municipal Light Boards, supra.*

II

Having concluded that the transfer of the $11,576,206 from Account 108 to Account 439 is inconsistent with the Uniform System of Accounts, generally recognized accounting principles, and current Commission policy, I face the issue of whether Equitable has made a substantial and compelling showing that waiver of agency rules is warranted. *WAIT Radio v. F.C.C.*, 418 F. 2d 1153 (CADC-1969); *see also Colorado Interstate Gas Co.*, Docket No. CP73-240, Initial Decision (March 12, 1976)* at 1868. A presumption of regularity applies when the Commission acts in reliance on an established

[7] Opinion No. 729-A (August 4, 1975, 54 FPC 440 at 442.

[8] Staff cites *Montana Power Co.*, 4 FPC 213 (1945), and *Pacific Power and Light Co.*, 141 F. 2d 602 (CA9-1944). Equitable cites *Hope Natural Gas Co.*, 4 FPC 893 (1945); *Canadian River Gas Co.*, 6 FPC 669 (1947); *United Fuel Gas Co.*, 6 FPC 372 (1947); *Central Kentucky Natural Gas Co.*, 7 FPC 350 (1948); *Colorado Interstate Gas Co.*, 7 FPC 818 (1948); *Southern California Gas Co.*, 10 FPC 734 (1951); *Southern Counties Gas Co.*, 10 FPC 914 (1951); and *Atlantic City Electric Co.*, 13 FPC 820 (1954).

* [Editor's note: Order issued September 28, 1976, acted upon this Initial Decision, 56 FPC 1842 at 1853.]

agency rule. "An applicant for waiver faces a high hurdle even at the starting gate." *WAIT Radio, supra* at 1157. I find that Equitable has not sustained its burden, and that no waiver of Commission rules or policies should be permitted.

A. Equitable argues that the proposed transfer is needed in order to improve the financial attractiveness of the Company. Exhibit No. 6 includes Equitable's capitalization as of December 31, 1974, in *pro-forma* fashion to include a $25 million debt issuance. The debt ratio is stated as 54.84%, while the equity ratio is 45.16%. If the proposed transfer is approved, the ratios would change, respectively, to 52.23% and 47.77%. Exhibit No. 12, a prospectus for the $25 million issuance, includes Equitable's capitalization as of March 31, 1975. The debt ratio is 53.4% and the equity ratio is 46.6%. It is stated that if the proposed transfer is approved, the *pro-forma* long-term debt ratio would be 50.9% and the equity ratio 49.1%.

With this improved debt-equity ratio that would result from the proposed transfer, Equitable argues that the Company will be able more easily to obtain additional debt financing, which is considerably cheaper than equity financing. Equitable argues that its present debt ratio is considered too high, and the Company might be forced to issue additional equity in order to raise capital. Moreover, if the transfer is allowed, and the debt ratio lowered to 52.2%, the estimated interest rate savings on a new debt issue would be ⅛ of 1%. If we assume a $25 million issue, there would be a $30,000 savings each year.

Staff agrees that the transfer would improve Equitable's debt-equity ratio, but argues that the modest improvement would have an insignificant impact on the Company's capital attractiveness. Staff's position is convincing. It seems probable that sophisticated investors are already aware of Equitable's inflated depreciation reserve and thus would not be influenced by the transfer. Indeed, a letter to Equitable from Standard & Poor's Corporation states: "Please be advised that Standard & Poor's has recognized that the common equity component of Equitable's capitalization has been modestly understated as a result of the over-accrual of depreciation in years past. Therefore, as a practical matter it would make little difference to our analysis whether or not Federal Power Commission approval of the restatement were obtained * * *". (Exh. No. 9).

The layman investor would consider the debt-equity ratio as only one of several factors that should be analyzed. Staff witness LeDakis testified that in appraising financial risk the debt-equity ratio is not considered as significant as interest coverage. Equitable's pre-tax interest coverage in 1974 was 3.3. Its most recent prospectus indicates that as of March 31, 1975, its pre-tax interest coverage was 3.4. Most utility bond indentures have a minimum pre-tax coverage requirement of 2.0 (Tr. 23).

Staff has presented evidence showing that Equitable is in relatively good, and probably improving, financial health. Equitable's earnings per share have increased over the years and in 1974 represented a 17.5% increase over 1973, with this upward trend continuing in 1975 (Tr. 23). As of May, 1975, Equitable had the highest per share earnings of 60 comparable distribution companies. (Exh. No. 11).

Further, Equitable's equity ratio as of May, 1975 was well within the higher range of 60 comparable distribution companies. Of the 60 companies, 39 had equity ratios below that of Equitable. The average ratio for the entire group was 43%, well below Equitable's 47% (Exh. No. 11). Also, the debt-equity figures I have cited *supra* indicate that Equitable's equity ratio has risen over the last year.

Additional evidence of Equitable's favorable financial condition is the "A" rating assigned to its mortgage bonds. Equitable argues that if its debt ratio increases, its bond ratings could be downgraded, with a resulting higher interest rate on a new debt issue. However, this occurrence seems speculative, especially since Equitable's debt ratio has in fact decreased over recent years.

With the above facts in mind, I conclude that Equitable is in a relatively strong and stable financial condition. The proposed transfer is not needed to enable the Company to obtain additional financing, nor is the transfer likely to have a significant impact on the Company's ability to obtain additional capital. Thus the Company has fallen short in its attempt to prove that a waiver of Commission rules is warranted on these grounds.

B. Equitable argues that the proposed transfer would bring its financial statement into accord with the data upon which rates are based, and provide the most meaningful information to potential investors. Staff agrees that some action must be taken to correct the overaccumulation, but argues that the correction should be in the form of prospective amortization, citing *Municipal Light Boards, supra.*

Equitable argues that since there is no remaining undepreciated asset amount here, prospective amortization is impossible. However, Equitable has used the group plan to depreciate its plant (Tr. 16); *i.e.,* it has based its accruals on the average life expectancy of groups of items of similar property. Thus, under the group plan, the balance in Account 108 is related to total depreciable plant and not to specific assets such as the overdepreciated property acquired in 1951. Therefore Equitable's total depreciable plant can be the basis for prospective amortization, or alternatively for reducing the depreciation rate so as to eliminate the excess depreciation over the life of Equitable's property, the technique approved by the Commission in Opinion No. 729-A. See p. 1663, *supra.*

C. Approval of the proposed transfer in this case would condone both the arbitrary accounting practices which caused the overaccumulation, and the lassitude of Equitable in correcting the situation. It is impossible to overlook the fact that Equitable waited 25 years before suggesting that the overaccumulation be remedied.[8] If the overaccumulation problem had been tackled earlier, the overaccumulation probably would have been less than it is and the impact on Equitable's financial statements would have been smaller.

CONCLUSION

Considering all the evidence and the arguments of the parties, I conclude that I should deny Equitable's request to transfer on its books an amount of $11,576,206 from Account 108 to Account 439. I also find that the proper accounting treatment of the $11,576,206 excess depreciation in Account 108 is to have Equitable appropriately reduce its depreciation rate so that the excess depreciation is eliminated ratably over the remaining life of Equitable's property. *Municipal Light Boards of Reading and Wakefield, Mass. v. Boston Edison Company,* Opinion No. 729-A (August 4, 1975), *supra* at 442.

ORDER

WHEREFORE, *It is ordered,* subject to review by the Commission on appeal, or on its own motion as provided by the Commission's Rules of Practice and Procedure, that:

(A) The request of Equitable Gas Company to transfer on its books of account an amount of $11,576,206 from Account 108, Accumulated Provision for Depreciation, to Account 439, Adjustments to Retained Earnings, is denied.

(B) Equitable shall eliminate the $11,576,206 excess in Account 108 by appropriately reducing its depreciation rate over the remaining life of its property.

(C) Within 30 days of the final order of the Commission in this case, Equitable shall file with the Commission a report showing the appropriate adjustment in its depreciation rate.

ERNST LIEBMAN,
Presiding Administrative Law Judge.

APPENDIX

439 Adjustments to retained earnings.

A. This account shall include significant nonrecurring transactions relating to prior periods. Other than transactions of capital stock as specified in paragraph B below, all entries to this account must receive prior Commission approval. These transactions are limited to those adjustments which (a) can be specifically identified with and related to the business activities of particular prior periods, and (b) are not attributable to economic events occurring subsequent to the date of the financial statements for the prior period, and (c) depend primarily on determinations by persons other than the management, and (d) were not susceptible of reasonable estimation prior to such determination. This account shall also include the related income tax effects (State and Federal) on items included herein. All items included in this account shall be sufficiently described in the entries relating thereto as to permit ready analysis.

B. Adjustments, charges or credits due to losses on reacquisition, resale or retirement of the

* One is tempted to speculate on why Equitable waited so long, but such speculations will not help resolve the issue presented here.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

COPY

In Reply Refer To:
OCA-DAS
Docket No. AC91-161-000

DEC 05 1991

Mr. Lester L. Lefler
Vice President-Controller
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601-0111

Dear Mr. Lefler:

We have reviewed your proposed journal entries submitted with your letter dated August 28, 1991, to clear Account 102, Electric Plant Purchased or Sold, in connection with the purchase of the generating facilities of Sebring Utilities Commission, including the Phillips and Dinner Lake Plants.

The purchase resulted in a credit acquisition adjustment in the amount of $16,431,320 1/ which you propose to record in Account 114, Electric Plant Acquisition Adjustments, and to amortize to Account 406, Amortization of Electric Plant Acquisition Adjustments, over the 11-year remaining life of the facilities.

With regard to credit acquisition adjustments, it is this Commission's policy to require credit acquisition adjustments arising from the acquisition of utility properties to be disposed of by crediting the acquisition adjustment to the accumulated provision for depreciation applicable to the properties acquired.

Your proposed journal entries are accepted for filing, provided that the credit acquisition adjustment is transferred from Account 114 to Account 108, Accumulated Provision for Depreciation of Electric Utility Plant, and subject to adjustment should additional information warrant.

1/ Mr. Richard Walker of your Company informed my staff that the acquisition adjustment includes $277,335 for rehabilitation costs, and that the additional costs to rehabilitate the assets, as noted in your letter, were expected to be minor in amount. Such additional costs will require a corresponding adjustment in the resulting acquisition adjustment.

Tampa Electric Company 2

Authority to act on this matter is delegated to the Chief Accountant pursuant to §375.303 of the Commission's regulations. This letter order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this letter order, pursuant to 18 C.F.R. §385.713.

On June 28, 1991, the Commission issued a "Notice Designating New Docket Prefixes for Letters Issued by the Chief Accountant". As part of this notice, the Commission informed applicants to file an original and seven copies of each request for an approval or an interpretation from the Chief Accountant. Accordingly for all future filings, please submit an original and seven copies of your request.

Sincerely yours,

Russell E. Faudree, Jr.
Russell E. Faudree, Jr.
Chief Accountant