ORIGINAL

McWHIRTER REEVES
ATTORNEYS AT LAW

TAMPA OFFICE:
400 NORTH TAMPA STREET, SUITE 2450
TAMPA, FLORIDA 33602
P. O. BOX 3350 TAMPA, FL 33601-3350
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:

TALLAHASSEE

TALLAHASSEE OFFICE:
117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 FAX

October 18, 1999

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

Re: Docket Number 990001-EI

Dear Ms. Bayo:

On behalf of Florida Industrial Power Users Group, enclosed for filing and distribution are the original and 15 copies of the Testimony and Exhibits of Kent D. Taylor.

Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me in the envelope provided. Thank you for your assistance.

Yours truly,

Vicki Gordon Kaufman

Vicki Gordon Kaufman

VGK/jk

enc.

AFA
APP
CAF
CMU
CTR
EAG
LEG
MAS
OPC
PAI
SEC
WAW
OTH

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and purchased power Cost recovery clause and generating performance incentive factor	))))	**Docket No. 990001-EI** **Filed: October 18, 1999**

DIRECT TESTIMONY AND EXHIBITS OF

KENT D. TAYLOR

ON BEHALF OF FLORIDA INDUSTRIAL POWER USERS GROUP

KTM
Energy Consulting Services
4909 Pearl East Circle, Suite 104
Boulder, Colorado 80301

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and purchased power Cost recovery clause and generating performance incentive factor	))))	**Docket No. 990001-EI** **Filed: October 18, 1999**

DIRECT TESTIMONY AND EXHIBITS OF

KENT D. TAYLOR

ON BEHALF OF FLORIDA INDUSTRIAL POWER USERS GROUP

KTM
Energy Consulting Services
4909 Pearl East Circle, Suite 104
Boulder, Colorado 80301

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DIRECT TESTIMONY AND EXHIBITS

OF

KENT D. TAYLOR

ON BEHALF OF

FLORIDA INDUSTRIAL POWER USERS GROUP

INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. Kent D. Taylor, 4909 Pearl East Circle, Suite 104, Boulder, Colorado, 80301.

Q. ON WHOSE BEHALF IS YOUR TESTIMONY PRESENTED?

A. The Florida Industrial Power Users Group (FIPUG).

Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?

A. I am the Chairman of KTM, an energy consulting firm.

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND RELEVANT BUSINESS EXPERIENCE.

A. The information is shown on Exhibit No. ___ (KDT-1).

Q. HAVE YOU TESTIFIED BEFORE OTHER REGULATORY BODIES?

A. Yes, I have testified before the Federal Energy Regulatory Commission, the Colorado Public Utilities Commission, the Public Service Commission of Nevada, Regie Du Gaz Natural Du Quebec, and the Florida Public Service Commission.

Q. IN WHAT AREAS HAVE YOU TESTIFIED?

A. I have testified in the areas of cost of service, cost allocation and rate design witness and also as a client management representative.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. I will discuss FIPUG's position on several generic issues and then specifically address positions advanced by Tampa Electric Company (TECo) for substantive rulings that will adversely affect customers.

Q. ARE YOU PRESENTING EXHIBITS IN SUPPORT OF YOUR TESTIMONY?

A. Time constraints did not allow for detailed quantitative analysis of filings mailed out by numerous utilities on October 1st. These filings are extensive, but contain only summary information. There is inadequate time for discovery or quantitative analysis. I have not prepared independent exhibits, but I have attached an abstract of the findings by the U.S. Occupational Safety and Health Administration that rebuts testimony filed by TECo and an extract from another Commission docket that I believe should be given precedential consideration in this case. Because of the time constraints, the conclusions and positions offered are conceptual rather than specific, but the issues they address are quite material. These issues deserve more than the cursory study that will occur at the three-day hearing in November. I am advised by counsel that the amounts sought for guaranteed cost recovery pass through surcharges in this docket by the four largest investor-owned utilities are over $3.7 billion. TECo, the next to the smallest utility is projecting a $ 44 million cost recovery increase over last year's projections, including purchases from affiliated companies, and a 404% increase in the environmental surcharge. The $44 million increase is over twice the amount granted in TECo's 1992 rate case and only $1 million less than granted in 1985,

when Big Bend 4 was placed in service with an authorized return on equity of 14.5%. These comparisons show the relative importance of this truncated procedure when compared to general rate cases, where utilities provide more information and consumers have the opportunity for more time to study the proposals.

Q. WHAT ARE THE GENERIC COST RECOVERY CLAUSE ISSUES YOU WISH TO ADDRESS IN YOUR TESTIMONY?

A. FIPUG recommends several changes to the utility proposals. ***First***, fuel factors should not be uniform for the whole year. There should be a factor for the shoulder consumption periods and a higher factor for the summer peak periods when the less efficient and more fuel costly generating plants are operating. This approach would: (1) provide a conservation incentive in the summer peak season, (2) more properly reflect cost causing behavior, and (3) allocate costs equitably between high and low load factor customers. ***Second***, the now obsolete generic and TECo-related 80/20 net revenue split for economy/broker sales should be eliminated for the reasons cited in this testimony. ***Third,*** utility filings should be carefully studied to insure that **all** revenues from unseparated wholesale sales are flowed through the fuel, environmental and capacity cost recovery clauses. The Commission should confirm that all non-separated wholesale sales are recallable for the benefit of retail customers. ***Fourth***, all amounts paid by utilities to affiliate companies for ultimate recovery from the retail customers should be publicly disclosed. ***Fifth,*** when off-system sales and third-party power purchases occur simultaneously utilities should not be allowed to recover greater fuel costs from retail customers than they collect from wholesale customers.

Q. PLEASE CITE THE SPECIFIC AREAS OF TECO'S REQUEST WHICH ARE

UNACCEPTABLE TO FIPUG.

A. I will discuss (1) the generic and TECo-related 80/20 net revenue split for broker and economy sales, (2) additional fuel costs as a result of the Gannon accident, (3) appropriate treatment of the plant dedicated to FMPA, (4) and the new Hardee Power Station power purchase contract.

80/20 NET REVENUE SPLIT CENTER

Q. WHAT IS FIPUG'S POSITION ON THE PROPRIETY OF THE 80/20 NET REVENUE SPLIT?

A. FIPUG believes that additional compensation for a specific utility management responsibility, wherein the justification revolves around the need for additional incentives, is nonsense. As a fundamental proposition, utilities should prudently manage all aspects of their business and be willing to do so in return for regulated returns. Indeed, the retail nature of utilities' customers places increased emphasis on management prudence.

Q. IS THERE A RISK VS. REWARD IMPLICATION EMBEDDED IN YOUR BELIEF?

A. Yes, the utility experiences no risk related to these sales. There is no entrepreneurial aspect to the sale of power from regulated generation resources. The retail customers are financially responsible. Therefore, 100% of the benefits should flow directly to them.

Q. DO YOU BELIEVE UTILITIES WILL AGGRESSIVELY SEEK THESE POWER SALES ABSENT AN ADDITIONAL INCENTIVE?

A. I presume they would if compelled to do so. Perhaps the appropriate inference is a negative incentive so that utility unwillingness to assertively pursue overall cost reduction avenues for its retail customers would be cause for Commission sanction.

Q. UNDER WHAT CIRCUMSTANCES WOULD FIPUG SUPPORT ADDITIONAL INCENTIVES FOR BROKER/ECONOMY SALES?

A. FIPUG would temper its position if the utilities were required to bear financial responsibility for such sales.

Q. DOES INCREASED COMPETITION WITHIN THE STATE OF FLORIDA TEMPER YOUR POSITION?

A. Perhaps, if there were retail competition in Florida. However, currently, Florida utilities are not in jeopardy of losing their customers through competition. At the ratepayer level, looking up, there are for most customers, no alternatives to incumbent utility service. Retail competition would induce utilities to seek power cost mitigation for retail customers, thereby providing the negative incentive mentioned earlier.

GANNON ACCIDENT FUEL COSTS

Q. ARE YOU FAMILIAR WITH THE CIRCUMSTANCES SURROUNDING THE GANNON EXPLOSION?

A. Only to the extent that I have read the newspaper articles and the OSHA report. I understand that industrial consumer representatives were denied the opportunity to examine the premises or to receive an explanation of the circumstances surrounding the explosion.

Q. WHAT ACTION DO YOU RECOMMEND TO THE COMMISSION WITH RESPECT TO THE GANNON PLANT?

A. Mr. Black has testified that the company bears no responsibility for the accident. Mr. Ward has testified that customers should be charged an additional $5,073,526 to cover the cost of replacement fuel. This approach puts the total risk for the cost of replacement fuel on

customers although there is no evidence that they were responsible for the explosion. An excerpt of the OSHA findings is attached as Exhibit No. __(KDT-2). It appears that an independent examining body, OSHA, has placed the responsibility for the explosion on TECo. Under the circumstances, I recommend that the Commission disallow the fuel replacement cost until TECo comes forward with clear and convincing evidence that it and its employees should bear no responsibility. If that proof is forthcoming, then the Commission should determine an appropriate cost apportionment between the utility and its customers, both of whom are totally without fault.

TREATMENT OF COSTS RELATED TO THE FMPA WHOLESALE SALE

Q. **HAVE YOU EXAMINED MR. HERNANDEZ'S TESTIMONY AND THE RATE ORDERS HE REFERS TO?**

A. Yes.

Q. **IN YOUR PROFESSIONAL OPINION, DOES HIS PROPOSAL APPEAR TO BE IN THE BEST INTEREST OF CONSUMERS?**

A. Based on the limited information supplied, it would appear the customers will be better served if the Commission adheres to the generic policy it prescribed in Order No. PSC-97-0262-FOF-EI in Docket No. 970001-EI, especially in light of the dramatic changes that have occurred in the wholesale market in recent years. I can do no better than adopt the testimony of David P. Wheeler filed in Docket No. 970171-EU. I have attached his testimony as Exhibit No. ___ (KDT-3). He explains the regulatory philosophy adopted by the Florida Public Service Commission to deal with the burgeoning wholesale market. It is a good philosophy. For long term wholesale commitments, the rate base dedicated to wholesale

sales is separated. For short term wholesale sales, there is no separation, but all revenues flow to customers through the fuel and capacity cost recovery clauses. This approach is designed to prevent gaming and appears to have had a beneficial effect on the customers of FP&L and FPC in 1999 and for the prospective year.

Q. DID THE COMMISSION FOLLOW THIS GENERIC POLICY AS RECOMMENDED BY MR. WHEELER WHEN THE FMPA SALE CAME BEFORE IT?

A. It did in TECo's 1992 rate case. It stated the generic policy for all utilities in the 1997 fuel Docket No. 970001-EU. In Docket No. 970171-EU, the Commission addressed the contract which Mr. Hernandez has brought up again in this docket. As Mr. Hernandez explains, the Commission required TECo to separate the FMPA sale as it had done in the 1992 rate case and determined not to allow TECo to deviate from the generic policy prescribed by Mr. Wheeler. It did, however, give TECo a slight edge in that it only required TECo to make the fuel clause whole to the extent fuel revenues received from FMPA would cover incremental rather than average fuel costs. In that docket, the Commission allowed TECo a benefit that was denounced in Order No. PSC-97-0262-FOF-EI, which made the following finding:

> Whenever a utility credits an amount which is less than average system fuel costs to the fuel adjustment clause for its separated wholesale sales, the retail ratepayers pay increased (i.e. above average) fuel costs than they would have paid if fuel revenues were credited through the fuel clause based on average fuel costs. When fuel prices are discounted and that discount is automatically

passed through to the retail ratepayer, and the other non-fuel revenues go to the utility's shareholders immediately, there is an increased possibility of gaming the system.

Mr. Hernandez overstates his case when he suggests that the decision in Docket No. 970171-EU was based "solely" on a Stipulation between TECo, FIPUG and the OPC.

Q. DO YOU AGREE WITH THE COMMISSION'S GENERIC POLICY?

A. It appears to be just and equitable. If utilities are permitted to sell capacity in the wholesale market at less than cost while retail customers pay the full cost there is a potential for two evils. Retail customers are required to pay for something that is not available to them and the utility will have an incentive to engage in predatory pricing in the wholesale market to kill off competition.

Q. WHAT DOES MR. HERNANDEZ PROPOSE IN THIS CASE?

A. He proposes to deviate from the generic policy by keeping the special advantage previously awarded on fuel costs and to enhance that advantage by having customers pick up the full costs of 150 MW of generation that is dedicated to FMPA, a wholesale customer. It appears that the price to FMPA is less than the carrying costs attributable to the capacity. TECo provides no analysis of how it calculates benefits and how the benefits are shared between customers and the company. The problem is exacerbated because the 150 MW is backed up by a first call *vis a vis* retail customers on Big Bend Units 2 and 3 and Gannon Units 5 and 6. Exhibit No. E-4 attached to Ms. Zwolak's testimony in this docket and Exhibit No. KAB-1 in Docket No. 970171-EU discloses that the 150 MW commitment is backed up by a first call on 1486 MW of TECo's most efficient generating units. Exhibit No. E-6 in this docket

shows that TECo will sell 1,317,600 MWH of firm power to FMPA (7.3% of its total projected generation) during the forthcoming year at a price less than it charges its interruptible customers. In fairness, I must point out that my observations are based upon the October 26, 1996 letter of commitment to FMPA that was filed as an exhibit in Docket No. 970171-EU. Mr. Hernandez has referred to subsequent letter agreements which may have improved retail customers' position, but those have not been provided.

Q. DID TECO ADHERE TO THE MANDATES OF ORDER NO. PSC-97-1273-FOF-EU ENTERED IN DOCKET NO. 970171-EU?

A. It is not clear from Mr. Hernandez's testimony. In response to this question, at page 9 he says "To the extent that Tampa Electric's retail resources were being used to supply FMPA... TECo has and will continue to separate the capital and O&M costs..." At page 10 *et seq,* he states that the FMPA contract was served from third-party contracts. On page 11, he says that since "April 28, 1998 none of Tampa Electric's generating units have been used to serve the sale." I conclude from these statements that TECo took the third-party purchase approach so that it would not have to separate 150 MW of capacity from its retail rate base as the order required.

Q. HOW WERE TECO'S NONFIRM CUSTOMERS AND THE FUEL CLAUSE AFFECTED BY TECO'S ELECTION TO SERVE FMPA FROM PURCHASED POWER CONTRACTS?

A. If TECo's generating capacity was not dedicated to FMPA during most of 1998 and 1999, it is very clear that the sale is not in the best interest of TECo's retail customers, because even with the 150 MW of capacity available for their load there were numerous interruptions

and third-party purchases for the interruptible and DSM customers. The current proposal would reinstate FMPA's superior call rights on TECo's generating capacity. Further inquiry may disclose that the third-party purchases for FMPA served to drive up third-party prices for TECo's native load customers in 1998 and 1999.

Q. IN LIGHT OF YOUR FINDINGS FROM THE LIMITED INFORMATION IN THE RECORD, WHAT IS YOUR RECOMMENDATION?

A. The FMPA transaction should be separated into another docket and be given thorough study to insure that TECo's retail customers are not being unduly discriminated against by this large wholesale sale. In the interim, the plant should remain separated and the last two years should be studied to ascertain the precise impact of this contract on retail customers.

Q. DO YOU HAVE OTHER OBSERVATIONS CONCERNING WHOLESALE SALES?

A. Yes. Capacity shortages in the country have resulted in very high prices for spot market capacity in peak periods. There is an incentive for utilities to take advantage of this circumstance by setting up their own commodity trading floors and making short term sales. The Commission should aggressively reinforce its generic Order No. PSC-97-0262-FOF-EI pertaining to wholesale sales by adopting a rule on the subject. The rule should, at a minimum, mandate that:

1. Nonfirm customers shall not be interrupted for economic reasons to enable greater wholesale profits for the utility. I am led to believe that this does not presently occur, but a Commission policy on the subject for the protection of retail customers is in order;

2. If wholesale sales are being made contemporaneously with third-party purchases,

retail customers should be charged no more than the imbedded costs for the period;

3. To avoid conflicts of interest, utilities should not be granted exclusive agency rights to purchase power for nonfirm customers when the reserve margins between installed capacity and total system demand fall below 15%;

4. All short-term wholesale sales shall be recallable.

Q. **IS FIPUG CONCERNED THAT TECO WILL AVOID SERVING THIS MARKET FROM ITS POWER GENERATION ASSETS, THEREBY ELIMINATING REVENUE CREDITING FOR THE RETAIL CUSTOMERS ENTIRELY?**

A. No. I am confident that crediting opportunities will emerge on more advantageous terms if the Commission embraces FIPUG's other recommendations.

HARDEE POWER STATION POWER PURCHASE CONTRACT

Q. **WHAT IS FIPUG'S POSITION WITH RESPECT TO THE NEW LONG-TERM POWER CONTRACT FROM HARDEE POWER PARTNERS?**

A. It is FIPUG's position that the burden is on TECo to prove the prudence of this contract as it did in the 1992 rate case. An extract of the relevant portion of the order in that case is attached as Exhibit No. ___ (KDT-4). In order to do so, TECo must put the contract into evidence and provide information as to why this is the most prudent course of action to take. TECo has not presented the contract for review nor justified its prudence. Further, FIPUG representatives have been unable to examine the contract. Nonetheless, the long term nature of the agreement and the potential for affiliate abuse greatly concern FIPUG. Consequently, FIPUG is opposed to the inclusion of this contract in the cost recovery adjustments at this time until a review has been accomplished and the prudence of the contract has been

determined.

Q. IS THERE A BROADER REGULATORY IMPLICATION FOR CONTRACTS OF THIS TYPE?

A. Yes, all material utility transactions with affiliates, for which the rate payers are financially responsible, should be subjected to public scrutiny. The potential for abuse among affiliates should be acknowledged and therefore, such transactions should be open for public review.

Q. WHAT DOES FIPUG RECOMMEND THE COMMISSION DO IN REGARD TO THIS CONTRACT?

A. FIPUG recommends that the contract not be approved at this time and that it be considered in a separate docket.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

KENT D. TAYLOR
PROFESSIONAL QUALIFICATIONS

INDUSTRY EXPERIENCE

OCTOBER 1984 to PRESENT

Chairman, KTM, an energy management and consulting business specializing in the economic interests of large natural gas and electricity users.

JANUARY 1984 to OCTOBER 1984

Director of Gas Acquisitions, KN Energy, Inc. Responsible for natural gas supply for company's integrated pipeline system, operating in seven states. Other responsibilities included all liquids marketing, negotiation of transportation and exchange agreements, pursuit of additional markets, and gas sales agreements for affiliate exploration company.

APRIL 1981 to JANUARY 1984

Director of Corporate Development, Celeron Corporation. Responsible for new business development, acquisitions and mergers, strategy development for existing pipelines (Louisiana Intrastate Gas and Mid Louisiana Gas), and gas marketing for Rocky Mountain area exploration efforts.

AUGUST 1980 to APRIL 1981

Senior Sales Representative, Colorado Interstate Gas Company (CIG). Primary responsibility was new market development. Also negotiated industrial gas sales agreements.

APRIL 1978 to JULY 1980

Senior Staff Analyst, Special Projects, CIG. Responsibilities included formulation of negotiating strategies, initiation of new business opportunities and economic analyses for investment decisions.

JANUARY 1975 to AUGUST 1978

Senior Rate Analyst, CIG. All facets of interstate pipeline rate making.

KENT D. TAYLOR
PROFESSIONAL QUALIFICATIONS

EDUCATION

BSBA, University of Florida, Gainesville, Florida
1967
Major: Accounting

MS, The George Washington University, Washington D.C.
1972
Major: Public Administration

MBA, University of Colorado, Colorado Springs
1979
Major: Accounting/Finance

U.S. Naval Flight Training
Designated U.S. Naval Aviator July 1969

Defense Resource Management Education Course, Navy
Postgraduate School, Monterey, California
1988

PROFESSIONAL QUALIFICATIONS

Certified Public Accountant
Captain, U.S. Naval Reserve (ret)

OTHER TESTIMONY

Regie Du Gaz Natural Du Quebec
Florida Public Service Commission
Colorado Public Utilities Commission
Public Service Commission of Nevada
Federal Energy Regulatory Commission

Citation and Notification of Penalty
Company Name: Tampa Electric Company
Inspection Site: 13031 Wyandotte Road, Apollo Beach, FL 33572
Citation l Item 1
Type of Violation: Serious
29 CFR 1910.22(a)(l): Place(s) of employment were not kept clean and orderly, or in a sanitary condition:
a)At the workplace, employees exposed to possible injury as a result of poor housekeeping in areas such as but not limited to debris, sand bags, standing water at the bottom of the #2 stack, also fly ash, boards, debris on walkway at southeast corner of boiler for Unit#3 near economizer outlet fly ash hoppers, and scaffolding stage and ladder left on walkway at the northwest corner of the secondary air level for Unit#3 on or about April 28, 1999.
ABATEMENT VERIFICATION IS REQUIRED
Date By Which Violation Must be Abated: 10/14/99
Proposed Penalty: $1500.00

Citation l Item 2
Type of Violation: Serious
29 CFR 1910.219(f)(3): Sprocket wheels and chains which were seven feet or less above floors or platforms were not closed:
a)At the workplace, an expanded metal guard had 3/4 inch openings which allowed fingers to reach ingoing nip points of a chain and sprocket drive on the 4A1 slag clinker grinder elevation #9, Unit#4; and also nearby on another guard there was an opening measuring 15 inches long, 3 inches on one end and 5 inches on the other end which allowed an employee to reach with a hand the ingoing nip point for a chain and sprocket for 4A2 slag clinker grinder, elevation #9, Unit#4 on or about April 29, 1999.
ABATEMENT VERIFICATION IS REQUIRED
Date By Which Violation Must Be Abated: 10/14/99
Proposed Penalty: $1875.00
Lawrence J. Falck
Area director
Citation 1, Serious = $ 3375.00
TOTAL PROPOSED PENALTIES = $ 3375.00

NOTICE
The penalty assessed for this inspection already reflects reductions granted to the employer for Size, Good Faith and History.
The Original Penalty was: S4,500.00
The Reduced Penalty is: S3,375.00

October 7, 1999
Tampa Electric Company
Big Bend Station
Attn: Louis Rinaldi, Safety Director
P.O. Box 111

Tampa, FL 33601-0111
Dear Mr. Rinaidi:
An inspection of your work: place at 13031 Wyandotte Road Apollo Beach, FL 335722 on 04/28/99 disclosed the following hazards:
When a generator is off or on turning gear and is being purged of hydrogen gas prior to work being performed on that unit, the General Electric Thermal Conductivity Gas Analyzer is used by and Auxiliary Operator (AO) to determine percent hydrogen in carbon dioxide, percent hydrogen in air and percent air
in carbon dioxide. With hydrogen being a potentially explosive gas and carbon dioxide being a potential asphyxiate gas the calibration and use of the Gas Analyzer is important.
Since no OSHA standard applies and it is not considered appropriate at this time to invoke Section 5(a)(1), the general duty clause of the Occupational Safety and Health Act, no citation will be issued for these hazards.
In the interest of work place safety and health, however, I recommend that you take the following steps voluntarily to eliminate reduce your employees' exposure to the hazards described above:
The Operator Handbook and the work procedure need to call for this calibration as specified by the manufacturer of the meters and the generator. The purge procedure in the Operator Handbook needs to also call for the hydrogen dryer purge and liquid level detector purge. The Operator Handbook needs to be maintained in a legible condition and be available.
A written reply to this letter would be appreciated within 30 days.
Sincerely,
Lawrence J. Falck
Area Director

Inspection Site: 13031 Wyandotte Road, Apollo Beach, FL 33572
Citation 1 Item 1

Type of Violation: Serious
29 CFR 1910.120(q)(l): Employers whose employees were engaged in emergency no matter where it occurs for employees engaged in operations specified in 29 CFR 1910.120 (a)(l)(i) through (a)(1)(iv), did not develop and implement an emergency response plan to handle anticipated emergencies prior to commencement of emergency response operations:
a)On or about March 22, 1999, employees responded to a spill of approximately 220 gallons of Fyrquel EHC at the #4 turbine. The spill had gotten to the insulation on steam lines and into the floors below. The employees including maintenance, auxiliary operators, boiler turbine operator and operators were involved in cleaning it up. Fyrquel ECH is an organophosphate and cholinesterase inhibitor. There was potential exposure by absorption and inhalation. There was no response plan in place prior to the response. This was observed on or about 4/28/99.
ABATEMENT VERIFICATION IS REQUIRED
Date By Which Violation Must be Abated: 11/09/99
Proposed Penalty: $1500.00
U.S. Department of Labor
Occupational Safety and Health Administration
Inspection Number: 109016014 I

Inspection Dates: 04/28/1999-08/24/1999
Issuance Date: 10/07/1999
Citation and Notification of Penalty
Company Name: Tampa Electric Company
Inspection Site: 13031 Wyandotte Road, Apollo Beach, FL 33572

Citation 2 Item 1

Type of Violation: Other
29 CFR 1910.141(b)(2)(i): The outlets for non-potable water, such as water for industrial or fire fighting purposes, were not marked in a manner that was unsafe and not for drinking.
(a) On or about April 29, 1999 it was observed that the pipe to the water outlet was not marked as recycled or non-potable water. Ingesting non-potable water may cause adverse gastrointestinal effects. This pipe was located outside the 4A primary air fan room elevation.
ABATEMENT VERIFICATION IS REQUIRED
Date By Which Violation Must be Abated: 11/09/99
Proposed Penalty: $0000.00
Lawrence J. Falck
Area Director
U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

NOTICE
The penalty assessed for this inspection already reflects reductions granted to the employer for Size, Good Faith and History.
The Original Penalty was: $2,000.00
The Reduced Penalty is: $1,500.00

U.S. Department of Labor
Occupational Safety and Health Administration
Inspection Number: 109212571 I
Inspection Dates: 04/08/1999-09/30/1999
Issuance Date: 10/07/1999
Citation and Notification of Penalty
Company Name: Tampa Electric Company

Inspection Site: TECO Gannon Station 3602 Port Sutton Road, Tampa, FL 33619

Citation l Item 1

Type of Violation: Serious

29 CFR 1910.269(c): The briefing conducted by the person in charge did not cover the hazards associated with the job, work procedures involved and special precautions associated with the work to be performed.
a) For the work being conducted at the Tampa Electric Company, Gannon Station. Unit # 6 Generator, the briefing that was conducted on the morning of April 8, 1999 did not effectively cover, or inform members of the maintenance crew of the following hazards associated with the job, or special precautions and work procedures associated with the

job.

I) During the briefing the crew was advised that the electricians were getting a good megger and that the generator had been released to them, when in fact the electricians were still in the process of meggering the generator and were in the process of preparing to conduct another meggering test at the time of the explosion. The briefing did not advise the maintenance crew that the electricians were conducting the meggering test with the generator containing a Hydrogen atmosphere.

2) The Outage Schedule for Unit #6 called for the generator to be purged at 00:00 hours on April 8, 1999. The purging operation was not conducted as scheduled and the morning briefing on April 8th did not inform the maintenance crew of the failure to purge the generator by the scheduled time and date.

3) Unit #6 was 13 (thirteen) days into the scheduled outage, at the time of the explosion, and the Hydrogen had not been purged from the generator. Normally the Hydrogen is purged from the generator following tagging and clearance from Palm River Operations, or about 2 or 3 days into the outage. The morning briefing on April 8th did not inform the crew or the experienced
maintenance mechanics which just arrived at the Gannon facility on the morning of April 8th, that the Hydrogen was in the generator for an extended period of time, or that the purging of the generator had failed to be performed by the date and time indicated on the outage schedule.

4) On April 8th, 1999, four experience maintenance mechanics joined the crew that was already working at the Gannon Unit #6. Upon their arrival at their work locations it was obvious that the Turbines and the Generator were in various stages of disassembly. In particular the disassembly and removal of the Doghouse at the North end of the Generator indicated to the experienced mechanics that the outage was well under way and that they could continue the dismantling of the equipment that they came there to work on. The Gannon #6 Generator Disassembly/Inspection Procedure indicates that the removal of the Doghouse is normally done after the Generator is purged of Hydrogen and Turbine oil pumps and Hydrogen seal oil pumps are tagged out.

The April 8th morning briefing did not inform the experienced mechanics, or any of the other crew members that there were deviation in the Generator Disassembly/Inspection Procedures, so nobody on the crew had any reason to suspect that Hydrogen was still in the Generator, or that any other special precautions were necessary.

U.S. Department of Labor
Occupational Safety and Health Administration
Inspection Number: 109212571 I
Inspection Dates: 04/08/1999-09/30/1999
Issuance Date: 10/07/1999
Citation and Notification of Penalty
Company Name: Tampa Electric Company
Inspection Site: TECO Gannon Station 3602 Port Sutton Road, Tampa, FL 33619
DOCUMENTED ABATEMENT VERIFICATION IS REQUIRED FOR THIS ITEM
Date By Which Violation Must be Abated: 10/20/1999
Proposed Penalty: $6300.00

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from an accident.

Citation l Item 2a

Type of Violation: Serious

29 CFR 1910.269(d)(2)(iv)(B): Procedures that have been developed documented, and used for control of potentially hazardous energy did not clearly and specifically outline the techniques and/or specific procedural steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy:

a)For the Tampa Electric Company Gannon Station, Unit #6 Turbines and Generator, as of April 8th , 1999 energy control tagging procedures such as, but not specifically limited to, the 6A1 Tagging Guideline for the #6 Main Turbine Outage, and the 6A2 Tagging Guideline for the Gannon Unit No. 6 Generator, do not provide the procedural steps to be instituted or followed to achieve the desired state of shutting down, isolating, blocking and securing of machines or equipment prior to actual placement of the company's Production Department Danger Hold Tagging Devices.

DOCUMENTED ABATEMENT VERIFICATION IS REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 11/09/1999

Proposed Penalty: $6300.00

U.S. Department of Labor

Occupational Safety and Health Administration

Inspection Number: 109212571

Inspection Dates: 04/08/1999-09/30/1999

Issuance Date: 10/07/1999

Citation and Notification of Penalty

Company Name: Tampa Electric Company

Inspection Site: TECO Gannon Station 3602 Port Sutton Road, Tampa, FL 33619

Citation 1 Item 2b

Type of Violation: Serious

29 CFR 1910.269(d)(2)(iv)(D): Procedures that have been developed documented, and used for control of potentially hazardous energy did not clearly and specifically outline the techniques and/or specific requirements for testing a machine or equipment to determine and verify the effectiveness of the energy control measures and tagout devices:

a) For the Tampa Electric Company, Gannon Station, Unit #6 Turbines and Generator, as of April 8, 1999 energy control tagging procedures such as, but not specifically limited to, the 6A1 Tagging Guideline for the #6 Main Turbine Outage and the 6A2 Tagging Guideline for the Gannon Unit No. 6 Generator, do not provide the specific requirements to be instituted and/or followed for testing a
machine or equipment to determine and verify the effectiveness of the energy control measures and the tagout devices.

DOCUMENTED ABATEMENT VERIFICATION IS REQUIRED FOR THIS ITEM.

Date By Which Violation Must be Abated: 11/09/1999

U.S. Department of Labor

Occupational Safety and Health Administration

Inspection Number: 109212571 I

Inspection Dates: 04/08/1999-09/30/1999

Issuance Date: 10/07/1999

Citation and Notification of Penalty

Company Name: Tampa Electric Company

Inspection Site: TECO Gannon Station 3602 Port Sutton Road, Tampa, FL 33619

Citation 1 Item 3

Type of Violation: Serious

29 CFR 1910.269(d)(2)(v): The employer did not conduct a periodic inspection of the energy control procedure at least annually to ensure that the procedure and the provisions of paragraph (d) of this section are being followed:

a) For the Tampa Electric Company, Gannon Station Facility, the employers established energy control program, which was in use on April 8, 1999, did not include the periodic inspection(s) of the energy control procedure(s) which are required to be conducted at least annually by and authorized employee who is not using the energy control procedure (s) that are being inspected.

As an alternative to the required periodic inspections, and required inspection certifications, the employer failed to provide sufficient documentation of normal work schedules an/or operation records which were said to contain the required information, and demonstrate that adequate inspection activity was conducted.

DOCUMENTED ABATEMENT VERIFICATION IS REQUIRED FOR THIS ITEM.

Date By Which Violation Must be Abated: 11/09/1999

Proposed Penalty: $6300.00

U.S. Department of Labor

Occupational Safety and Health Administration

Inspection Number: 109212571

Inspection Dates: 04/08/1999-09/30/1999

Issuance Date: 10/07/1999

Citation and Notification of Penalty

Company Name: Tampa Electric Company

Inspection Site: TECO Gannon Station 3602 Port Sutton Road, Tampa, FL 33619

Citation 1 Item 4

Type of Violation: Serious

29 CFR 1910.269(d)(8)(ii)(D): When servicing or maintenance was [performed by a crew each authorized employee did not affix as persona lockout or tagout device to the group lockout device, group lockbox, or comparable mechanism when he or she begins work, and each authorized employee did not remove those devices when he or she stops working on the machine or equipment that is being service or maintained:

a)For the Tampa Electric Company, Gannon Station Facility, Unit #6, authorized employees that were working on the morning of April 8, 1999, as part of the Energy Supply Maintenance Crew at Unit #6 were working under procedures that did not allow each authorized employee to affix a personal lockout or tagout device to the group lockout device or comparable mechanism when they begin their work. The procedure did not allow the authorized employees to remove a personal lockout or tagout device when they stopped working on the machine or equipment that was being serviced or maintained. The procedure that was in use on April 8, 1999, did not even require the supervisor in charge of the work to affix a personal lockout or tagout device because the Tagging operator is the person responsible for carrying out the actual tagging procedures in accordance with the Tagging Supervisors instructions.

DOCUMENTED ABATEMENT VERIFICATION IS REQUIRED FOR THIS ITEM.

Date By Which Violation Must be Abated: 11/09/1999

Proposed Penalty: $6300.00
Lawrence J. Falck
Area Director

Inspection Site: TECO Gannon Station, 3602 Port Sutton Rd., Tampa, FL 33619
Issuance Date: 10/07/1999
Summary of Penalties for Inspection Number 109212571
Citation 1, Serious = $ 25200.00
TOTAL PROPOSED PENALTIES = $ 25200.00

NOTICE
The penalty assessed for this inspection already reflects reductions granted to the employer for Size, Good Faith and History.
The Original Penalty was: $28,000.00
The Reduced Penalty is: S25,200.00

TESTIMONY OF DAVID P. WHEELER

Q. Would you please state your name and business address?

A. My name is David P. Wheeler; 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

Q. By whom are you employed and in what capacity?

A. I am employed by the Florida Public Service Commission as a Regulatory Analyst in the Bureau of Electric Regulation, Division of Electric and Gas.

Q. Please give a brief description of your educational background and professional experience.

A. I graduated from the University of Kansas in 1982 with a Bachelor of Science Degree in Business Administration. In 1984 I was awarded a Master of Business Administration Degree with a concentration in finance by the University of Florida. From 1984 to January, 1990 I was employed by the Florida Department of Business Regulation as a financial analyst.

I began my employment with the Florida Public Service Commission in February of 1990, and have held various positions in the Bureau of Electric Regulation since that time. My primary job responsibilities are in the areas of electric utility cost of service and rate design.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to discuss alternative regulatory treatments for Tampa Electric Company's (TECO) recent wholesale sales to the Florida Municipal Power Agency (FMPA) and the City of Lakeland (Lakeland), and to discuss TECO's proposed treatment of these transactions.

Q. Could you briefly describe the wholesale sale to Lakeland?

A. The sale to Lakeland began on October 19, 1996, and ends September 30, 2006. The sale is a firm 10 MW sale under Long-Term Service Schedule D, and is made from TECO's system generating resources. The sale has priority equal to that of TECO's firm native load. There is also provision for an additional 10 MW with a priority subordinate to TECO's native load and existing wholesale commitments.

Q. Could you briefly describe the wholesale sale to the FMPA?

A. The sale to the FMPA began on December 16, 1996, and ends March 15, 2001. This sale is a firm Schedule D sale of capacity and energy from TECO's Big Bend Units 2 and 3, and Gannon Units 5 and 6. The FMPA is entitled to this capacity any time these units are able to supply it. For the initial year of the agreement, the sale is for 35 MW of capacity, and increases annually over the term of the contract to a level of 150 MW by the end. The contract also makes provision for the supply of supplemental capacity at the same reliability as the base capacity, once it is scheduled.

Q. Has TECO made similar sales in the past?

A. Yes. TECO has made long-term firm Schedule D sales to various entities from its Big Bend Generating Station.

Q. How were these sales treated in TECO's last rate case in Docket No. 920324-EI?

A. The sales were separated from the retail jurisdiction and placed in the wholesale jurisdiction. The separation allocated the generation and transmission rate base and non-fuel expenses (i.e. Operations and

Maintenance (O&M), depreciation, taxes, etc.) between the retail and wholesale jurisdictions, based primarily on each jurisdiction's contribution to the 12 monthly system peak demands. The variable O&M generation expenses were allocated on an energy, or per kilowatt hour, basis. Retail rates were then set based on the rate base and expenses allocated to the retail side, while on the wholesale side TECO's revenues and the resulting return were dictated by the agreements they negotiated with the separated wholesale customers, subject to the FERC's approval. Revenues from separated sales (with the exception of fuel revenues, which are addressed in the Fuel and Purchased Power Cost Recovery (Fuel) Clause), are retained by the stockholders.

Q. How are the fuel revenues from separated sales treated for regulatory purposes?

A. The fuel revenues are credited to the retail Fuel Clause to reduce the total system fuel costs paid for by the retail ratepayers. The Commission recently addressed the treatment of fuel revenues for wholesale sales in Docket 970001-ET, Order No. PSC-97-0262-FOF-EI, dated March 11, 1997. The Commission established a policy for new separated sales which requires that the fuel revenues returned to the ratepayers be equal to the system average fuel cost, regardless of how the fuel was priced pursuant to the wholesale contract, unless the utility could demonstrate net benefits to the ratepayers from the sale.

Q. How did TECO propose to treat the Long-term Firm Schedule D transactions in the rate case in Docket 920324-EI?

A. TECO proposed that the sales be included in the retail jurisdiction.

When wholesale sales are retained in the retail jurisdiction, the retail ratepayers support through their rates the entire cost of the plant and expenses associated with the sales.

In addition, TECO proposed that 60% of the non-fuel revenues from the Big Bend Schedule D and other interchange sales be retained below the line by TECO's stockholders, and that the remaining 40% be returned to the ratepayers through the Fuel Clause.

Q. Did the Commission approve this treatment?

A. No. The Commission rejected TECO's proposed sharing of non-fuel revenues in Order Nos. PSC-93-0165-FOF-EI and PSC-93-0664-FOF-EI. The Long-term Firm Schedule D sales were separated, and their costs and revenues were placed in the wholesale jurisdiction.

For those interchange sales which were retained in the retail jurisdiction (with the exception of broker sales), the Commission ordered TECO to credit all of the non-fuel revenues back to the ratepayers through the adjustment clauses: the O&M revenues through the fuel adjustment clause, and the capacity revenues through the capacity cost recovery clause.

Q. Does TECO's proposed retail jurisdictional treatment of the FMPA and Lakeland sales comport with existing Commission policy for these types of sales?

A. Absent a demonstration that TECO's ratepayers benefit from the proposed treatment, it does not. TECO's proposal would retain the sales in the retail jurisdiction, which does not appear to establish a fair balance between ratepayers and stockholders. The FMPA and Lakeland sales do not

differ substantially from those firm Schedule D sales which are currently separated into the wholesale jurisdiction. They are all firm, long-term (i.e. longer than one year) sales that require TECO to commit capacity from either specified units or system generating resources. The capacity thus committed is no longer available for use by the retail ratepayers. Further, since the revenues derived from the sales are less than the embedded average cost of the sales, inclusion of these sales in the retail jurisdiction allows TECO to subsidize its wholesale sales at the expense of the captive retail ratepayers.

Based upon Commission policy established in TECO's last rate case, any new long-term firm sales should be separated into the wholesale jurisdiction based upon average embedded costs. In addition, pursuant to the Commission's recent Order No. PSC-97-0262-FOF-EI in Docket 970001-EI, the retail ratepayers should be credited with no less than an amount equal to the system average fuel revenues from these sales, regardless of the actual fuel revenues received. Any exceptions to these policies should be addressed on a case-by-case basis, where it can be demonstrated that an alternative treatment is in the best interests of the ratepayers.

Q. Has TECO demonstrated that their proposed treatment of the FMPA and Lakeland sales is in the best interest of the ratepayers?

A. TECO has sought to include the FMPA and Lakeland sales within the retail jurisdiction because they believe that they can no longer compete in the wholesale market by pricing sales based upon their average embedded cost. With the addition of the Polk IGCC unit (which has resulted in a 58 percent increase in TECO's total net generation plant in service between

1995 and 1996) future wholesale sales based on TECO's system average cost appear to be particularly threatened. TECO believes that requiring separation under these circumstances creates a strong disincentive to make such sales, since the stockholders are required to absorb the entire shortfall between average embedded costs and the revenues from the sales.

TECO reasons that as long as the revenues from wholesale sales are greater than the incremental cost of producing the energy sold, the ratepayers are better off. TECO has filed a cost-effectiveness analysis of the FMPA and Lakeland sales which purports to show that the sales will produce net benefits to the ratepayers. However, this analysis is based on projected incremental costs and revenues associated with the FMPA and Lakeland sales and there is no assurance that they will continue to be cost-effective throughout the terms of the contracts. I have further concerns regarding TECO's estimate of the possible impact of these sales upon TECO's generation expansion plan. Because of the need of further discovery to determine the reasonableness of TECO's incremental cost-benefit analysis, I cannot make a determination as to whether the sales provide net benefits to TECO's retail ratepayers.

Q. Do you believe TECO's proposed stockholder sharing of the revenues from these sales is appropriate?

A. Absolutely not. While it may be appropriate to remove the disincentive caused by requiring TECO to separate the sales, it is entirely inappropriate to provide any further incentive to make these sales.

Based on TECO's testimony, their proposed treatment of the revenues

for the FMPA sale result in the stockholders retaining $11.2 million, or about 82% of the total $13.7 million in NPV non-fuel revenues that are projected to be received over the life of the contract.

If the sales remain in the retail jurisdiction, the retail ratepayers are fully supporting the costs associated with these sales through their rates. As a consequence, they should receive the full benefit of all the revenues which result from them. All energy charge revenues, including fuel, should be credited to the ratepayers through the Fuel Clause. The capacity charge revenues should be credited through the Capacity Cost Recovery Clause.

It is incumbent upon a prudent utility to attempt to maximize wholesale revenues from temporary surplus capacity for the benefit of the retail ratepayers who are responsible for the costs of supporting that capacity. Pursuant to the "regulatory compact", TECO has been granted the exclusive right to serve the retail customers in its service territory, and the opportunity to earn a fair return on the investment required to serve those customers. In return, they must provide reliable service to all customers who request it at the lowest possible cost. TECO should not require additional incentive to fulfill this obligation to lower costs to its retail ratepayers by engaging in cost effective wholesale transactions.

Q. Are there any existing incentives for TECO to engage in wholesale transactions of this type?

A. Yes. The sales will result in benefits to wholly owned subsidiaries of TECO's parent company, TECO Energy, Inc. These affiliates provide coal and waterborne coal transportation to TECO. Increases in energy sales by

TECO will result in increased revenues to these affiliates.

Q. Do you believe it is appropriate for TECO to retain for its stockholders all of the revenues attributable to transmission services?

A. No. Pursuant to Federal Energy Regulatory Commission (FERC) orders 888 and 889, utilities are now required for wholesale sales to charge themselves for the use of their transmission systems just as they do any other user. Accordingly, a portion of the revenues from the FMPA and Lakeland sales must be identified as relating to transmission. This requirement does not justify TECO's proposed treatment under which its stockholders would retain all of the transmission revenues. Although the wholesale market for generation is now becoming more competitive, wholesale transmission rates remain a regulated monopoly, subject to the jurisdiction of the FERC. This would argue for the separation of all of these transmission related costs and revenues into the wholesale jurisdiction.

Q. Does this conclude your testimony?

A. Yes.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate increase by Tampa Electric Company.) DOCKET NO. 920324-EI) ORDER NO. PSC-93-0165-FOF-EI) ISSUED: 02/02/93

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
BETTY EASLEY
LUIS J. LAUREDO

Pursuant to duly given notice, the Florida Public Service Commission held public hearings in this docket on September 30, 1992, in Tallahassee, Florida; on October 7, 1992 in Tampa, Florida; and October 12 through 19, 1992 in Tallahassee, Florida. Having considered the record herein, the Commission now enters its final order.

APPEARANCES:

LEE L. WILLIS, Esquire, JAMES D. BEASLEY, Esquire, and KENNETH R. HART, Esquire, Ausley, McMullen, McGehee, Carothers and Proctor, 227 South Calhoun Street, Post Office Box 391, Tallahassee, Florida 32302.
On behalf of Tampa Electric Company.

JOHN ROGER HOWE, Esquire, Deputy Public Counsel, and H. Floyd Mann II, Esquire, Associate Public Counsel, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400.
On behalf of the Citizens of the State of Florida.

JOHN W. McWHIRTER, JR., Esquire and LEWIS J. CONWELL, Esquire, McWhirter, Grandoff and Reeves, 201 East Kennedy Boulevard, Suite 800, Post Office Box 3350, Tampa, Florida 33601-3350; and VICKI GORDON KAUFMAN, Esquire and JOSEPH A. McGLOTHLIN, Esquire, McWhirter, Grandoff and Reeves, 315 South Calhoun Street, Suite 716, Tallahassee, Florida 32301.
On behalf of Florida Industrial Power Users Group.

DEBRA SWIM, Esquire and ROSS BURNAMAN, Esquire, 1115 North Gadsden Street, Tallahassee, Florida 32303-6237; and TERRY BLACK, Esquire, Pace University Energy Project, Center for Environmental Legal Studies, 78 North Broadway, White Plains, New York 10603.
On behalf of Legal Environmental Assistance Foundation/John Ryan.

PAMELA K. AKIN, City Attorney and TYRON BROWN, Esquire, 315 East Kennedy Boulevard, 5th Floor, City Hall, Tampa Florida 33602.
On behalf of City of Tampa.

LT. COL. BRUCE J. BARNARD, and CAPT. TERRIE M. GENT, AFLSA/ULT, 139 Barnes Drive, Tyndall AFB, FL 32403-5319.
On behalf of the Department of Air Force.

PATRICK K. WIGGINS, Esquire, Wiggins and Villacorta, P.A., 501 East Tennessee Street, Tallahassee, Florida 32302
On behalf of District School Board of Pasco County, Florida.

ROBERT V. ELIAS, Esquire, DONNA L. CANZANO, Esquire, MICHAEL A. PALECKI, Esquire, and M. ROBERT CHRIST, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

PRENTICE P. PRUITT, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862
On behalf of the Commissioners.

ORDER GRANTING CERTAIN INCREASES

CASE BACKGROUND

On May 22, 1992, Tampa Electric Company (TECO or Tampa Electric or the company or the utility) filed a Petition for an increase in its rates and charges and approval of a fair and reasonable rate of return. The petition seeks a permanent increase in TECO's rates and charges pursuant to Section 366.06, Florida Statutes. The petition cites the costs associated with building and maintaining an adequate and reliable production, transmission and distribution system; the cost of serving over 106,000 new customers expected to take service by 1993 as compared to 1984 (the test year in the company's last rate proceeding); and the effects of a 41% expected increase in inflation from the end of 1984 through 1993 as factors creating the need for higher rates.

d) TECO will include in its tariff a provision indicating that the company normally will replace burned out street lights within three working days of notification by the customer.

The appropriate level of the Emergency Relay Power Service Charge is set out for the applicable rate schedules in MFR Schedule E-16c.

The CIAC shall be equal to the cost of additional facilities required to provide emergency relay power service.

The amount of CIAC a customer is required to contribute to purchase a Time-of-Day meter shall be equal to the difference in cost between a regular meter and a Time-of-Day meter.

IX. OTHER ISSUES

A. Settlement Charges By Utley-James Oakes

Concurrently with the Staff financial audit, an engineering audit of expenses associated with Big Bend 4 (BB4) was also conducted (Exh. 85). Audit Disclosure No.4 of the Staff Audit Report (Exh. 83) stated that due to resequencing of work, design interferences, and schedule accelerations, Utley-James/Oakes billed TECO for additional charges for an amount in excess of the $850,000 that through negotiations TECO agreed to pay to Utley-James/Oakes. The audit opinion stated that the charges did not represent normal costs of installation but were the result of poor performance by various vendors and TECO, and that as a result these charges should have been expensed rather than capitalized.

The construction of BB4 was very complex, and the record indicates that there were numerous delays encountered during the construction of this facility but it is not possible to determine that any adjustment is warranted. In addition, there is no explanation to support any adjustment amount, other than the fact that the $850,000 is what TECO settled for. The company stated in its response in Issue 9, that certain changes were outside its direct control and that the plant was constructed on budget and was placed in Rate Base on time. To assess TECO's judgment at this point in time would be inappropriate. The original claim against TECO amounted to $1,500,000; through negotiations this amount was reduced to little more than half of the original figure. By negotiating this settlement, TECO demonstrated that it attempted to hold the ultimate construction costs of this plant to a minimum and was not simply planning to ultimately pass through all costs of BB4

to the ratepayers without a review. Therefore, we find that these settlement charges in the amount of $850,000 by Utley-James/Oakes on contract BB4-04 were appropriate and should remain part of the capitalized costs of BB4.

B. Capacity Associated With Purchase And Sharing Of Hardee Power Station

The Commission granted a determination of need for the 295 MW Hardee Power Station capacity to Seminole Electric Cooperative (SEC). TECO Power Services (TPS) responded to the SEC Request for Proposal (RFP) for backup power to back up Seminole's existing coal fired units. The Commission bifurcated Docket No. 880309, the need determination docket, and made two findings. First, in Order No. 20930 the Commission found that SEC had established a need for 450 MW of capacity in 1993, and second, in Order No. 22335 the Commission found that the TPS proposal satisfied SEC's need in the most cost-effective manner to SEC and provides adequate electricity at a reasonable cost.

Tampa Electric's participation in the sharing of the Hardee capacity with Seminole Electric results in the deferral of 225 MW of combustion turbine capacity in the Tampa Electric Company's twenty year plan. (TR 255) Seminole will use the Hardee unit to meet its need for backup power during the spring and fall maintenance outages of its existing units, while Tampa Electric's new capacity needs are in the winter and summer months. (TR 255) Tampa Electric will pay TPS an amount equal to 40% of the Hardee capacity and energy charges, with Seminole responsible for the remaining 60% of capacity and energy charges. (TR 529)

The Commission based the need finding on the economics inherent in the wholesale contracts between TPS, SEC and Tampa Electric. (Order No. 22335) In Phase I (1993-2003) TPS will construct 295 MW of combined cycle capacity and TECO will sell 145 MW of Big Bend 4 capacity to SEC, and in Phase II (2003-2013) TPS will replace the BB-4 capacity by constructing a 70 MW heat recovery unit and one 75 MW CT at the Polk/Hardee site for sale to SEC. (TR 254) The combination of the sale of existing BB-4 capacity and constructing new TPS capacity was preferred to the option of SEC constructing two 220 MW combined cycle units in 1993. The TPS proposal resulted in projected present worth of revenue requirements savings to SEC of approximately $57 million (1987 dollars) and projected present worth revenue requirement savings of $90 million (1989 dollars) to Tampa Electric based on the deferral of 225 MW of previously planned CT capacity on Tampa Electric's system. (Order No. 22335)

The Commission also recognized the sharing of 295 MW of Hardee Power Station capacity between Tampa Electric and SEC as purchased power in Tampa Electric's determination of need proceedings for the Polk County IGCC unit. (Order No. PSC-92-0002-FOF-EI) Accordingly, we find that Tampa Electric demonstrated that capacity associated with the Hardee Power Station is needed for its retail ratepayers in 1993 and 1994.

C. Capacity Costs Associated With The Purchase Of Power From The Hardee Power Station

TECO has requested that the capacity costs associated with the purchase of power from the Hardee Power Station flow through the new Capacity Cost Recovery Factor. We find that the annual Hardee Power capacity costs shall be recovered through the Capacity Cost Recovery Clause.

The three parties to the Hardee Power Station, Tampa Electric, TECO Power Services (TPS) and Seminole Electric Cooperative, have negotiated wholesale contracts for the purchase and sale of the 295 MW of combined cycle capacity. Tampa Electric proposed to collect the capacity charges associated with the Hardee Power Station through the Capacity Cost Recovery Clause. (TR 256) The company's contractually agreed upon monthly capacity charge paid to its affiliate TPS pursuant to the wholesale contract is $1,095,932. This number does not vary and could be allocated among rate classes and recovered through base rates. We shall permit cost recovery through the Capacity Cost Recovery Clause solely to keep components of the Hardee costs together. Because of the straightforwardness of the amount, we are actually indifferent to whether recovery is through base rates or the capacity cost recovery clause. Although arrangements such as the Hardee Power station may be more complicated than what was envisioned by the decision to recovery purchased power capacity costs through the Capacity Cost Recovery Clause, we believe the contract to be monitorable for cost recovery clause purposes.

The company's witness, Mr. Ramil, testified that Tampa Electric could have built the Hardee Plant instead of TPS. (TR 536-37) If this plant were constructed and owned by Tampa Electric, it would come under traditional cost of service regulation subject to the Commission's authorized return on equity. Because the plant is an Affiliated Power Production facility, it is entirely possible that these earnings could exceed the level approved by this Commission for rate base generating plant.

In traditional regulation, the capital cost recovery of a fixed asset such as a generating plant is included in rate base with the expense reflected in base rate charges recovered on a per kilowatt hour basis. Pursuant to the traditional treatment, the earnings of the company's stockholders vary due to the seasonality and variability of sales. This results in a certain level of risk associated with capital cost recovery which is borne by the stockholder for which they are compensated through the authorized return on equity. However, in the TPS Hardee purchase power contract, stockholder earnings are guaranteed pursuant to the proposed Purchased Power cost recovery of the Hardee Power capacity. Tampa Electric proposed to recover these capacity costs on a fixed levelized basis independent of sales levels. In other words, through the proposed recovery treatment, the parent company has decoupled the cost associated with the Hardee Station from sales.

D. Capacity Charges Through Hardee Power Station

TECO proposed $13,151,184 in annual capacity charges for the Hardee Power Capacity. (Exhibit 37) In Order No. 22335 issued December 22, 1989, the Commission approved the petition of Seminole Electric, TECO Power Services (TPS) and Tampa Electric for a Determination of Need for the Hardee Power Project as well as the wholesale power sales contract between TECO, TPS and Seminole. Annual capacity charges in the amount of $13,151,184 are in accordance with the power sales contract. Tampa Electric's off-system sales revenues from the Hardee Power Station for all interchange sales shall flow through the Capacity Cost Recovery Clause.

E. O&M Costs Associated With Purchase Of Power From Hardee Power Station

TECO has requested that the fuel and O&M costs associated with the purchase of power from the Hardee Power Station flow through the Fuel Adjustment Clause. We shall allow recovery of actual Hardee Power fuel costs through the fuel cost recovery clause because these costs will vary with the amount of energy produced and the market price of fuel. If actual O&M expenses exceed projected amounts shown in Exhibit 37, Tampa Electric shall notify the Commission prior to the hearing and justify any O&M expenditures which exceed the projected amounts during the period 1993-1997. Prior to 1997, the company shall provide Staff with projected O&M costs for the remainder of Phase I through 2003. This treatment will provide the company with the opportunity to

recover O&M expenditures exceeding the projected levels after providing justification for these expenditures as well as to provide the Commission with additional cost information relating to the total cost of Hardee Power Project.

Tampa Electric projects annual fixed and variable O&M costs ranging from approximately 1.45 million to 3.0 million for the period 1993-1997. (Exhibit 37) These cost vary from period to period depending on the planned outage and maintenance schedules for the Hardee Power Plant. The Commission contemplated Purchased Power Capacity clause recovery of related O&M costs in the generic investigation, Docket No. 910794-EQ. However, the Commission made no finding in the proceeding and stated that "While there may be merit in these suggestions, we do not have sufficient information at this point to determine definitively what additional items may be appropriate." The Commission indicated that inclusion of O&M expenditures would require consideration in a rate case or other generic proceeding to determine the exact nature and magnitude of such charges. (Order No. 25773)

Because the O&M benchmark is based on projections and because of the requirement for specific justifications to recover O&M costs if exceeded, we find that actual fuel and O&M costs shall be recovered through the Fuel Adjustment Clause. Tampa Electric shall be required to justify annual O&M costs exceeding those amounts projected by the Company in Exhibit No. 37 for the period 1993-1997 and provide updated projections for future periods.

F. Reward/Penalty For Corporate Performance

The issue of whether or not Tampa Electric should be given a reward or penalty for its corporate performance in the areas of residential rates, customer service, and energy efficiency programs was raised by the Commission staff. We believe that staff has an obligation to look into these matters and bring them to our attention when appropriate. However, we are reluctant, unless the conditions seem to be fairly extreme one way or the other, to grant a reward or impose a penalty.

TECO has the highest rates on a per 1000 kwh basis of the Peninsular IOU's, but its average residential revenue divided by residential sales yields a rate that is between the other two IOU's. With regard to customer complaints, Ms. Pruitt (staff's witness) testified that justified complaints per 1000 customers has been higher for TECO than the industry as a whole for three of the past five years, but TECO's individual complaints have decreased every year, but one, since 1987. (TR 1483-1484) TECO's

conservation efforts have been comparable with other IOU's in that more emphasis is placed on demand reducing programs than energy reducing programs. TECO's conservation programs have been approved by the Commission and are consistent with the statutory requirement that conservation programs be cost-effective.

Therefore, we find that TECO shall not be rewarded or penalized in this rate case since it appears that TECO's management has neither excelled nor failed in its corporate performance in the areas of residential rates, customer service, and energy efficiency programs.

G. Broker Sales

We believe that Tampa Electric Company has acted appropriately in making off-system sales of excess capacity rather than as-available one hour sales transactions through the Florida Energy Broker System.

The Commission's treatment of surplus Big Bend capacity in TECO's last rate case (Docket No. 850050-EI) encouraged what we believe are appropriate actions to maximize off-system sales. In TECO's last rate case, the Commission established an off-system sales target for surplus Big Bend capacity by imputing $37.1 million in revenues for off-system sales. This gave TECO an incentive to make as many non-Broker sales as possible since 100% of non-Broker sales revenues offsets the sales revenue imputation made by the Commission in the last rate case.

TECO has not, since the last rate case, achieved $37.1 million dollars in annual off-system sales revenue. Thus, in some respects, the shareholders have been disadvantaged by the imputation of revenue.

Profits from as-available sales through the broker system are split with 80% enuring to the benefit of the ratepayers and 20% enuring to the benefit of the shareholders. It has been suggested that in making off-system sales, TECO has bypassed the Broker System so that more of the profits from these transactions would accrue to the shareholders. The testimony we heard does not support such a finding.

In its position, TECO states "If a utility can bring greater revenue to its system by selling power through another interchange agreement it should be encouraged to do so." We agree. By imputing $37.1 million in revenues for off-system sales we established an incentive for TECO to pursue off-system sales. The

greater weight of the evidence suggests that TECO acted appropriately in marketing its excess capacity.

H. Appropriate Treatment Of Revenues Associated With Off-System Sales. Incentives

Staff recommended that all capacity revenues from off-system sales should be credited to the Capacity Cost Recovery Clause and that all off-system O&M revenues credited to the Purchased Power and Fuel Cost Recovery Clause. Staff proposed this treatment because of the variability of off-system revenues, which depend on the needs of Tampa Electric's neighboring utilities, the prevailing market conditions, and competing fuel prices. Uncertainty in projecting off-system revenues presents a problem when determining base rates in a rate case.

If in future years, actual revenues are greater than the forecasted amount included in base rate determination, the ratepayers are penalized and the company retains the excess revenues for its stockholders. The opposite is true if actual revenues are less than the forecasted amount benefiting the ratepayers. Since forecasting the revenue impact of future off system sales revenues is difficult because of the numerous assumptions contained in the forecast which may or may not prove accurate over time, staff recommended crediting off-system capacity revenues to the Capacity Cost Recovery Clause, and removing the projected off-system O&M revenues of $2.75 million in 1993 and $3.88 million in 1994 from base rate revenues and crediting these amounts to the Fuel Cost Recovery Clause.

Forecasting levels of off-system sales is far from an exact process. In his testimony, Tampa Electric's witness, Mr. Ramil, projects $11.9 million of off-system transactions in 1993 not including the Sebring and TECO Power Services sales. This is roughly half of the 8 month actual/4 month forecast amount of $23 million of off-system sales revenues for the current year 1992. Tampa Electric will likely have the opportunity for additional off-system sales starting in 1993 when the Hardee Power Station capacity of 295 MW comes on-line.

The revenue effect of incorrectly forecasting off-system sales from year to year will be eliminated if the revenues are credited through the Capacity Cost Recovery and Fuel and Purchased Power Clauses. Our treatment eliminates the potential inaccuracy from forecasting the level of off-system sales to be included in the calculation of base rate revenues.

All revenues and expenses associated with the firm Schedule D sales for the cities of New Smyrna Beach, St. Cloud and Wauchula, the Reedy Creek Improvement District and the Florida Municipal Power Association have been removed from the retail jurisdiction in the stipulated jurisdictional separation study.

Accordingly, we find that all revenues from off-system sales not allocated to the wholesale jurisdictional shall be included as credits in the Capacity Cost Recovery and Fuel and Purchased Power Cost Recovery Clauses. The capacity revenues shall be credited to the Capacity Cost Recovery Clause with O&M revenues credited to the Fuel and Purchased Power Cost Recovery Clause. We remove projected O&M revenues from off-system sales of $2,750,000 jurisdictional in 1993 and $3,888,000 jurisdictional in 1994 from base rate revenues.

Tampa Electric has proposed a sharing of the benefits of certain off-system sales described in Mr. Ramil's testimony (modified in accordance with the revised jurisdictional separation), in order to preserve an incentive for engaging in off-system sales which was incorporated in Tampa Electric's last full rate proceeding in Docket No. 850050-EI. TECO claims that retention of this incentive will directly benefit Tampa Electric's retail Customers.

Tampa Electric proposes to retain 60 percent of the capacity revenues from off-system sales other than those in the wholesale jurisdiction for the benefit of their stockholders and flow the remaining 40 percent of these revenues through the Capacity Cost Recovery clause for the benefit of the ratepayers.

Staff recommended that the Commission reject Tampa Electric's proposed 60/40 stockholder/ratepayer sharing of off system sales capacity revenues as unnecessary. Staff suggested that a prudently managed utility would use its best efforts to market this capacity and energy irrespective of whether it receives an additional incentive for doing so.

If the Commission decides to explore incentives, staff recommended that this issue be investigated in a generic docket. At that time, the Commission can explore the issue of off-system sales incentives as well as penalties for low levels of off-system sales or continued high levels of surplus capacity. This proceeding would allow the Commission the opportunity to adopt a uniform approach for all companies if it determines that incentives and penalties are needed for levels of off-system sales of generating capacity.

We believe that a generic proceeding to consider this issue is appropriate. We direct staff to initiate a docket to investigate and consider stockholder incentives for off-system sales.

By our decision to credit the revenues associated with off-system sales through the Capacity Cost and Fuel and Purchased Power cost recovery clauses, we have not maintained the status quo for Tampa Electric Company. In addition to the imputation of 37.1 million dollars of revenue in the last rate case, in that case we established a sharing of the annual revenues in excess of that amount. The stockholders would have received 20% of the revenue above that level and the ratepayers 80%. Since the target level of off-system sales was never achieved, no sharing ever occurred.

We believe that incentives can be useful in maximizing the level of off-system sales. Maximizing off-system sales makes the best use of the available capacity and can help minimize rates. The time necessary to conduct and decide a generic proceeding to determine an appropriate, industry-wide policy is likely to yield an effective date of October, 1993 at the earliest. This means that there will be less incentive for TECO to pursue off-system capacity sales and the carrying cost of any unused capacity will be paid by the ratepayers.

As an interim method to maximize the potential off-system revenues between the effective date of this Order and the decision in the generic proceeding, we establish the following incentive for Tampa Electric Company: We establish an $18 million dollar 1993 annual revenue target for off-system sales of excess jurisdictional capacity. Below that level, all the revenues will be credited, as discussed, through the Capacity and Fuel and Purchased Power Cost Recovery Clauses. Above $18 million dollars; 80% of the revenues shall be credited through Capacity and Fuel and Purchased Power Cost Recovery Clauses and 20% of the revenues shall be retained by the shareholders. The $18 million dollar target shall exclude TECO's commitments to the Utilities Commission of the City of New Smyrna Beach, the Reedy Creek Improvement District, the City of Wauchula and the Florida Municipal Power Association (the previously identified Schedule D sales).

I. Justifying Decisions Not To Competitively Bid Contracts For Architect/Engineering Services For Power Plant Construction

This issue was developed as a result of Audit Disclosure No. 1 in the Staff Audit Report. All of TECO's generating plants that are in rate base have been designed and engineered by Stone and Webster Engineering Corporation (SWEC) under cost plus type

contracts without benefit of competitive bidding. The audit opinion section of Audit Disclosure No. 1 in the Staff Audit Report states

> The accepted industry-wide practice for selecting a contractor for needed services, is the bidding process where the owner requests proposals from qualified vendors/contractors, then makes an impartial evaluation of the bids and awards the contract to the lowest evaluated bidder. By consistently sole sourcing with the same A/E, it cannot be determined whether the company received the best value for their money and therefore provided the rate payer with the most economical rates possible.

The report recommended that TECO should reverse its practice of awarding A/E contracts to the same company, SWEC.

The Company in their response to the audit disclosure, and in Mr. Ramil's rebuttal testimony states that since 1981, the Company policy has been to competitively bid A/E services. TECO recognizes that there may be instances where sole sourcing may be prudent and would justify that approach when employed.

Accordingly we find that TECO shall be required to justify any instance when it does not competitively bid for Architect /Engineering services.

J. Implementation Of Revenue And Sales Decoupling; And Implementation Of Demand Side Management Incentives

All Parties taking positions on these issues (LEAF, FIPUG and TECO) entered in to a stipulation stating that Docket No. 920606-EG (the Conservation Goals Rule)is an appropriate docket for the Commission's consideration of decoupling, rate impact measure, and DSM incentives. We agree. Accordingly we approve the stipulation entered by the parties. We find that these issues are moot for the purposes of resolving the matters necessary to reach a decision on Tampa Electric Company's petition for a Rate Increase.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Testimony and Exhibits of Kent D. Taylor have been furnished by *hand delivery, or U.S. Mail this 18th day of October, 1999, to the following:

(*) Cochran Keating IV
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Steven Burgess
Office of the Public Counsel
111 West Madison Street
Room 812
Tallahassee, Florida 32399

Matthew M. Childs
Steel Hector & Davis LLP
215 South Monroe Street
Suite 601
Tallahassee, Florida 32301

Lee L. Willis
James D. Beasley
Ausley & McMullen
227 S. Calhoun Street
Tallahassee, Florida 32302

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

James A. McGee
Post Office Box 14042
St. Petersburg, Florida 33733

Norman H. Horton
Messer, Caparello & Self
215 South Monroe Street
Suite 701
Tallahassee, Florida 32302

John T. English
Florida Public Utilities Company
Post Office Box 3395
West Palm Beach, Florida 33402

Vicki Gordon Kaufman

John W. McWhirter, Jr.
McWhirter Reeves McGlothlin Davidson
Decker Kaufman Arnold & Steen, P.A.
400 North Tampa Street, Suite 2450
Tampa, Florida 33601-3350

Vicki Gordon Kaufman
McWhirter Reeves McGlothlin Davidson
Decker Kaufman Arnold & Steen, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301

Attorneys for the Florida Industrial Power Users Group