

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 950379-EI  
ORDER NO. PSC-99-0683-FOF-EI  
ISSUED: April 7, 1999

The following Commissioners participated in the disposition of  
this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.

APPEARANCES:

LEE L. WILLIS, ESQUIRE, and KENNETH R. HART, ESQUIRE, Ausley  
& McMullen, Post Office Box 391, Tallahassee, Florida 32302  
On behalf of Tampa Electric Company (TECO).

VICKI GORDON KAUFMAN, ESQUIRE, McWhirter Reeves McGlothlin  
Davidson Decker, Kaufman, Arnold and Steen, P.A., 117 South  
Gadsden Street, Tallahassee, Florida 32301  
On behalf of Florida Industrial Power Users Group (FIPUG).

JOHN ROGER HOWE, ESQUIRE, Office of the Public Counsel, c/o  
The Florida Legislature, 111 West Madison Street, Room 812,  
Tallahassee, Florida 32399  
On behalf of the Citizens of the State of Florida (OPC).

WILLIAM COCHRAN KEATING IV, ESQUIRE, and ROBERT V. ELIAS,  
ESQUIRE Florida Public Service Commission, 2540 Shumard Oak  
Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Commission Staff (STAFF).

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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ORDER DETERMINING COST RATE FOR DEFERRED REVENUES IN  
CAPITAL STRUCTURE, ESTABLISHING APPROPRIATE TREATMENT FOR CERTAIN  
WHOLESALE SALES, AND DETERMINING DEFERRED REVENUE  
AMOUNT FOR 1996

BY THE COMMISSION:

I. Case Background

On June 9, 1998, the Florida Public Service Commission (the Commission) issued Proposed Agency Action Order No. PSC-98-0802-FOF-EI (the Proposed Order), which established the amount of deferred revenues that Tampa Electric Company (TECO or the Company) would defer for 1996, pursuant to stipulations approved by Order No. PSC-96-0670-S-EI, issued May 20, 1996, and Order No. PSC-96-1300-S-EI, issued October 24, 1996. The Florida Industrial Power Users Group (FIPUG) and the Office of Public Counsel (OPC) filed protests of the Proposed Order.

On December 7, 1998, a hearing on this matter was held before the Commission.

This order addresses the appropriate cost rate to apply to 1996 deferred revenues in the capital structure and the method to calculate the separation of the Florida Municipal Power Agency (FMPA) and City of Lakeland (Lakeland) wholesale sales.

II. Appropriate Cost Rate to Apply to Deferred Revenues in the Capital Structure

The resolution of this issue centers on whether or not a cost rate for deferred revenues should be included in the capital structure. This issue arises out of the disputed intent of two stipulations agreed upon among TECO, OPC, and FIPUG.

Witness Bacon, on behalf of TECO, stated that the accounting treatment for the interest on deferred revenue, as approved in Order No. PSC-98-0802-FOF-EI, is appropriate for both ratepayers and the Company. Witness Bacon further stated that the Commission's precedent on the proper capital structure treatment is very clear. She referred to orders for Quincy Telephone, Florida Public Utilities Company, and Southern Bell to support her position regarding the appropriate capital structure treatment of deferred customer supplied dollars. Furthermore, witness Bacon stated that

deferred revenues are similar to customer deposits. The customer made a deposit with the Company and receives interest on the deposit. The Company recovered the interest cost by assigning a cost rate to customer deposits in the capital structure. Finally, witness Bacon stated:

(The Company) would not have agreed to a disallowance without it being very clearly defined and stated in the stipulations. The language in the stipulations certainly did not specify that the interest would be absorbed by the shareholders. The language was clear that all reasonable and prudent expenses should be included in the calculation of deferred revenues. (TR 33)

FIPUG's witness Pollock testified that it is inappropriate to impute an interest expense on deferred revenues when determining TECO's earned return on common equity for regulatory surveillance reporting purposes. Witness Pollock stated:

. . . that the deferred revenues interest should be stated at zero cost, that is, treated as a below-the-line expense, because they are by definition revenues in excess of the Company's cost of service. They're monies that the Company really shouldn't be planning to use, since no utility plans to earn revenues in excess of its cost of service. The Company has no entitlement to these excess revenues, and the only reason that the Company is permitted to retain them is to provide rate stability. (TR 166)

Witness Pollock used a banking analogy to illustrate FIPUG's intended treatment of the deferred revenues by TECO, stated that:

. . . TECO is holding these funds for the customers' benefit, much like a banker holds funds provided by its depositors. In return, the depositors are entitled to receive interest on their deposits. They are not, however, required to pay for the interest earned on their deposits. (TR 157)

Witness Pollock noted that imputing a cost of short-term debt to the deferred revenues artificially inflates TECO's cost of service, which will ultimately reduce the earned return on common equity and the potential for future deferred revenues and/or refunds under the stipulations. FIPUG disagreed with TECO's

position that the stipulation does not have specific language regarding the appropriate treatment of the deferred revenues. FIPUG noted in its brief that the stipulation clearly states when interest is to be included as a regulatory expense in the capital structure. For example:

. . . paragraph 10 discusses interest expense that might be incurred as to the Polk Power Station. The provision states that any interest so incurred 'will be considered a prudent expense for ratemaking purposes...' Thus, there is an explicit provision finding the interest to be a regulatory expense.

FIPUG concludes that "the perverse result TECO seeks would have been similarly and specifically included, but it was not, leading to the inescapable conclusion that shareholders should be responsible for the interest."

OPC's position is similar to FIPUG's in that deferred revenues and accrued interest should be assigned a zero cost rate in the capital structure. OPC witness Larkin stated that the stipulations require the Company to pay interest to the ratepayers and that the interest should be at the stockholder's expense. Witness Larkin added that the stipulation would not have been entered into by the ratepayers if they themselves had to pay their own interest.

Based on our review of both stipulations, we find no specific language that directly addresses the below-the-line treatment of the interest expense on the deferred revenues. The stipulations state:

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.

In addition, only the Port Manatee site is mentioned in the stipulations as being excluded from the retail rate base and placed below-the-line. In the absence of any specific wording, we infer from the plain language of the stipulations that deferred revenues and accrued interest should be included in the capital structure at the 30-day commercial paper rate. This is especially true in light of previous Commission decisions.

In previous decisions, the 30-day commercial paper rate has been used as the cost rate for deferred revenues in the overall weighted average cost of capital. Witness Bacon referred to three orders in which deferred revenues were included in the capital structure at the 30-day commercial paper rate. These three orders involved Quincy Telephone Company (Quincy), Southern Bell Telephone and Telegraph Company (Southern Bell), and Florida Public Utility Company (FPUC), Fernandina Beach Division.

In Docket No. 891237-TL, Order No. 22367, issued January 3, 1990, the Commission required Quincy to set up a deferred credit from its access charge bill and keep surplus revenues from 1987, 1988, 1989 and the first six months of 1990. The Order further states that "[the surplus revenues] . . . shall be set aside to accrue interest at the 30-day commercial paper rate . . ."

According to witness Bacon, in the Southern Bell case, Docket No. 880069-TL, excess revenues from 1994, 1995 and 1996, were deferred for eventual refund to customers. These deferred revenues were included in the capital structure as a specific adjustment to short-term debt and allowed to accrue interest at the 30-day commercial paper rate.

The most recent Commission decision cited by the parties is the FPUC case, Order No. PSC-97-0135-FOF-EI, issued February 10, 1997, in Docket No. 961542-EI. In the FPUC case, deferred revenues were assigned the 30-day commercial paper rate, which was entered into the capital structure as a separate line item. Witness Larkin testified that the FPUC case is distinctly different from the TECO case, in that the Commission did not increase the capital structure for the over earnings in the FPUC case. Instead, it reduced other components to reflect the amount of the over-earnings in the capital structure.

We agree that the method of disposition of the deferred revenues may be different in each cited case. Whether or not the dockets were part of a settlement, the fact remains that for the Quincy, Southern Bell and FPUC cases, excess revenues were included in the capital structure at the 30-day commercial paper rate in determining the weighted average cost of capital. In the Southern Bell docket, deferred revenues were included in the weighted amount of short-term debt at the 30-day commercial paper rate. Both the Quincy and Southern Bell decisions were rendered prior to the stipulations among the parties.

In our review of the stipulations, we can find no specific language that prohibits the Company from using the deferred revenues as a low cost source of capital. Witness Bacon testified to the similarity among customer deposits and deferred revenues, in which the expenses are included in the calculation of earnings. In her testimony, witness Bacon stated:

In the case of customer deposits, amounts are collected as security on the customer's account and interest is accrued on these amounts. Later, the deposit plus accrued interest is returned to the customer or the company retains the amount plus any accrued and unpaid interest for application to unpaid bills. (TR 27)

We agree that over earnings are collected during the course of business, just as are customer deposits. Customer deposits and over earnings may be returned to the ratepayers with the appropriate accrued interest. In some cases customer deposits are used to off-set a customer's outstanding bill. In the case of excess revenues, principle and accrued interest are sometimes used to reduce a regulatory asset or other liability to the benefit of the ratepayers. In both events, the prevailing regulatory practice has been to include the amount collected from the ratepayers in the capital structure as an additional source of capital to the company at the appropriate cost rate.

Based on the foregoing, we find that deferred revenue shall be included in the capital structure at the 30-day commercial paper rate as specified in Rule 25-6.109, Florida Administrative Code. For 1996, the 30-day commercial paper rate was 5.46%.

III. Appropriate Method for Calculating the Separation of the Florida Municipal Power Agency (FMPA) and City of Lakeland Wholesale Contracts (Lakeland)

The parties have stipulated that the methodology shown in Exhibit No. 1 is appropriate for 1996. Service under the Lakeland contract began on November 4, 1996 and service to FMPA began on December 16, 1996. Consistent with Order No. PSC-97-1273-FOF-EU, issued October 15, 1997, the Company used the "12 coincident peak methodology" approved in its last rate case to calculate the separation of the FMPA and Lakeland wholesale contracts from the retail jurisdiction. The parties agreed that the impact of the change in separation factors on the components of rate base and NOI require a \$812,797 reduction to rate base and a \$33,139 increase to

NOI. In addition, the impact of the change in separation factors on the adjustments require a \$16,777 increase to rate base and a \$52 decrease to NOI. The net adjustments are a \$796,020 ( $16,777 - 812,797 = 796,020$ ) reduction to rate base and a \$33,087 ( $33,139 - 52 = 33,087$ ) increase to NOI. The parties also agreed that the calculation of future deferred revenues should include the impact of these adjustments as of December 1, 1996. We accept and approve the stipulations as reasonable and appropriate.

IV. Amount of Deferred Revenues for 1996

Because we have determined that the 30-day commercial paper rate is the appropriate cost rate to apply to deferred revenues in the capital structure, it is not necessary to determine the effect of assigning a zero cost rate to deferred revenues. Based on the adjustments detailed in Sections II and III of this order, we find that the amount of deferred revenues for 1996 is \$22,081,064.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the deferred revenue be included in the capital structure at the 30-day commercial paper rate as specified in Rule 25-6.109, Florida Administrative Code. It is further

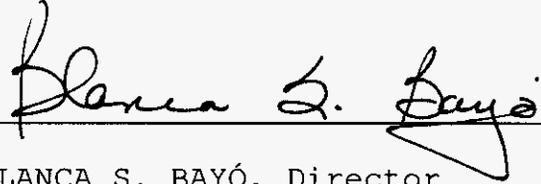
ORDERED by the Florida Public Service Commission that the stipulations of the parties concerning the wholesale sales to the City of Lakeland and the Florida Municipal Power Agency are approved. It is further

ORDERED that the appropriate amount of deferred revenue for Tampa Electric Company for 1996 is \$22,081,064. It is further

ORDERED that this docket shall remain open pending the review of TECO's earnings for 1997, 1998, and 1999.

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By ORDER of the Florida Public Service Commission this 7th  
day of April, 1999.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

TRC/RVE

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.