

# AUSLEY & MCMULLEN

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November 4, 1999

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RECORDS AND REPORTING

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

Re: Investigation into Earnings for 1995 and 1996 of Tampa Electric Company; FPSC Docket No. 950379-EI

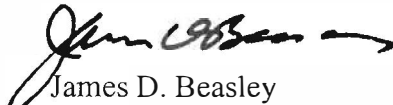
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Petition on Proposed Agency Action.

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 JDB/pp  
APP Enclosures  
CAF  
CMU  
CTR  
EAG  
LEG  
MAS  
OPC  
PAI  
SEC  
WAW  
OTH

cc: All Parties of Record (w/enc.)

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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 950379-EI

FILED: November 4, 1999

**TAMPA ELECTRIC COMPANY'S  
PETITION ON PROPOSED AGENCY ACTION**

Pursuant to Rule 28-106.201, Florida Administrative Code, Tampa Electric Company ("Tampa Electric") petitions the Commission for a formal proceeding to address the specific adjustment in Order No. PSC-99-2007-PAA-EI ("Order No. 99-2007") capping the company's equity ratio at 58.7% and the effect such adjustments for 1997 and 1998 have on the amount required to be refunded in Order No. 99-2007. As grounds therefor, Tampa Electric says:

1. The name, address and telephone number of Petitioner are:

Tampa Electric Company  
Post Office Box 391  
Tampa, FL 33602  
(813) 228-4111

2. The name, address and telephone number of Petitioner's representatives and the persons to whom all notices, pleadings and other papers in this proceeding should be served are:

Angela Llewellyn  
Administrator, Regulatory Coordination  
Tampa Electric Company  
Post Office Box 111  
Tampa, FL 33602  
(813) 228-4111

Lee L. Willis  
James D. Beasley  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, FL 32302  
(850) 425-5487

3. Tampa Electric's substantial interests will be affected by the proposed adjustment to the company's equity ratio in Order No. 99-2207 in that the company would be denied the opportunity to earn within its authorized return on equity on a significant portion of the equity

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

investment in the company as reflected in Exhibit B to Order No. 99-2207. On October 22, 1999 Tampa Electric petitioned the Commission to commence a formal proceeding to address the same equity ratio adjustment made in Order No. PSC-99-1940-PAA-EI with respect to Tampa Electric's 1997 earnings.

4. Tampa Electric received notice of the proposed agency action on or about October 15 when it received by U. S. Mail a copy of Commission Order No. 99-2007 dated October 14, 1999.

5. With respect to disputed issues of material fact, Tampa Electric asserts that there is no factual basis for the equity ratio adjustment prescribed in Order No. 99-2007 or for the effect such adjustments for 1997 and 1998 have on the amount of revenues to be refunded. The appropriate equity ratio to use in calculating Tampa Electric's 1998 earnings is the company's actual equity ratio.

#### **Ultimate Facts Alleged**

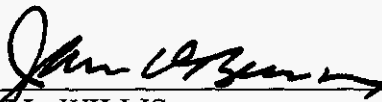
6. Under Section 366.06, Florida Statutes, and controlling case law, Tampa Electric is entitled to earn a fair and reasonable return on its equity investment. The equity ratio adjustment prescribed in Order No. 99-2007 has no factual or legal basis and denies Tampa Electric the opportunity to earn its authorized rate of return on a significant portion of its equity investment, and thereby adversely affects Tampa Electric's substantial interests. As a result of the equity ratio adjustments the Commission has made in calculating Tampa Electric's earnings for 1997 and 1998, the amount required to be refunded in Order No. 99-2007 is excessive and should be adjusted downward.

WHEREFORE, Tampa Electric Company petitions for a formal proceeding for the purpose of addressing and reversing the 58.7% equity ratio cap in Order No. 99-2007 and to

substitute in its place the company's actual equity ratio for use in calculating Tampa Electric's 1998 earnings. Tampa Electric also requests that the amount to be refunded under Order No. 99-2007 be adjusted to reflect the use of the company's actual equity ration in calculating Tampa Electric's earnings for 1997 and 1998.

DATED this 4<sup>th</sup> day of November 1999.

Respectfully submitted,



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LEE L. WILLIS  
JAMES D. BEASLEY  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, FL 32302

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

CERTIFICATE OF SERVICE

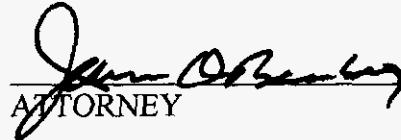
I HEREBY CERTIFY that a true copy of the foregoing Petition, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (\*) on this 4<sup>th</sup> day of November 1999 to the following:

Mr. Robert V. Elias\*  
Staff Counsel  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

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

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

Mr. John W. McWhirter, Jr.  
McWhirter, Reeves, McGlothlin, Davidson,  
Decker, Kaufman, Arnold & Steen, P.A.  
Post Office Box 3350  
Tampa, FL 33601

  
\_\_\_\_\_  
ATTORNEY

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