

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for clarification) DOCKET NO. 920041-EI
and guidance on appropriate) ORDER NO. PSC-92-0438-PHO-EI
market-based pricing methodology) ISSUED: 6/2/92
for coal purchased from Gatliff)
Coal Company by Tampa Electric)
Company.)

Pursuant to Notice, a Prehearing Conference was held on May 28, 1992, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

LEE L. WILLIS, Esquire, and JAMES D. BEASLEY, Esquire, Ausley, McMullen, McGehee, Carothers and Proctor, Post Office Box 391, Tallahassee, Florida 32302; and HERBERT S. SANGER, JR., Esquire, Wagner, Myers and Sanger, Post Office Box 1308, Knoxville, Tennessee 37901-1308
On behalf of Tampa Electric Company.

JOHN ROGER HOWE, Esquire, Deputy Public Counsel, The Office of Public Counsel, The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Office of Public Counsel.

JOSEPH A. MCGLOTHLIN, Esquire, and VICKI GORDON KAUFMAN, Esquire, McWhirter Grandoff and Reeves, 522 East Park Avenue, Suite 200, Tallahassee, Florida 32301
On behalf of Florida Industrial Power Users Group (FIPUG).

MARTHA CARTER BROWN, Esquire, and DONNA L. CANZANO, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Suite 206, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

PRENTICE P. PRUITT, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Suite 212, Tallahassee, Florida 32399-0862
On behalf of the Commissioners.

DOCUMENT NUMBER-DATE

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FPC-RECORDS/REPORTING

PREHEARING ORDER

I. CASE BACKGROUND

On January 10, 1992, Tampa Electric Company (TECO) petitioned the Commission for clarification and guidance on the appropriate market-based pricing methodology for recovery of the cost of coal that it purchases from its affiliate, Gatliff Coal Company. On January 30, 1992, Public Counsel filed a motion to dismiss TECO's petition. The Commission denied Public Counsel's Motion in Order No. PSC-92-0304-FOF-EI, issued May 6, 1992.

Notice of the Prehearing and Hearing was issued April 24, 1992. Public Counsel filed a Request for More Specific Notice and an amended notice was issued May 4, 1992.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is

defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by TECO and Staff has been prefiled. Pursuant to Order No. PSC-92-0380-PCO-EI, Public Counsel was not required to prefile testimony since the circumstances of this particular case indicate that it was not

possible for Public Counsel to do so. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

In keeping with Commission practice, witnesses will be grouped by the subject matter of their testimony. The witness schedule is set forth below in order of appearance by the witness's name, subject matter, and the issues which will be covered by his or her testimony. Public Counsel will identify the issues his witnesses will address by letter to the parties on June 3, 1992.

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
G. Pierce Wood (TECO)	Background of Tampa Electric's Transactions with Gatliff Coal Company and the Commission's adoption of a market based pricing concept and a benchmark procedure for use as a tool to evaluate the reasonableness of the price paid by Tampa Electric to Gatliff Coal Company	2 - 7
Lawrence F. Metzroth (TECO)	Explain the Resource Data International, Inc. ("RDI") study of market based pricing of Gatliff coal; examine the benchmark methodology previously calculated and sponsor a corrected	1 - 7

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
	method for calculating the benchmark procedure approved in Order No. 20298 issued in Docket No. 870001-EI-A.	
Lee L. Willis (OPC)	Procedures preceding stipulation; original provisions and intent of stipulation; whether TECO's position in this docket modifies the stipulation; whether TECO's petition violates the stipulation and Order No. 20298	
William N. Cantrell (OPC)	Whether use of Form 423 data is consistent with evidence introduced by TECO in Docket No. 870001-EI-A; whether TECO could have discovered purported errors in Form 423 data before signing the stipulation; original provisions and intent of the stipulation; TECO's calculation of the benchmark in fuel cost recovery proceedings; the 1988 contract between TECO and Gatliff.	
John R. Rowe (OPC)	Whether use of Form 423 data is consistent with evidence introduced by TECO in Docket No. 870001-EI-A; original provisions and intent of the stipulation.	
Harry Timothy Shea, Michael B. Twomey, and Avis H. Payne. (OPC)	The Commission's fuel cost recovery policy as it applies to purchases from affiliates; whether use of Form 423 data is consistent with the record in Docket No. 870001-EI-A; whether TECO has sufficient opportunity	

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
	to discover purported errors in Form 423 data before entering the stipulation; whether Form 423 data is suitable to measure changes in the market price of coal; original provisions and intent of the stipulation; whether TECO's proposed modification alters or violates the stipulation; TECO's 1988 contract with Gatliff; whether TECO's proposed modification should be adopted.	

STAFF

Harry Timothy Shea (Staff)	Method used to calculate the benchmark price for TECO's affiliate coal purchases; witness Metzroth's proposed method of calculations; the market based index, the market-based pricing methodology, the stipulation and Order 20298.	1-7
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Tampa Electric reserves the right to present additional witnesses in response to testimony that may be presented by Staff or other parties. Also, in the event the Office of Public Counsel declines to call as its witness Mr. Willis, Mr. Cantrell or Mr. Rowe, Tampa Electric reserves the right to call those witnesses in response to the Office of Public Counsel calling as its witnesses Mr. Shea, Mr. Twomey or Ms. Payne.

V. BASIC POSITIONS

TAMPA ELECTRIC COMPANY (TECO): The Commission should refine and clarify the procedures used to calculate the market-based index set forth in Order No. 20298 (the "Order") so as to better achieve the purpose and intent of the Order. The Commission, therefore, should issue its order confirming that the method for calculating the market-based index set forth in Mr. Metzroth's testimony and supported in his Exhibit LFM-1 is consistent with and properly implements Order No. 20298. Tampa Electric believes that no other

action is required in this proceeding and that its proposed clarification and refinement of the procedures implementing the Order better achieve its purpose and intent. Should the Commission disagree, however, and conclude that Mr. Metzroth's recommendation would effect a modification of the market-based index calculation approved in Order No. 20298, the Commission should approve Mr. Metzroth's recommendation as representing a reasonable and appropriate modification of the market-based index calculation for purposes of implementing the pricing concept and related benchmark procedure contemplated in Order No. 20298. This approved procedure should be applied in the next fuel adjustment proceeding during which the Commission considers the prudence of amounts paid by Tampa Electric to Gatliff for coal purchased during 1991.

OFFICE OF PUBLIC COUNSEL (OPC): The Office of Public Counsel and Tampa Electric Company responded to the Commission's directions at the September 6, 1988, agenda conference by negotiating in good faith and entering into a stipulation on October 13, 1988, to resolve the issues pending in Docket No. 870001-EI-A. The stipulation covered three topics: the initial price of Gatliff coal, a market pricing method for affiliated transportation services, and a benchmark test to measure the reasonableness of future coal prices. The parties to the stipulation agreed to use FERC Form 423 data, after adjusting for term and quality using information contained in the Forms 423, to measure changes in the market price for coal. The use of Forms 423 was consistent with testimony offered by Tampa Electric's witness at hearing and offered a neutral body of reliable information which was not subject to manipulation by either party. This stipulation was submitted to the Commission and approved by Order No. 20298.

Tampa Electric Company now wants to modify one part of the stipulation simply because the utility is unwilling to live with the agreed upon terms. The allegation of error in the Forms 423 is a smokescreen. If there are errors, they are either offsetting or of insufficient magnitude to make the Forms 423 unsuitable to measure changes in the market price of coal. In reality, Tampa Electric wants to pay its coal-supply affiliate every dime it contracted for without regard to prevailing market conditions. To this end, the utility has resorted to semantic games in its petition. It is absurd on its face for Tampa Electric Company to allege it needs "clarification and guidance" to understand whether the Commission meant for the utility to hire a consultant of its choosing to manufacture a completely new and self-serving method for calculating the benchmark.

The Commission's willingness to entertain Tampa Electric's petition without well-founded allegations of changed circumstances is inconsistent with traditional notions of due process and contrary to settled principles of administrative law.

FLORIDA INDUSTRIAL POWER USERS GROUP (FIPUG): In the original cost-plus docket, FIPUG endorsed the concept of a market proxy for reviewing the dealings between affiliated utility and fuel supply companies. The purpose of the market proxy then (and now) is to serve as a structural safeguard to assure that fuel supply companies do not make a windfall profit, to the detriment of ratepayers, when dealing with sister electric utilities in transactions that are less than arms-length and that are typically kept confidential from customers.

In this docket, TECO seeks to modify the previously agreed to market proxy. FIPUG has not undertaken to review the particulars of individual transactions. On a conceptual basis, however, FIPUG believes that TECO's request should be carefully scrutinized by the Commission to determine whether the original purpose of the market proxy--that is, that it serve as a surrogate for the effect of competition--would remain intact.

STAFF: Staff, TECO and the Office of Public Counsel arrived at a stipulation which the Commission approved in Order No. 20298 issued November 10, 1988. It is Staff's opinion that the methodology used in that stipulation is appropriate and that TECO has not demonstrated a change in circumstance that would dictate a change in the methodology.

VI. ISSUES AND POSITIONS

ISSUE 1: Does FERC Form 423 data contain errors that make the data unsuitable to measure changes in the market price of coal?

TECO: Yes. For example, it sometimes misidentifies coal transactions as spot or contract transactions. This is one of the basic criteria of the stipulation and neither TECO, the Commission, Staff or Public Counsel should be implementing a stipulation based on data that does not meet the criteria of the stipulation. Public Counsel's position is that the FERC Form 423 data must be used even if it is wrong. The FERC Form 423 raw data thus contains certain logging and reporting errors which, in the

absence of correction, render the raw FERC Form 423 data incorrect. In addition, it does not contain information necessary to correctly determine the benchmark following the quality criteria of the stipulation. Such raw data should be corrected as a first step in implementing the Order. Once corrected, and the further necessary information added, the FERC Form 423 data is suitable to measure changes in the market price of coal as provided in the stipulation approved in Order 20298. (Witness: Metzroth)

OPC: No. FERC Form 423 data, as adjusted for term and quality using information contained in the Forms 423 pursuant to the stipulation, is a reliable source of information to measure changes in the market price of coal.

FIPUG: FIPUG has not undertaken to review the FERC Form 423 data. However, FIPUG reaffirms its endorsement of the market proxy concept for utility fuel purchases adopted by the Commission in Docket No. 870001-EI-A and requests that the Commission, in making a decision on this issue, insure that the market proxy protects the interests of the ratepayers and that TECO pays no more for coal purchased from its affiliated company than it would pay to unrelated producers as a result of arms-length bargaining.

STAFF: No.

ISSUE 2: Does FERC Form 423 data, after adjusting for term and quality using information contained in the Forms 423, contain errors that parties to the stipulation could not have discovered with due diligence and which make the FERC Form 423 data unsuitable to measure changes in the market price of coal?

TECO: Inclusion of this issue is unnecessary and duplicative. However, Tampa Electric adopts as its position on this issue Tampa Electric's position on Issue 1, with the additional comments that (1) it would be unfair and erroneous to rely solely upon information filled in on FERC Forms 423 if it is erroneous or does not permit one to focus on the Form 423 data which is relevant and appropriate for calculating the market-based index, and (2) Tampa Electric should not be precluded from relying upon information it became aware of for the first time after the stipulation was entered into, particularly when

that information facilitates a continuing market-based index calculation which is more in keeping with the intent of the stipulation and Order No. 20298.

In addition to the foregoing, the inclusion of the phrase "could not have discovered with due diligence" is improper because it suggests that no corrective action should be taken by the Commission even if there are errors which make the FERC 423 data unsuitable to measure changes in the market of price of coal.

The Public Counsel's Issue 8 improperly attempts to put the Commission in the position of having to use only the FERC Form 423 data to measure changes in the market price of coal even if it does not contain complete information necessary to most accurately calculate the market based index in accordance with the formula in the stipulation, assuming for the sake of argument that this information could have been discovered with due diligence at the time the stipulation was entered into. (Witnesses: Wood; Metzroth)

OPC: No. If there are any errors in the Form 423 data, they are of a type that TECO could have discovered before entering into the stipulation. Furthermore, if errors do, in fact, exist, they are not of sufficient magnitude to make the Form 423 data unsuitable to measure changes in the market price of coal.

FIPUG: FIPUG has not undertaken to review the FERC Form 423 data. However, FIPUG reaffirms its endorsement of the market proxy concept for utility fuel purchases adopted by the Commission in Docket No. 870001-EI-A and requests that the Commission, in making a decision on this issue, insure that the market proxy protects the interests of the ratepayers and that TECO pays no more for coal purchased from its affiliated company than it would pay to unrelated producers as a result of arms-length bargaining.

STAFF: No.

ISSUE 3: Does FERC Form 423 data, as adjusted for term and quality using information contained in the Forms 423, provide a reasonable standard to measure changes in the market price of coal?

- TECO: The FERC Form 423 raw data contains certain logging and reporting errors which, in the absence of correction, render the raw FERC Form 423 data incorrect. In addition, it does not contain information necessary to correctly determine the benchmark and carry out the Commission's intent of establishing a market-based index that includes contract transactions (excluding all spot transactions) that meet the quality specifications of the stipulation and Order No. 20298. Such raw data should be corrected as a first step in implementing the Order. Once corrected, and the further necessary information added, the FERC Form 423 data is suitable to measure changes in the market price of coal. (Witness: Metzroth)
- OPC: Yes. FERC Form 423 data, as adjusted pursuant to the stipulation, provides a compilation of neutral data, not subject to manipulation by any party, that accurately measures changes in the market price of coal.
- FIPUG: FIPUG has not undertaken to review the FERC Form 423 data. However, FIPUG reaffirms its endorsement of the market proxy concept for utility fuel purchases adopted by the Commission in Docket No. 870001-EI-A and requests that the Commission, in making a decision on this issue, insure that the market proxy protects the interests of the ratepayers and that TECO pays no more for coal purchased from its affiliated company than it would pay to unrelated producers as a result of arms-length bargaining.
- STAFF: Yes.
- ISSUE 4: Does the FERC Form 423 database of contract deliveries from Bureau of Mines District 8 which meet coal quality specifications as contained in Order No. 20298 contain contracts that have been erroneously included for purposes of calculating the market-based index to establish the benchmark for recovery of the costs of TECO's affiliate coal purchases?
- TECO: Yes. The FERC Form 423 database does include and exclude transactions which should be deleted or included in calculating the market-based index. The removal or inclusion of those contracts will result in a market-based index calculation which is not only consistent with the Order, but which better achieves its intent. The FERC Form 423 data is filed by utilities within 60 days

after deliveries are made to them. The stipulation approved in Order 20298 provides for the use of each year's FERC Form 423 data to implement the benchmark. Thus, no amount of diligence by any party to the stipulation could have determined at the time of signing the stipulation that future FERC Form 423 data would contain errors. (Witnesses: Wood; Metzroth)

OPC: This issue is essentially a non sequitur. The parties to the stipulation agreed, after extensive negotiations, to use a neutral source of published data which had been employed by both the Staff's and the utility's witnesses at hearing in Docket No. 870001-EI-A. Transactions delineated as spot transactions on the Forms 423 and those contract transactions not meeting the specified quality specifications on the Forms 423 were to be excluded from the benchmark calculation. The remaining contracts, by definition, were properly included under the terms of the stipulation. Moreover, there is no evidence that any errors (as TECO uses the term) applicable to the remaining contracts are significant and of a nature that parties to the stipulation could not have discovered with due diligence before signing the stipulation.

FIPUG: FIPUG has not undertaken to review the FERC Form 423 data. However, FIPUG reaffirms its endorsement of the market proxy concept for utility fuel purchases adopted by the Commission in Docket No. 870001-EI-A and requests that the Commission, in making a decision on this issue, insure that the market proxy protects the interests of the ratepayers and that TECO pays no more for coal purchased from its affiliated company than it would pay to unrelated producers as a result of arms-length bargaining.

STAFF: No.

ISSUE 5: Is TECO's proposed calculation of the market-based index consistent with the original provisions and intent of the stipulation and Order No. 20298?

TECO: Yes. The proposed calculation set forth in Mr. Lawrence F. Metzroth's testimony and supported in his Exhibit LFM-1 is consistent with and properly implements Order No. 20298 and the stipulation approved therein. The calculation not only begins with FERC Form 423 data, it

is done by using FERC Form 423 data corrected to the extent possible by the use of other documents filed as required by Federal law, essentially FERC Form 580 and MSHA Form 7000-2. The data is available from a firm which provides it as a product to utilities, coal sellers, governmental entities and others throughout the country. The data has not been created for TECO or this proceeding but exists and is available as a continuing source of information. (Witnesses: Wood; Metzroth)

OPC: No. The stipulation is clear; only the data from FERC Forms 423 is to be used to calculate the benchmark. It is absurd for TECO to suggest that a stipulation resulting from face-to-face negotiation could be implemented by using extraneous data generated at TECO's request solely for the purpose of arriving at a new, higher benchmark valuation. TECO's calculations do not begin with FERC Form 423 data. They do not exclude those transactions that would be excluded with reference to the Forms 423. Under the stipulation, the terms of future contracts between TECO and its affiliates should have no effect on how the benchmark is calculated. The methods of calculation proposed by TECO, however, are tied directly to the specific terms of the 1988 contract which was not signed until after the stipulation was entered into. TECO's proposed calculations are inconsistent in all respects.

FIPUG: FIPUG reaffirms its endorsement of the market proxy concept for utility fuel purchases adopted by the Commission in Docket No. 870001-EI-A and requests that the Commission, in making a decision on this issue, insure that the market proxy protects the interests of the ratepayers and that TECO pays no more for coal purchased from its affiliated company than it would pay to unrelated producers as a result of arms-length bargaining.

STAFF: No.

ISSUE 6: Should the Commission approve TECO's proposed calculation of the market-based index?

TECO: Yes. The Commission should issue its order confirming that Tampa Electric's proposed calculation of the market-based index is consistent with and properly implements Order No. 20298. (Witnesses: Wood; Metzroth)

OPC: No.

FIPUG: FIPUG reaffirms its endorsement of the market proxy concept for utility fuel purchases adopted by the Commission in Docket No. 870001-EI-A and requests that the Commission, in making a decision on this issue, insure that the market proxy protects the interests of the ratepayers and that TECO pays no more for coal purchased from its affiliated company than it would pay to unrelated producers as a result of arms-length bargaining.

STAFF: No.

ISSUE 7: Should the Commission modify the manner in which the market-based index is calculated, and if so, what should the modification be?

TECO: Should the Commission conclude that Mr. Metzroth's recommendation would effect a modification of the market-based index calculation approved in Order No. 20298, the Commission nevertheless should approve the company's proposed calculation as representing a reasonable and appropriate modification of the index calculation. The Commission's Order 20298 approves the stipulation but it is the Order that implements the Commission's regulatory authority and the Commission can by further order provide for the prospective implementation of the calculation. (Witnesses: Wood; Metzroth)

OPC: No, the Commission should not modify the manner in which the market-based index is calculated. Moreover, the Commission cannot modify one part of the stipulation without voiding the stipulation in its entirety.

FIPUG: FIPUG reaffirms its endorsement of the market proxy concept for utility fuel purchases adopted by the Commission in Docket No. 870001-EI-A and requests that the Commission, in making a decision on this issue, insure that the market proxy protects the interests of the ratepayers and that TECO pays no more for coal purchased from its affiliated company than it would pay to unrelated producers as a result of arms-length bargaining.

STAFF: No.

ISSUE 8: If the Commission does approve the proposed calculation of the market-based index, or any other proposed calculation, to what coal purchases should the calculation apply?

TECO: If the Commission approves the proposed calculation of the market-based index, it should be applied in all proceedings in which the Commission considers the amounts paid by Tampa Electric to Gatliff, including purchases during 1991. (Witnesses: Wood; Metzroth)

OPC: If the Commission accepts and implements TECO's proposed modification to the stipulation and Order No. 20298, the new method should be applied to TECO's coal purchased from Gatliff Coal Company after December 31, 1991.

FIPUG: Agree with Public Counsel and Staff.

STAFF: Agree with Public Counsel.

ISSUE 9: Do the doctrines of res judicata, collateral estoppel or administrative finality apply to this proceeding and preclude the Commission from approving Tampa Electric Company's petition?
(Legal)

TECO: No.

OPC: Yes.

FIPUG: This is a legal issue which FIPUG reserves the right to brief.

STAFF: No position at this time.

ISSUE 10: Can the Commission make an incremental change to one part of Order No. 20298 approving the stipulation and require a party in opposition to any change abide by the other terms of the order containing the stipulation?
(Legal)

TECO: Yes. Whether Tampa Electric's proposal in this proceeding is considered a clarification or a modification of the market-based index methodology described in the stipulation as approved in Order No. 20298, the company's proposal is meritorious and should be approved. There is no legal impediment to this

Commission clarifying or improving upon the content of its prior orders.

OPC: No.

FIPUG: This is a legal issue which FIPUG reserves the right to brief.

STAFF: No position at this time.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Exhibit No.</u>	<u>Content</u>
Lawrence F. Metzroth (TECO)	<u>(LFM-1)</u>	List of RDI clients; technical data re: coal quality standards; sample FERC Form 423; various documents relating to the development and testing of Mr. Metzroth's proposed methodology for calculating the benchmark procedure approved in Order No. 20298. Mr. Metzroth's Exhibit may be identified on a composite basis. In addition, Tampa Electric reserves the right to present testimony and exhibits in rebuttal to any testimony hereafter submitted by any other participants in this proceeding.

OPC: None at this time.

FIPUG: None at this time.

<u>Witness</u>	<u>Exhibit No.</u>	<u>Content</u>
<u>STAFF:</u>		
Harry T. Shea	<u>(HTS-1)</u>	Commission Order No. 20298
Harry T. Shea	<u>(HTS-2)</u>	Tampa Electric Company's FERC Form 423 Submission for the Month of February, 1992
Harry T. Shea	<u>(HTS-3)</u>	Gatliff Coal Company Market-Based Index and Benchmark Calculations
Harry T. Shea	<u>(HTS-4)</u>	Summary of FERC Form 423 Transactions Included in Market-Based Index Specified in Order No. 20298
Harry T. Shea	<u>(HTS-5)</u>	Simple Example of How Metzroth's "Year by Year" Index is Calculated

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

None at this time.

IX. PENDING MOTIONS

The Office of Public Counsel filed a Motion to Compel Tampa Electric Company to answer Interrogatories Nos. 6 and 9 from Public Counsel's First Set of Interrogatories. Tampa Electric Company filed its response on May 28, 1992, the date of the prehearing conference. The prehearing officer has not yet ruled on this motion.

X. RULINGS


None at this time.

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It is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 2nd day of JUNE, 1992.



SUSAN F. CLARK, Commissioner
and Prehearing Officer

(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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060,

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Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.