

ORIGINAL



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
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RECORDS AND
REPORTING

June 30, 1998

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 950379-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of a Petition on Proposed Agency Action 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.

RECEIVED & FILED
JB
DIVISION OF RECORDS

Sincerely,

John Roger Howe
John Roger Howe
Deputy Public Counsel

- ACK
- Stemke*
- APP JRH/dsb
- CAF Enclosures
- CMU
- CTR
- EAG 2
- LRG 1
- LIR 5
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- RCR
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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 950379-EI
Filed: June 30, 1998

PETITION ON PROPOSED AGENCY ACTION

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to Rule 25-22.029, Florida Administrative Code, protest the Commission's proposed agency action in Order No. PSC-98-0802-FOF-EI (hereinafter referred to as Order No. 0802), issued June 9, 1998, which determines Tampa Electric Company's earnings sharing amount for 1996 pursuant to stipulations previously approved by the Commission. Public Counsel requests a hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes (1997), and alleges the following:

1. Notices, pleadings, correspondence and orders in this docket should be served on:

John Roger Howe
Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Order No. 0802 was received by the Office of Public Counsel on June 11, 1998, in the normal course of distribution of Commission orders to this office.

2. The Public Counsel is appointed to provide legal representation for the citizens of Florida before the Public Service Commission. Sections 350.061-.0611, Florida Statutes (1997). In this docket, the Office of Public Counsel is representing the customers of Tampa Electric Company who are substantially affected by the Commission's determination in Order No. 0802 of the amount

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of 1996 revenues which should be deferred for potential future refunds pursuant to stipulations approved in Order No. PSC-96-0670-S-EI, issued May 20, 1996, in this docket, and Order No. PSC-96-1300-S-EI, issued October 24, 1996, in Docket No. 960409-EI.

COST ASSIGNED TO DEFERRED REVENUES IN CAPITAL STRUCTURE

3. Tampa Electric's customers are harmed by the Commission's decision in Order No. 0802 not to assign a zero cost to deferred revenues in Tampa Electric's capital structure for purposes of calculating the company's allowed rate of return (the "beginning sharing point" on Attachment D to Order No. 0802) for 1996. Use of the 30-day commercial paper rate has the perverse effect of using the customers' entitlement to interest on overearnings pursuant to the stipulations to reduce the amount of 1996 revenues deferred for possible refund under those same stipulations. Deferred revenues should be assigned a zero cost in Tampa Electric's capital structure and the amount of net 1996 deferred revenues should be increased accordingly. Tampa Electric can be expected to oppose this position, giving rise to a disputed issue of material fact.

SEPARATION OF WHOLESALE SALES FROM THE RETAIL JURISDICTION

4. Tampa Electric's customers are also harmed by the Commission's failure to completely remove the effects of the wholesale contracts with the Florida Municipal Power Agency (FMPA) and the City of Lakeland from the retail jurisdiction. The resulting overstatement of the retail rate base and understatement of net operating income lessens the calculated amount of overearnings for 1996 and reduces the amount of deferred revenues subject to potential future refund under the stipulations. The FMPA and Lakeland sales should be fully separated and net 1996 deferred revenues should be increased accordingly. Tampa Electric can be expected to oppose this position, giving rise to another disputed issue of material fact.

WHEREFORE the Citizens of the State of Florida, through the Office of Public Counsel, protest the Florida Public Service Commission's Order No. 0802 and request a hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes (1997).

Respectfully submitted,

JACK SHREVE
Public Counsel



John Roger Howe
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

(904) 488-9330

Attorneys for the Citizens
of the State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 950379-EI**

I HEREBY CERTIFY that a true and correct copy of the above Petition on Proposed Agency Action, has been furnished by *Hand-delivery or U.S. Mail this 30th day of June, 1998 to the following:


*Robert Elias, Esquire
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Florida Public Service Commission
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Tallahassee, Florida 32399-0850

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John Roger Howe
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