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February 19, 1990

Mr. Steve C. Tribble, Director  
Division of Records & Reporting  
Florida Public Service Commission  
101 E. Gaines Street  
Tallahassee, FL 32399-0865

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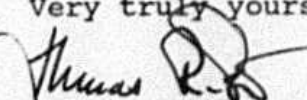
Re: Docket No. 891278-PU  
Amendment of Rule 25-14.003, F.A.C.,  
Corporate Income Tax Expense Adjustment:  
Midpoint and Additional Changes

Dear Mr. Tribble:

Please find enclosed for filing the original and 15 copies  
of GTEFL's Posthearing Comments for filing in the above-  
referenced matter.

Service has been made as indicated on the Certificate of  
Service. If there are any questions with regard to this  
matter, please contact the undersigned at 813-228-3087.

Very truly yours,

  
Thomas R. Parker  
tp/fm

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FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

01558 FEB 19 1990

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Amendment of Rule 25-14.003,) Docket No. 891278-PU  
F.A.C., Corporate Income Tax Expense) Filed: 2/19/90  
Adjustment: Midpoint and Additional)  
Changes.)

POSTHEARING COMMENTS OF GTE FLORIDA INCORPORATED

On November 29, 1989, this Commission issued a Notice of Rulemaking in Order No. 22237 proposing a change to Commission Rule 25-14.003 to modify the existing definition of the term "midpoint". The rule amendment proposed to utilize a zero cost rate for investment tax credits in determining the overall weighted average cost of capital. A hearing was held on January 29, 1990, regarding this issue. GTE Florida Incorporated ("GTEFL") submits the following comments based on the evidentiary record developed at that hearing.

1. The proposed revision to Commission Rule 25-14.003 FAC would calculate the rate of return (ROR) of a utility, for the purposes of the income tax expense adjustment, by assigning a zero cost to the Company's investment tax credits. There is a substantial question concerning whether this proposed rule amendment would violate the normalization provisions of Internal Revenue Code Section 46 and Internal Revenue Regulation Section 1.46-6, thereby subjecting the utility to the recapture of all non-amortized investment tax credits (ITC). The loss of investment tax credit eligibility

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would place over \$750,000,000 in jeopardy for electric utilities within the state of Florida. (Tr. 32). In GTEFL's case, the loss if a code violation were to occur is approximately \$44,000,000. (Tr. 20).

Stated simply, GTEFL is concerned that the proposed revision to Rule 25-14.003 may violate the normalization requirements of Regulation 1.46-6(b)(3)(ii)(A). This is so because the initial rule revision apparently requires investment tax credits to be treated as having a zero cost in computing ROR, which seems inconsistent with the foregoing regulation.

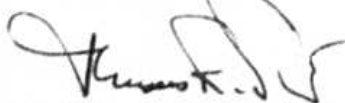
2. The record demonstrates that this Commission has traditionally taken a conservative approach towards adopting any sort of ratemaking approach which could place investment tax credit eligibility in jeopardy. (Tr. 16). The eligibility violations applicable to investment tax credits under the Code include assigning a cost of capital to investment tax credits which is less than the overall cost of capital in a rate setting proceeding. The record demonstrates that the Commission's tax rule can include the adjustment of rates. (Tr. 15). Indeed, the record demonstrates that the application of a zero cost rate to investment tax credits will increase the chances that a rate reduction will occur under a tax rate reduction situation and lessen the chances for the collection of a tax deficiency under a tax increase situation. (Tr. 13-14).

3. Accordingly, the rule presents a potential code violation which should be addressed by the IRS before the rule is adopted. All parties appearing at the hearing have no objection to this approach including the Staff and Public Counsel. (Tr. 17 and 65). GTEFL supports the Staff amendment submitted at the hearing entitled "Internal Revenue Ruling Request" which allows appropriate letter rulings to be obtained before a zero cost rate is utilized for investment tax credits in determining the overall cost of capital under Commission Rule 25-14.003

WHEREFORE, GTE Florida Incorporated moves the Florida Public Service Commission to amend its proposed rule to include the Staff's proposed language regarding Internal Revenue Service letter rulings as set forth on Appendix A attached hereto.

Respectfully submitted this 19th day of February, 1990.

JAMES V. CARIDEO  
THOMAS R. PARKER  
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1           (8) Internal Revenue Ruling Request.

2           (a) The treatment by the Commission of all investment  
3 tax credits at a zero cost rate shall be contingent upon a  
4 ruling from the Internal Revenue Service that such treatment  
5 will not, for companies which elected to be treated under s.  
6 46(f)(2) of the Internal Revenue Code, result in the  
7 forfeiture of the investment tax credits. Pending receipt  
8 of such a ruling, each utility shall continue to use the  
9 weighted average overall cost of capital calculated in a  
10 manner consistent with the final IRS Regulation s. 1.46-6  
11 published May 22, 1986, as the cost rate of the utility's 4%  
12 and 10% investment tax credits.

13           (b) Any such ruling request must be submitted to the  
14 Commission by March 15, 1990. The cost rate for the  
15 investment tax credits for any company which failed to  
16 submit its own letter ruling request to the IRS shall be  
17 governed by the first letter ruling issued by the IRS in  
18 response to a request submitted pursuant to subsection 8(a)  
19 of this rule.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of GTE Florida Incorporated's Posthearing Comments in Docket No. 891278-PU has been furnished by United States mail this the 19th day of February, 1990, to:

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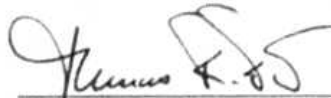
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