

MACFARLANE AUSLEY FERGUSON & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(904) 224-9115 FAX (904) 222-7560

111 MADISON STREET SUITE 2300
P.O. BOX 1531 (ZIP 33601)
TAMPA, FLORIDA 33602
(813) 273-4200 FAX (813) 273-4396

400 CLEVELAND STREET
P. O. BOX 1669 (ZIP 34617)
CLEARWATER, FLORIDA 34615
(813) 441-8966 FAX (813) 442-8470

March 25, 1996

HAND DELIVERED

IN REPLY REFER TO:

Tallahassee

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399-0850

ORIGINAL
FILE COPY

Re: Investigation into Earnings for 1995 and 1996 of
Tampa Electric Company; FPSC Docket No. 950379-EI

Dear Ms. Bayo:

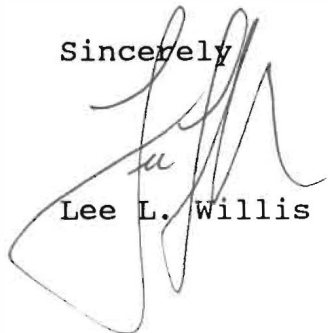
Enclosed for filing in the above docket are the original and fifteen (15) copies of the Office of Public Counsel, the Florida Industrial Power Users Group and Tampa Electric Company's Joint Motion for Approval of Stipulation.

ACK Please acknowledge receipt and filing of the above by stamping
AFA the duplicate copy of this letter and returning same to this
ritter.

APP
CAF Thank you for your assistance in connection with this matter.

CMU Sincerely

CTR
EAG 1 Base
LIG 1
LIN 5
OPC LW/bjm
RCH enclosures


Lee L. Willis

SEC 1 cc: All Parties of Record (w/enc.)

WAS
OTH

RECEIVED & FILED

14
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

03528 MAR 25 96

FPSC-RECORDS/REPORTING

ORIGINAL
FILE COPY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into)
earnings for 1995 and 1996)
of Tampa Electric Company)

DOCKET NO. 950379-EI
FILED: March 25, 1996

JOINT MOTION FOR APPROVAL OF STIPULATION

The Office of Public Counsel ("OPC"), Florida Industrial Power Users Group ("FIPUG") and Tampa Electric Company ("Tampa Electric" or "the Company"), (collectively referred to as the "Parties"), jointly move the Commission for entry of an order approving the attached Stipulation which represents the Parties' agreement to a comprehensive rate settlement covering Tampa Electric's base rates and rate of return for the period January 1, 1996 through December 31, 1998.

WHEREFORE, the undersigned Parties respectfully urge that the Commission approve the attached Stipulation in all respects.

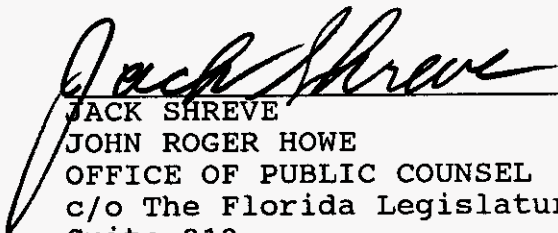
DOCUMENT NUMBER-DATE

03528 MAR 25 88

FPSC-RECORDS/REPORTING

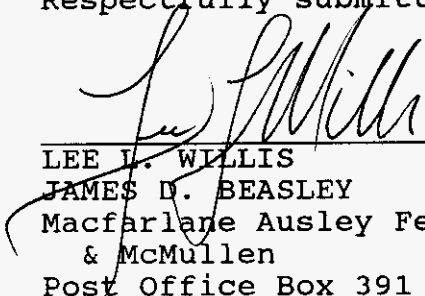
DATED this 25th day of March, 1996.

Respectfully submitted,



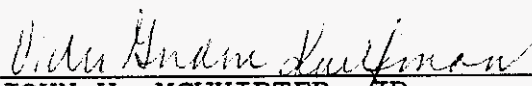
JACK SHREVE
JOHN ROGER HOWE
OFFICE OF PUBLIC COUNSEL
c/o The Florida Legislature
Suite 812
111 West Madison Street
Tallahassee, FL 32399-1400

OFFICE OF PUBLIC COUNSEL



LEE I. WILLIS
JAMES D. BEASLEY
Macfarlane Ausley Ferguson
& McMullen
Post Office Box 391
Tallahassee, FL 32302

ATTORNEYS FOR TAMPA ELECTRIC
COMPANY



JOHN W. MCWHIRTER, JR.
JOSEPH A. MCGLOTHLIN
VICKI GORDON KAUFMAN
McWhirter, Grandoff, Reeves,
Davidson, Rief & Bakas
117 S. Gadsden Street
Tallahassee, FL 32301

ATTORNEYS FOR FLORIDA INDUSTRIAL
POWER USERS GROUP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Joint Motion has been furnished by U. S. Mail or hand delivery (*) on this 25th day of March, 1996 to the following:

Mr. Robert V. Elias*
Staff Counsel
Division of Legal Services
Florida Public Service
Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mr. Joseph A. McGlothlin
Ms. Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas
117 S. Gadsden Street
Tallahassee, FL 32301

Mr. Jack Shreve
Mr. John Roger Howe
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street - #812
Tallahassee, FL 32399-1400

Mr. John W. McWhirter, Jr.
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas
100 North Tampa Street
Suite 2800
Tampa, FL 33602



ATTORNEY

hw\tec\950379.JMT

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into)
earnings for 1995 and 1996)
of Tampa Electric Company)
_____)

DOCKET NO. 950379-EI

STIPULATION

The Office of Public Counsel ("OPC"), Florida Industrial Power Users Group ("FIPUG") and Tampa Electric Company ("Tampa Electric" or "the Company"), (collectively referred to as the "Parties"), enter into this Stipulation which represents their agreement to a comprehensive rate settlement covering Tampa Electric's base rates and rate of return for the period January 1, 1996 through December 31, 1998. Accordingly, as described in more detail below, the Parties have agreed as follows:

- 1) Tampa Electric's existing base rates will be frozen at current levels through December 31, 1998;
- 2) Any base rate increase, including any base rate increase associated with the commercial operation of Tampa Electric's Polk Power Unit One plant addition, is avoided at least through December 31, 1998;
- 3) The Commission will be requested to immediately set a procedural schedule for hearing and decision on the Polk Power Station by October 31, 1996. In an effort to avoid the need for such a hearing, the Parties will negotiate, in good faith, a joint recommendation specifying the regulatory treatment for the Polk Power Station for Commission approval.

- 4) Tampa Electric will refund \$25 million plus interest to its Customers over a period of one year, commencing on October 1, 1996, with the possibility of additional refunds in 1999;
- 5) Tampa Electric will have a reasonable opportunity to earn a fair rate of return.

This Stipulation, as proposed, reflects the Commission's policy of encouraging parties to negotiate an amicable resolution of potentially contentious issues. As is the case with most fair and reasonable settlements, this Stipulation represents a very fine balance of benefits and burdens for all concerned. Therefore, the Parties respectfully request that the Commission approve and adopt this Stipulation in its entirety, without change or modification, at the earliest possible time.

Refunds

1. The Parties agree that Tampa Electric shall refund \$25 million to Customers plus interest. The refund will be composed of \$15 million derived from Tampa Electric's 1996 revenues and \$10 million derived from those Tampa Electric revenues deferred in accordance with Order No. PSC-95-0580-FOF-EI ("Order 95-0580") issued May 10, 1995. The \$25 million refund plus interest will be reflected as a credit on customer bills starting with the effective date of the new fuel adjustment charge beginning the first billing cycle for October, 1996.

Any portion of the \$25 million refund not refunded shall accrue interest beginning October 1, 1996 at the thirty day commercial paper rate as specified in Rule 25-6.109, Florida Administrative Code. The refund credit will be reflected as a credit on Customer's bills calculated by multiplying a levelized factor adjusted for line losses times the actual KWH usage during the period of the credit. The total credit shall be spread over a 12-month period. However, in the event judicial review is sought by any person not a party to the stipulation of the Commission Order approving this stipulation or the continuing validity thereof, Tampa Electric shall not be required to commence or continue any refunds until the matter is finally resolved. Any over or under collection associated with the credit will be handled as a true-up component in the normal course of Tampa Electric's fuel cost recovery proceedings.

Rate Freeze

2. The Parties agree that Tampa Electric's current base rate level shall be frozen during the period January 1, 1996 through December 31, 1998. OPC and FIPUG agree that they will neither seek nor support any reduction in Tampa Electric's base rates between January 1, 1996 and December 31, 1998 unless such reduction is sought by Tampa Electric. The Parties further agree that Tampa Electric will not use the various recovery clauses which shall continue to be available to it in 1996, 1997 and 1998, to recover through such clauses capital items that normally would be recovered

through base rates. However, the Parties agree, for example, that Tampa Electric may recover its prudent expenditures associated with compliance with environmental laws and regulations through the environmental cost recovery clause. However, during the term of this stipulation, the environmental cost recovery clause will not be used to recover any of the costs incurred relative to Polk Power Station, except costs attributable to changes in environmental laws or regulations or any change in the application or enforcement thereof occurring after October 15, 1996. Tampa Electric will not seek to make any base rate increase effective on or before December 31, 1998, including any increase to reflect the major plant addition resulting from commercial operation of Tampa Electric's new Polk Power Unit One which is scheduled to commence service in October 1996. Provided further Tampa Electric shall not file before July 1, 1998 a petition and rate schedules initiating a base rate increase proceeding for rates to be effective after December 31, 1998.

Treatment of Base Revenues: 1996-1998

3. As part of this agreement, the Parties have settled on a disposition of certain deferred Tampa Electric revenues which accrued in 1995 and pursuant to this Stipulation will continue to accrue through 1998. In Order 95-0580, the Commission approved the deferral of certain of Tampa Electric's 1995 revenues to periods beginning January 1, 1997. As part of its order, the Commission required Tampa Electric to either file for a rate increase or

petition for the disposition of the 1995 deferred revenue by December 1, 1996. In addition, on January 3, 1996, the Commission approved Tampa Electric's proposal to hold certain 1996 revenues subject to the Commission's jurisdiction. This order accepting Tampa Electric's proposal was protested by OPC and FIPUG, the signatories to this Stipulation and settlement.¹ The Parties have now agreed on the treatment of Tampa Electric's base revenues and accumulated deferred revenues for 1996, 1997 and 1998 as set forth below.

1996

4. After accounting for the \$15 million refund contemplated in paragraph 1 hereof, any actual Tampa Electric net revenue contributing to a ROE in excess of 11.75% on an FPSC adjusted basis, as specified in Tampa Electric's December earnings surveillance report for calendar year 1996, will be split 60%/40%. 60% of such revenues shall be deferred to periods beginning in 1997. The remaining 40% of such revenues shall be retained as earnings of the Company in 1996.

¹The Commission's January 3, 1996 decisions were incorporated into Order PSC-96-0122-FOF-EI ("Order 96-0122") issued January 23, 1996. The Commission on February 26, 1996 entered procedural Order No. PSC-96-0272-PCO-EI ("Order 96-0272") establishing a schedule for a hearing on various issues raised by OPC and FIPUG in protests of the Commission's Order 96-0122.

In order to give the Parties time to negotiate, the Commission's consideration of this matter was deferred from the Commission's March 5, 1996 Agenda. The Parties have now agreed on the treatment of Tampa Electric's base revenues and accumulated deferred revenues for 1996, 1997 and 1998 as set forth below.

1997

5. Tampa Electric shall have the discretion to reverse and add to the Company's revenues in 1997 all or any portion of the balance (remaining after the refunds required under paragraph 1 of this agreement) of the 1995 revenues deferred to periods beginning 1997 under the terms of Order 95-0580 and the 1996 deferred revenues described in paragraph 4 above.

6. The actual 1997 Tampa Electric net revenues which contribute to a ROE in excess of 11.75%, up to a net ROE of 12.75% for calendar year 1997, will be split 60%/40%. Sixty percent of such revenues shall be deferred and added to the revenues of the Company in 1998. The remaining 40% of such revenues shall be included in the earnings of the Company in 1997. The actual revenues contributing to a net ROE in excess of 12.75% for calendar year 1997 shall be deferred to calendar year 1998 and added to the revenues of the Company in 1998.

1998

7. The balance of all accumulated deferred revenues which were not reversed in 1997 will be deferred to calendar year 1998 and added to the revenues of the Company in 1998.

8. The actual 1998 Tampa Electric net revenues which contribute to a ROE in excess of 11.75%, up to a net ROE of 12.75% for calendar year 1998, will be split 60%/40%. 40% of the actual net revenues resulting in a ROE in excess of 11.75%, up to a net 12.75% ROE, shall be retained as earnings of the Company in 1998. The remaining 60% of the actual net revenues resulting in a ROE in

excess of 11.75%, up to a net 12.75% ROE for calendar year 1998 and all of the actual 1998 revenues resulting in a net ROE in excess of 12.75% shall be refunded to Customers. All of the monies held subject to refund after 1998 under this paragraph shall be refunded through a credit on Customer's bills calculated by multiplying a levelized factor adjusted for line losses times the actual KWH usage during the period of the credit. The credit shall include interest on the unamortized amount of the refund calculated in accordance with paragraph 9 herein. The refund period shall begin concurrently with the first fuel adjustment period following a final determination of the amount to be refunded, if any, and shall extend over a 12-month period. However, no refunds contemplated under this paragraph will be commenced until a final, non-appealable order (by the Commission or a court as the case may be) has been issued resolving all issues with respect to the calculation of earned ROE during the periods covered by this agreement, including the appropriate regulatory treatment of the Polk Power Station, all as set forth in paragraph 17 below. Any over or under collection associated with the proposed refund credit will be handled as a true-up component in the normal course of the fuel cost recovery proceedings.

General Provisions

9. The revenues held subject to refund and the deferred revenues provided for herein shall accrue interest at the thirty day commercial paper rate as specified in Rule 25-6.109, Florida

Administrative Code. These revenues shall be treated as if collected evenly throughout the year.

10. The Company plans to take a position regarding the tax life of its Polk Power Station intended to minimize its revenue requirements and to provide maximum benefits to its Customers. The Parties agree that any interest expense that might be incurred as the result of a Polk Power Station related tax deficiency assessment will be considered a prudent expense for ratemaking purposes and will support this position in any proceeding before the FPSC.

11. The calculations of the actual ROE for each calendar year will be on an "FPSC Adjusted Basis" using the appropriate adjustments approved in Tampa Electric's full revenue requirements proceeding. All reasonable and prudent expenses and investment will be allowed in the computation and no annualization or proforma adjustments shall be made.

12. This agreement does not preclude the review of the investment in and expenses of the Polk Power Station and the Port Manatee site. However, the Parties agree to negotiate in good faith a joint recommendation specifying the regulatory treatment of the Polk Power Station and Port Manatee site investment and expenses.

A. The Parties further agree to use their best efforts to obtain approval by the Commission of their joint recommendation or, in the absence of a joint recommendation, to seek a final resolution of the Polk Power Station and Port Manatee site regulatory treatment.

B. The timing of the resolution of the ratemaking treatment of the Polk Power Station and Port Manatee site investment is important to the Parties. The Parties request that the Commission immediately set a procedural schedule for hearing and decision on the Polk Power Station and Port Manatee site by October 31, 1996. The need for a hearing will be obviated if the Parties negotiate a resolution of the regulatory treatment of the Polk Power Station and Port Manatee site which is approved by the Commission.

13. The calendar years 1996, 1997 and 1998 surveillance reports on which the refunds and the revenue deferrals provided herein will be based are subject to audit by the FPSC staff and true-up.

14. The Parties agree that this Stipulation is intended to and shall settle the disposition of the Company's 1995 revenues deferred by Order 95-0580 and shall obviate the need for the hearings scheduled by Order 96-0272.

15. The provisions of this stipulation also resolve issues related to Tampa Electric's existing base rate levels, allowed return on equity, the procedures for the determination of Tampa Electric's earnings and the disposition of revenues earned above certain levels specified herein for the period 1996-1998.

16. The Parties agree that this docket shall remain open solely for the purpose of: resolving any issues pertaining to the calculation of earned ROE for the periods covered by this agreement; implementing the refunds provided herein; and

determining Tampa Electric's earnings for purposes of revenue deferral and sharing as set forth herein.

17. The Parties agree that any dispute relating to this Stipulation shall be addressed by the FPSC in the first instance. Except as provided in paragraph 19 hereof, each Party reserves any rights it may have to seek judicial review of any ruling concerning this Stipulation made by the FPSC. In the event judicial review is sought by any party hereto or any third party, in connection with this Stipulation, the Commission's approval thereof, the joint recommendation of the Parties concerning the Polk Power Station contemplated herein, or any action of the Commission or any party hereto under this Stipulation, whether relating to the calculation of earned ROE or otherwise, the Company shall not be required to commence or continue any refunds under paragraph 8 of this Stipulation until the matter is finally resolved.

18. This Stipulation shall be effective upon Commission approval. The Parties agree that if the FPSC does not adopt this Stipulation in its entirety, without modification, this Stipulation shall become null and void and of no effect.

19. The Parties agree to actively support the approval of this Stipulation by the Commission at the earliest possible time in order to avoid the time and expense of litigation. The Parties agree not to protest, seek reconsideration or judicial review of the Commission's approval of this Stipulation or to seek modification of this settlement and Stipulation subsequent to final Commission approval, except by mutual agreement.

20. The Parties acknowledge this Stipulation is being entered into for purposes of settlement only and that the Parties are entering into this Stipulation to avoid the expense and length of further legal proceedings and the uncertainty and risk inherent in any litigation. Neither this Stipulation nor any action to reach, effectuate or further this Stipulation may be construed as, or may be used as an admission by or against any party. Entering or carrying out this Stipulation or any negotiations related thereto shall not in any event be construed as, or deemed to be evidence of, an admission or concession by any of the Parties as a waiver of any applicable claim or defense, otherwise available.

21. The Parties participated jointly in the drafting of this Stipulation and, therefore, the terms of this Stipulation are not intended to be construed against any Party by virtue of draftsmanship.

22. This Stipulation may be executed in several counterparts, each of which shall constitute an original and all of which together constitute as one and the same instrument.

IN WITNESS WHEREOF, this Stipulation has been executed on the
25th day of March, 1996 by the undersigned counsel of record
for the Parties hereto and/or by the Parties themselves in counter
parts each of which shall be deemed an original.

The Office of Public Counsel

Tampa Electric Company

By Jack Shreve
Jack Shreve, Public Counsel

By Gordon L. Gillette
Gordon L. Gillette
Vice President, Regulatory
and Business Strategy

Florida Industrial Power Users Group

By John W. McWhirter, Jr.
Joseph A. McGlothlin
Vicki Gordon Kaufman
Attorneys for Florida Industrial
Power Users Group

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Stipulation has been furnished by U. S. Mail or hand delivery (*) on this 25th day of March, 1996 to the following:

Mr. Robert V. Elias*
Staff Counsel
Division of Legal Services
Florida Public Service
Commission
2540 Shumard Oak Boulevard
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Mr. Jack Shreve
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McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas
117 S. Gadsden Street
Tallahassee, FL 32301

Mr. John W. McWhirter, Jr.
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas
100 North Tampa Street
Suite 2800
Tampa, FL 33602



ATTORNEY

11w\tec\950379-1.stp Tallah