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June 28, 1996

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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RE: Docket No. 960409-EI

Dear Ms. Bayó:

Enclosed please find the original and fifteen (15) copies of Public Counsel's Response To Tampa Electric Company's Motion For An Order Declaring Certain Issues To Be Beyond The Scope of The Proceeding, for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

John Roger Howe
John Roger Howe
Deputy Public Counsel

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- APP _____
- CAF _____
- CMU _____ JRH/ddj
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Prudence Review to
Determine Regulatory Treatment
of Tampa Electric Company's
Polk Unit.

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Docket No. 960409-EI
Filed: June 28, 1996

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PUBLIC COUNSEL'S RESPONSE TO
TAMPA ELECTRIC COMPANY'S MOTION FOR
AN ORDER DECLARING CERTAIN ISSUES
TO BE BEYOND THE SCOPE OF THE PROCEEDING

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to Rule 25-22.037(2)(b), Florida Administrative Code, respond in opposition to Tampa Electric Company's motion, which should be denied for the following reasons:

1. The stipulation approved in Order No. PSC-96-0670-S-EI calls for a deferral (and, perhaps, a refund in 1999) of revenues above certain ROE levels achieved under existing base rates in the years 1996-1998. The earnings level will, of course, be affected by the amount of rate base and O&M attributable to Polk Unit 1. Retail rate base and NOI, however, cannot be determined without consideration of the jurisdictional separation factors to be applied to the Polk unit.

2. Tampa Electric believes that the stipulation and the order approving the stipulation require that the separation factors currently used in the monthly surveillance reports continue to be applied after the Polk Unit 1 issues are resolved. But that is a position to be taken on the issue, not a reason to foreclose consideration of the issue altogether.

3. Sometimes the prudence of an investment can only be quantified through the separation factors. For example, if Tampa Electric were to sell part of Polk Unit 1 in a unit power sale (UPS) arrangement (an option which has been, and may still be, under consideration by the company), its investment would not be affected, but the retail revenue responsibility would be significantly reduced. Tampa Electric's motion neither alleges nor demonstrates that current jurisdictional separation factors will capture the retail portion of the company's investment under all factual circumstances which may be developed at hearing. Tampa Electric cannot seriously contend that the parties to the stipulation and the Commission in its order adopting the stipulation abandoned any entitlement to have the surveillance reports reflect reality during the years 1996-1998.

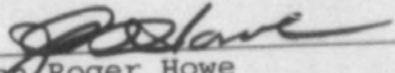
4. Similar facts argue against the exclusion of issues on the appropriate capital structure or alternative ratemaking concepts. This docket will address the legal effect of the order determining the need for Polk Unit 1 as an IGCC unit, whether Tampa Electric should have built a natural gas-fired combined cycle unit instead, and whether Tampa Electric's investment was prudent. If Tampa Electric's investment is found to be prudent only to the extent of the combined cycle alternative, then the issues of jurisdictional separation, capital structure, and alternative ratemaking treatments will all come to the fore. Tampa Electric's opinion that this would not be a reasonable result does nothing to diminish the viability of the issues.

5. Tampa Electric is free to respond to these issues by taking the position that they are foreclosed from consideration by the order approving the stipulation. But it is inappropriate to ask the Prehearing Officer to so interpret an order of the full Commission in the absence of clear language in the order to support the company's interpretation.

WHEREFORE, the Citizens of the State of Florida, through the Office of Public Counsel, urge the Prehearing Officer to deny Tampa Electric Company's motion.

Respectfully submitted,

JACK SHREVE
Public Counsel


John Roger Howe
Deputy Public Counsel

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Attorneys for the Citizens
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CERTIFICATE OF SERVICE
Docket No. 960409-EI

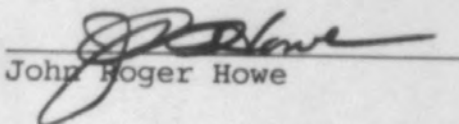
I HEREBY CERTIFY that a true and correct copy of the foregoing PUBLIC COUNSEL'S RESPONSE TO TAMPA ELECTRIC COMPANY'S MOTION FOR AN ORDER DECLARING CERTAIN ISSUES TO BE BEYOND THE SCOPE OF THE PROCEEDING has been furnished by U.S. Mail or by hand-delivery (*) to the following parties on this 28th day of June, 1996:

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