

AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

ORIGINAL

September 2, 1999

HAND DELIVERED

RECEIVED-FPSC
SEP -2 PM 2:31
RECORDS AND REPORTING

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

Re: FPSC Docket No. 980569-PU

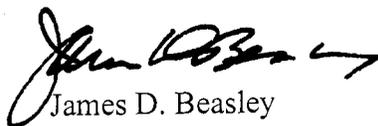
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Post-Hearing Comments.

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

Thank you for your assistance in connection with this matter.

Sincerely,


James D. Beasley

AFA Hailhot
APP MJD/op
CAF Enclosures
CMU Simmons
CTR _____
EAG 2
LEG _____
MAS 5
OPC _____
PAI _____
SEC 1
WAW Lowell
OTH _____

All Parties of Record (w/enc.)

RECEIVED & FILED

Man
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

10564 SEP-2 99

FPSC-RECORDS/REPORTING

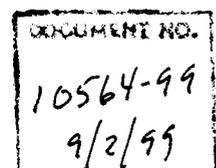
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Amendments to Rule)
25-4.002, F.A.C., Application and Scope;)
25-4.141, Minimum Filing Requirements)
for Rate of Return Regulated Local)
Exchange Companies; Commission)
Designee; 25-4.202, Construction and)
Waivers; 25-24.455, Scope and Waiver;)
25-6.002, Application and Scope; 25-6.043,)
Investor-Owned Electric Utility Minimum)
Filing Requirements; Commission Designee;)
25-6.0438, Non-Firm Electric Service – Terms)
and Conditions; 25-17.087, Interconnection)
and Standards; 25-30.010, Rules for General)
Application; 25-30.011, Application and Scope;)
25-30.436, General Information and Instructions)
Required of Class A and B Water and Wastewater)
Utilities in an Application for Rate Increase;)
25-30.450, Burden of Proof and Audit Provisions;)
25-30.455, Staff Assistance in Rate Cases;)
25-30.456, Staff Assistance in Alternative Rate)
Setting; 25-30.570, Imputation of Contributions-)
In-Aid-of-Construction; and 25-30.580,)
Guidelines for Designing Service Availability.)
_____)

DOCKET NO. 980569-PU
FILED: September 2, 1999

**TAMPA ELECTRIC COMPANY'S
POST-HEARING COMMENTS**

Tampa Electric Company (“Tampa Electric” or “the company”) submits the following Post-Hearing Comments relative to the rule amendments Staff has proposed in this docket. Tampa Electric incorporates by reference the concerns expressed in its earlier written comments and during the course of the August 12, 1999 hearing in this matter and offers the following additional observations:



1. The rule amendments proposed by Staff are not required by the 1996 amendments to the Administrative Procedures Act and neither the Staff nor the Commission should presume they are. Instead, the Commission should staunchly defend the continuing availability of the substantive waiver provisions the Commission saw fit to include in its rules.

2. Staff's proposed amendments would remove key substantive provisions that were included as integral parts of the rules in which they appear. This would render the rules inflexible and accomplish little more than causing unnecessary and costly additional work for everyone involved in Commission proceedings. If there is no statutory authority for the waiver provisions of the rules in question, how can there be statutory authority for other substantive parts of the rules at issue?

3. Adoption of the proposed amendments would destroy flexibility in the Commission's administration of its very broad regulatory authority. Without the waiver provisions currently included in the Commission's rules, the Commission and the parties appearing before it would be left to rely solely on the cumbersome time-consuming waiver requirements of Section 120.542, Florida Statutes. The latter appears to be intended to allow for variances and waivers in instances where agencies have not adopted waiver provisions as substantive components of their own rules. That is not the case here and Section 120.542 does not control.

4. As the hearing in this proceeding neared its conclusion, there appeared to be a growing awareness among the Commissioners that Staff's proposed amendments could only have a negative impact on the regulatory process and the parties who appear before the Commission. Tampa Electric concurs and urges that those considerations be revisited when the Commission takes up final consideration of this matter and relied upon as the basis for rejecting the proposed rule amendments.

WHEREFORE, Tampa Electric Company submits the foregoing Post-Hearing Comments and urges rejection of the rule amendments proposed in this proceeding.

DATED this 2nd day of September 1999.

Respectfully submitted,



LEE L. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Post-Hearing Comments, filed on behalf of Tampa Electric Company, has been forwarded by U. S. Mail or hand delivery(*) on this 2nd day of September 1999 to the following:

Ms. Christiana Moore*
Staff Counsel
Division of Appeals
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

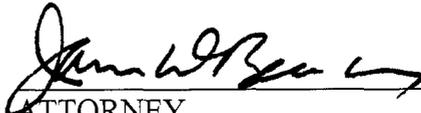
Mr. Kenneth Hoffman
Mr. John Ellis
Rutledge, Ecenia, Underwood,
Purnell & Hoffman PA
Post Office Box 551
Tallahassee, FL 32302-0551

Mr. Jeffrey A. Stone
Beggs & Lane
Post Office Box 12950
Pensacola, FL 32576

Mr. Matthew M. Childs
Steel Hector & Davis
215 S. Monroe Street, Suite 601
Tallahassee, FL 32301

Mr. Richard Zambo
598 SW Hidden River Avenue
Palm City, FL 34990

Mr. James A. McGee
Senior Counsel
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733



ATTORNEY