



STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
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JACK SHREVE
PUBLIC COUNSEL

May 14, 2001

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


RE: Docket No. 950379-EI

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of the Direct Testimony of Hugh Larkin, Jr., for filing in the above referenced docket.

Also enclosed is a 3.5 inch diskette containing the Direct Testimony of Hugh Larkin, Jr., in WordPerfect for Windows 6.1 format. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,


John Roger Howe
Deputy Public Counsel

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Determination of Regulated)
Earnings of Tampa Electric)
Company Pursuant to Stipulations)
for Calendar Years 1995 through)
1999)

Docket No. 950379-EI

DIRECT TESTIMONY OF

HUGH LARKIN, JR.

Respectfully submitted,

Jack Shreve
Public Counsel

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Of the State of Florida

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FPSC-RECORDS/REPORTING

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1 DIRECT TESTIMONY OF HUGH LARKIN, JR.
2 ON BEHALF OF THE CITIZENS OF FLORIDA
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
4 TAMPA ELECTRIC COMPANY
5 DOCKET NO. 950379-EI

6
7 INTRODUCTION

8 Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?

9 A. My name is Hugh Larkin, Jr. I am a Certified Public Accountant licensed in the
10 States of Michigan and Florida and the senior partner in the firm of Larkin &
11 Associates, PLLC, Certified Public Accountants, with offices at 15728
12 Farmington Road, Livonia, Michigan 48154.

13
14 Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES.

15 A. Larkin & Associates, PLLC, is a Certified Public Accounting and Regulatory •
16 Consulting Firm. The firm performs independent regulatory consulting
17 primarily for public service/utility commission staffs and consumer interest
18 groups (public counsels, public advocates, consumer counsels, attorneys general,
19 etc.). Larkin & Associates, PLLC, has extensive experience in the utility
20 regulatory field as expert witnesses in over 400 regulatory proceedings including
21 numerous water and sewer, gas, electric, and telephone utilities.

22

1 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC
2 SERVICE COMMISSION?

3 A. Yes. I have testified before the Florida Public Service Commission on
4 numerous occasions starting in the 1970's. I have also testified before Public
5 Service Commissions in 35 state jurisdictions, the Federal Energy Regulatory
6 Commission and the Canadian National Energy Board.

7

8 Q. BY WHOM WERE YOU RETAINED, AND WHAT IS THE PURPOSE OF
9 YOUR TESTIMONY?

10 A. Larkin & Associates, PLLC, was retained by the Florida Office of Public
11 Counsel (OPC) to analyze the excess earnings of Tampa Electric for the refund
12 period ended December 31, 1999. In addition to the refund amount accruing to
13 ratepayers for 1999, Tampa Electric should also refund the ratepayers interest for
14 the period December 31, 2000 through the date the refunds are made.

15

16 ANALYSIS AND CALCULATION OF REFUND AMOUNT

17 Q. WHAT REFUND AMOUNT HAVE YOU CALCULATED?

18 A. I have determined that a refund for the year ended December 31, 1999, in the
19 amount of \$14,422,776 is appropriate. As previously stated, additional interest
20 for the period through the date the refunds are made should be added to this
21 refund amount.

22 Q. WOULD YOU PLEASE DISCUSS THE CALCULATION OF THE REFUND

1 AMOUNT?

2 A. Revenues were deferred and refunds were made for the years ending December
3 31, 1995, through December 31, 1999, pursuant to a settlement with Staff and
4 two stipulations entered into by Tampa Electric, the Florida Industrial Power
5 Users Group (FIPUG) and the OPC. The Florida Public Service Commission
6 approved the settlement in Order No. PSC-95-0580-FOF-EI and approved the
7 two stipulations in Order Nos. PSC-96-0670-S-EI and PSC-96-1300-S-EI. The
8 deferral of revenues and refunds have been made for all years except 1999.
9 Pursuant to the agreement entered into by the parties to the stipulations, Tampa
10 Electric's earnings exceeding a 12% return on equity for 1999 are to be shared
11 between the Company's customers and the Company using a 60/40 split.
12 Ratepayers of the Company are to receive 60% of the excess of earnings over
13 12% for 1999, plus interest calculated at the 30-day commercial paper rate.

14
15 Q. DID YOU FOLLOW THE SAME METHODOLOGY USED BY THE STAFF
16 IN CALCULATING THE REFUND DUE RETAIL CUSTOMERS OF TAMPA
17 ELECTRIC?

18 A. Yes, I did. I utilized the same methodology that the Staff put forth in its
19 December 7, 2000, recommendation with one exception.

20

21 Q. WHAT WAS THAT ONE EXCEPTION?

22 A. I removed the adjustment that the Company made to 1999 earnings for the

1 \$12,687,671 of interest expense on tax deficiencies.

2

3 Q. WHAT EFFECT DOES THE REMOVAL OF THIS PROPOSED
4 ADJUSTMENT HAVE ON THE REFUND AMOUNT?

5 A. By removing the interest on tax deficiencies from the refund calculation, income
6 is increased by \$7,793,402. After applying the tax gross-up factor of 1.628, the
7 adjustment increases the earnings by an additional \$12,687,658 above the Staff
8 methodology ($\$7,793,402 \times 1.628$).

9

10 Q. HOW DOES THIS AFFECT THE REFUND DUE RETAIL CUSTOMERS?

11 A. Since there is a 60/40 sharing of excess earnings over 12%, 60% of the increase
12 in earnings would be refunded to retail customers. This amounts to \$7,612,595
13 ($60\% \times \$12,687,658$).

14

15 Q. SHOULD INTEREST BE ADDED TO THIS AMOUNT?

16 A. Yes, it should. Interest should be calculated on this balance from January 1,
17 1999, through December 31, 2000, as required by the stipulations. This brings
18 the effect of removing the interest on tax deficiencies adjustment to \$8,320,657
19 at December 31, 2000. To this amount I added the Staff recommended refund
20 amount of \$6,102,119, resulting in a total refund due to retail customers at
21 December 31, 2000, of \$14,422,776. Additional interest should be added to this
22 amount through the actual refund date.

1 Q. PLEASE EXPLAIN WHY YOU REMOVED THE AMOUNT IN THE STAFF
2 RECOMMENDATION RELATED TO INTEREST ON TAX DEFICIENCIES
3 FROM THE INCOME STATEMENT FOR REFUND CALCULATION
4 PURPOSES.

5 A. I was asked to make a calculation of the refund amount based on my
6 understanding of the clear wording of the stipulations involved. While I am not
7 making a legal interpretation of the ramifications of the stipulations, I am able to
8 clearly understand the meaning of the stipulations as they are worded. The first
9 stipulation was entered by the parties on March 25, 1996, and approved by the
10 Commission in Order No. PSC-96-0670-S-EI, issued May 20, 1996.

11

12 Paragraph 10 of that stipulation states:

13 The Company plans to take a position regarding the tax life of its Polk
14 Power Station intended to minimize its revenue requirements and to
15 provide maximum benefits to its customers. The Parties agree that any
16 interest expense that might be incurred as the result of a Polk Power
17 Station related tax deficiency assessment will be considered a prudent
18 expense for ratemaking purposes and will support this position in any
19 proceeding before the FPSC.
20

21 It is clear that the Parties intended that only interest assessed on tax deficiencies
22 related to the Polk Power Station would be included as reductions of operating
23 income for refund purposes. The stipulation does not mention any other tax
24 deficiency on which interest might be assessed by the IRS that should be
25 included for determining net operating income for refund purposes. The

1 stipulation, in my opinion, was designed to limit the adjustments for interest
2 expense on tax deficiency to only those assessments and the related interest
3 which are directly related to the Polk Power Station.
4

5 Q. HAS MS. BACON OR MR. SHARPE IDENTIFIED ANY INTEREST
6 EXPENSE ON TAX DEFICIENCIES WHICH RELATE SPECIFICALLY TO
7 THE POLK POWER STATION?

8 A. To my knowledge, they have not. Although the stipulation clearly sets out the
9 basis for recognizing interest on tax deficiencies, neither witness for Tampa
10 Electric has identified any of the actual or proposed interest expense on tax
11 deficiencies assessed by the IRS as specifically relating to the Polk Power
12 Station. In fact, it appears that they have completely ignored this section of the
13 stipulation in recommending that any and all interest on tax deficiencies be used
14 as a reduction of operating income for refund purposes. It seems clear that this
15 is inappropriate. There would be no reason or basis for including Paragraph 10
16 in the stipulation if, in fact, one could include any and all interest on tax
17 deficiencies as a reduction of operating income. This clearly does not appear to
18 be the intent of the Parties since otherwise it would be unnecessary to include
19 this specific paragraph in the stipulation.
20

21 Q. IS THERE ANY OTHER PARAGRAPH IN THE STIPULATION WHICH, IN
22 YOUR OPINION, EXCLUDES THE USE OF INTEREST ON TAX

1 DEFICIENCIES AS A REDUCTION OF OPERATING INCOME FOR
2 REFUND PURPOSES?

3 A. Yes, there is. Paragraph 11 of the original stipulation states as follows:

4 The calculations of the actual ROE for each calendar year will be on an
5 "FPSC Adjusted Basis" using the appropriate adjustments approved in
6 Tampa Electric's full revenue requirements proceeding. All reasonable
7 and prudent expenses and investment will be allowed in the computation
8 and no annualization or proforma adjustments shall be made.
9

10

11 Q. WHAT IS YOUR INTERPRETATION OF PARAGRAPH 11 OF THE
12 ORIGINAL STIPULATION?

13 A. My interpretation of Paragraph 11 is that the calculation of the return on equity
14 for each year covered by the stipulation will include only those adjustments
15 approved by the Florida Public Service Commission in Tampa Electric's last full
16 revenue requirement proceeding. An examination of Tampa Electric's last rate
17 order does not show any adjustment for interest on tax deficiencies. Even if it
18 did, Paragraph 10 would, in my opinion, have limited the interest on tax
19 deficiencies only to those associated with the Polk Power Station. It is apparent
20 that the stipulation limits the adjustment of operating income for return on equity
21 calculation purposes only to interest assessed on tax deficiencies related to the
22 Polk Power Station. Otherwise, Paragraph 10 would have no meaning or effect,
23 and Paragraph 11 would have no meaning or effect.

24

25 Q. PARAGRAPH 11 STATES, IN PART, "ALL REASONABLE AND

1 PRUDENT EXPENSES AND INVESTMENT WILL BE ALLOWED IN THE
2 COMPUTATION AND NO ANNUALIZATION OR PROFORMA
3 ADJUSTMENTS SHALL BE MADE.” IN YOUR OPINION, DOES THAT
4 SENTENCE HAVE ANY IMPACT ON THE INCLUSION OF INTEREST
5 RELATED TO TAX DEFICIENCY ASSESSMENTS?

6 A. No, it does not. It is my opinion that the meaning of this sentence would allow
7 the inclusion of increases in plant investment and operating and maintenance
8 expenses if they have occurred. These increased levels of expenses of items of
9 the same type and nature should be allowed in the calculation of the return on
10 equity as long as they are reasonable and prudent. This sentence, however, does
11 not allow for the inclusion of an expense which was never before included in the
12 calculation of operating income for ratemaking purposes. The interest on tax
13 deficiencies, which the Company is attempting to include in its calculation of
14 earnings for sharing purposes, is not reasonable and prudent because it was not,
15 and has not been included as an adjustment in Tampa Electric’s last full revenue
16 requirements proceeding. Under the Company’s interpretation, one would have
17 to conduct a complete rate case analysis in order to determine if there were
18 expenses or income items not included for ratemaking purposes in the last
19 revenue requirement proceeding which might appropriately be included or
20 excluded in this proceeding. In my opinion, that was not the purpose or intent of
21 the stipulation or this sentence in the stipulation.

22

1 Q. DID THE STIPULATION ENTERED INTO BY THE PARTIES ON
2 SEPTEMBER 25, 1996, AND APPROVED BY THE COMMISSION IN
3 ORDER NO: PSC-96-1300-S-EI, ISSUED OCTOBER 24, 1996, MODIFY OR
4 CHANGE THE BASIS ON WHICH EARNINGS WERE TO BE
5 CALCULATED FROM THE ORIGINAL STIPULATION?

6 A. In my opinion, it did not. In fact, Paragraph 14 of the second stipulation states:
7 “The first stipulation is hereby ratified and continued except as specifically
8 modified herein.” There were no modifications related to the calculation of
9 earnings. There were modifications related to the return on equity above which
10 the sharing between stockholders and ratepayers would be triggered. However,
11 the basic methodology for calculating earnings on an “FPSC Adjusted Basis”
12 was continued and the recognition of only interest on tax assessments associated
13 with the Polk Power Station remains part of the stipulation. The stipulation
14 required an additional refund of \$25,000,000 and extended the sharing of over-
15 earnings to include the year 1999.

16
17 PURPORTED BENEFITS TO RATEPAYERS AS JUSTIFICATION FOR
18 REDUCING REFUNDS

19 Q. BOTH THE STAFF AND THE COMPANY HAVE ADVANCED A THEORY
20 THAT RATEPAYERS HAVE BENEFITTED BY REDUCED RATES AS A
21 RESULT OF THE TAX POSITIONS TAKEN BY THE COMPANY. WOULD
22 YOU DISCUSS THAT PURPORTED BENEFIT?

1 A. The Commission's Order in the Company's last rate case, Docket No. 920324-
2 EI, clearly shows that this argument is fallacious. The driving factor in setting
3 rates in that docket was not the capital structure, the return on equity or the
4 operating income of the Company. The Commission, in that decision, used a
5 targeted interest coverage ratio in order to adjust rates to a level which would
6 provide the Company a before-tax operating income, which would be 3.75 times
7 interest expense. This is evident from the Commission's decision on page 32 of
8 Order No. PSC-93-0165-FOF-EI, which states as follows:

9 TECO's witness Mr. Abrams, who is employed by the Duff & Phelps
10 rating agency, testifies that a 4.0 times interest coverage is appropriate
11 for a AA-rated electric utility. Standard and Poor's, another rating
12 agency, indicates that interest coverage for a AA-rated electric utility
13 should be above 3.5 times. We believe the Company should be allowed
14 enough CWIP in rate base to maintain an interest coverage of
15 approximately 3.75 times. Therefore, in 1993, we allow only the
16 \$18,793,000 of CWIP ineligible for AFUDC in rate base. We have
17 calculated, on a jurisdictional basis, that eliminating the remaining CWIP
18 in 1993 will allow Tampa Electric a 4.16 times interest coverage.

19
20 In 1994, we allow \$48,017,000 of CWIP in rate base. Disallowing the
21 remaining CWIP in 1994 will jurisdictionally allow Tampa Electric a
22 3.75 times interest coverage. Mr. Abrams testifies that Tampa Electric
23 will be in the peak year of its construction program in 1994. Based on
24 this testimony, we believe that if Tampa Electric does not fall below the
25 interest coverage standard for a AA-rated electric utility in the critical
26 year of 1994, the financial pressure on the company caused by the
27 construction program will begin to moderate.

28
29 As can be seen from this discussion, the Commission picked the midpoint of a
30 times interest coverage ratio between a witness who recommended 4.0 times
31 interest coverage and a Standard and Poor's recommendation of 3.5 times

1 interest coverage. This midpoint of 3.75 times interest coverage ratio was the
2 driving factor which determined how large the increase in rates authorized by the
3 Commission would be. If the Commission had adopted the 3.5 times interest
4 coverage ratio, there would have been less or no increase in rates authorized
5 under that Order. If the Commission had adopted a 4.0 times interest coverage
6 ratio, then the rate increase authorized would have been larger. The
7 Commission adjusted the amount of Construction Work in Progress (CWIP)
8 allowed in the rate base to achieve its desired interest coverage ratios. The
9 underlying factor which determined the level of rate increase was the interest
10 coverage ratio and not any other specific component of the Commission's Order.
11 It certainly was not the amount of deferred taxes in the capital structure.

12
13 The Commission determined that its concern for the financial integrity of Tampa
14 Electric and its ability to maintain a AA-rating should be the basis on which the
15 level of revenue would be determined. Clearly, if the Commission had
16 established rates without including CWIP in the rate base, and thereby
17 attempting to maintain a 3.75 times interest coverage ratio, the level of revenues
18 would have been less or even a rate reduction. To now say that one component
19 of the capital structure had the effect of decreasing ratepayers rates in the
20 Commission's Order in Docket No. 920324-EI, when it is clear that the
21 Commission adjusted rates to achieve an interest coverage ratio, is inaccurate.
22 Rates were not established to meet the traditional requirements of the overall

1 rate of return, but were established to meet the times interest coverage ratio.

2

3 Q. DID THE RATES ESTABLISHED IN DOCKET NO. 920324-EI RESULT IN
4 TAMPA ELECTRIC EARNING WITHIN THE RETURN ON EQUITY
5 RANGE ESTABLISHED BY THE COMMISSION?

6 A. No, it did not. It became apparent in 1995 that the Company would substantially
7 overearn in 1995 and 1996. The Company was ordered to defer revenues, in part,
8 with interest. Tampa Electric's 1995 revenues were deferred on the basis of
9 50% of earning over an 11.75% return on equity and 100% over a net return on
10 equity of 12.75%. The Company deferred \$50,517,063 of 1995 revenues to
11 1997.

12

13 The Commission's Order No. PSC-93-0165-FOF-EI in Docket No. 950379-EI
14 states, in part: "For 1996, TECO's own projections indicate that substantial
15 overearnings were likely." The Company deferred revenues of \$37,081,064
16 from 1996 to 1997. Part of this deferral, \$15 million, was included in the \$25
17 million refunded over the period October, 1996, through September, 1997.

18

19 Q. WHAT RELEVANCE DOES THE LEVEL OF RATES SET IN DOCKET NO.
20 920324-EI HAVE TO THE STAFF'S AND THE COMPANY'S USE OF A
21 COST-BENEFIT ANALYSIS TO JUSTIFY THE INCLUSION OF INTEREST
22 ON TAX DEFICIENCY ASSESSMENTS IN THE REFUND

1 CALCULATION?

2 A. Both the Staff and the Company are, in essence, arguing that the ratepayers
3 received a break because of tax positions taken by the Company, which they
4 claim were incorporated in the rates authorized in Docket No. 920324-EI. In
5 essence, the Staff and the Company are saying that, if the Company had taken
6 different tax positions, rates would in effect have been higher than they currently
7 are. The Company has deferred revenues and/or made refunds to ratepayers in
8 1995, 1996, 1997 and 1998. The Company was able to retain a substantial part
9 of the overearnings for stockholders during the period from 1995 to 1998.
10 Clearly, rates were established at an excess level in Docket No. 920324-EI. It is
11 disingenuous for the Company and Staff to argue that ratepayers received some
12 kind of benefit because they were not over-charged even more in the periods
13 subsequent to the Company's last rate case, because of tax positions taken by the
14 Company.

15

16 CONCEPTUAL BASIS OF COST-BENEFIT ANALYSIS IS FLAWED

17 Q. DO YOU BELIEVE THAT THE CONCEPTUAL BASIS OF THE
18 COMPANY'S COST-BENEFIT ANALYSIS IS FLAWED?

19 A. Yes, I do.

20

21 Q. HOW IS THAT SO?

22 A. The Company's so-called Cost-Benefit Analysis assumes that a benefit flowed to

1 ratepayers from the deferral of revenues pursuant to the stipulations. The
2 assumption made by the Company is that all these deferrals benefitted the
3 ratepayers, which is not the case. In fact, the deferral of the revenue was
4 designed to maintain the Company's earnings at up to a 12.75% return on equity
5 in 1997. The Company's cost/benefit analysis assumes that the deferral of
6 revenues was to flow to the benefit of the ratepayers and, therefore, should be
7 counted in the Cost-Benefit Analysis as a customer benefit. However, the
8 stipulations required that the deferred revenue would be set aside and utilized by
9 the Company in 1997 to maintain its return on equity at up to 12.75%. This
10 obviously cannot be counted as a benefit received by ratepayers as the benefit
11 actually flowed to the stockholders.

12

13 Q. HOW WERE EXCESS EARNINGS TREATED IN 1997?

14 A. Any excess earnings over 11.75% was split 60/40 with the 40% allocated to
15 stockholders being counted as earnings in 1997. The remaining 60% was
16 deferred into 1998. The Company recorded \$27,056,807 of the deferred
17 revenues in 1997. An additional amount of \$34,069,010 was recorded in 1998.
18 Pursuant to the stipulation, refunds were made to ratepayers over a 12-month
19 period starting in October 1996. According to the Company, these refunds
20 totaled \$25,737,978. The net balance of the deferral, therefore, is \$734,332.
21 This amount is calculated as follows:

1	1995 Revenue Deferral per Order No. PSC-97-0436-FOF-EI	\$50,517,063
2	1996 Revenue Deferral per Order No. PSC-99-0683-FOF-EI	37,081,064
3	1996-1997 Refund	(25,737,978)
4	1997 Revenue Reversal per Order No. PSC-99-1940-PAA-EI	(27,056,807)
5	1998 Revenue Reversal per Order No. PSC-99-2007-PAA-EI	(34,069,010)
6	Balance of Deferred Revenue for Customer Refunds	<u>\$ 734,332</u>
7		

8 Thus, the excess revenue paid by ratepayers primarily went to the benefit of the
9 Company's stockholders.

10

11 Q. DID THE RATEPAYERS RECEIVE AN ADDITIONAL REFUND OF
12 APPROXIMATELY \$13 MILLION FOR 1998?

13 A. Yes, they did. This refund was composed primarily of interest which the
14 ratepayers had paid.

15

16 Q. HOW DID THE RATEPAYERS PAY THE INTEREST WHICH WAS
17 INCLUDED IN THE REFUND?

18 A. The Florida Public Service Commission included the deferred revenue in the
19 capital structure at a cost rate of the 30-day commercial paper rate. This, in
20 effect, charges the ratepayer for the carrying cost of the deferred revenues
21 because earnings are reduced by the weighted cost of the deferred revenue
22 included in the capital structure. So the refund to ratepayers is really the
23 carrying cost of the deferred revenues which in essence has already been paid for
24 by ratepayers.

25

1 In summary, the Company's cost/benefit analysis concludes that ratepayers first
2 of all benefitted from deferred revenues that essentially went to stockholders and
3 that ratepayers benefitted because rates set in the prior rate case could have been
4 more excessive than they were and overcharged the ratepayer even more than
5 they did. Obviously, this is a convoluted conclusion since deferring revenues
6 that essentially went to stockholders and not overcharging ratepayers more
7 cannot be considered as benefits to ratepayers.

8
9 RETRO-ACTIVE RATEMAKING

10 Q. DOES THE USE OF A COST-BENEFIT ANALYSIS BASED ON ISSUES
11 DECIDED IN A RATE ORDER ISSUED FEBRUARY 2, 1993, TO OFFSET A
12 REFUND BASED ON A 1999 OVEREARNINGS CALCULATION HAVE
13 RETRO-ACTIVE RATEMAKING IMPLICATIONS?

14 A. In my opinion, it does. The Company and the Staff are, in effect, stating that
15 ratepayers received lower rates in the years 1993 through 1999 because of tax
16 positions taken by the Company, which were incorporated within the test period
17 upon which rates were based in Docket No. 920324-EI. Due to the fact that
18 rates were lower in those years, according to the Cost-Benefit Analysis,
19 ratepayers should be willing to accept a lower refund based on 1999
20 overearnings, because the overcharges that they paid in 1993 through 1999 were
21 less than they could have been. This does not seem to be a reasonable basis for
22 the Commission to determine refunds to ratepayers when it is clear that rates

1 were overstated in the Company's last base rate case decided in 1993. If the
2 Commission had not included any CWIP in the Company's rate base, or had
3 decided that 3.5 times interest coverage ratio was appropriate rather than a 3.75
4 times interest coverage ratio, then the level of rates would have obviously been
5 lower. If one were to argue that the difference between 3.75 and 3.50 interest
6 coverage ratio was a benefit that the Company received, which should be
7 considered in a Cost-Benefit Analysis, the end result would show that the
8 ratepayers provided funds to the Company which were not necessary to maintain
9 its authorized return on equity. Obviously the interest coverage ratio which the
10 Commission picked was a matter of judgment which the Commission thought
11 was appropriate in establishing rates. The same is also true with the capital
12 structure. The level of deferred taxes and other components in the capital
13 structure were projections and were analyzed and based upon the Commission's
14 best judgment at that time. To now take one component of that capital structure
15 and argue that it benefitted the ratepayer to the extent that the ratepayers refund
16 should be reduced while at the same time acknowledging that the Company has
17 overearned since those rates were established in my opinion is retro-active
18 ratemaking.

19
20 OTHER ADJUSTMENTS MADE BY THE COMMISSION DO NOT
21 JUSTIFY THE INCLUSION OF INTEREST ON TAX DEFICIENCIES

22 Q. MS. BACON, IN HER TESTIMONY, CLAIMS THAT CERTAIN

1 ADJUSTMENTS MADE BY THE COMMISSION ARE NOT APPROPRIATE
2 BECAUSE, "NONE OF THESE ADJUSTMENTS WERE SPECIFIED IN THE
3 STIPULATIONS NOR INCLUDED AS ADJUSTMENTS IN THE LAST
4 PROCEEDING, BUT HAVE BEEN MADE BY THE COMMISSION BASED
5 UPON A 'REASONABLE AND PRUDENT' CRITERIA." WOULD YOU
6 PLEASE COMMENT?

7 A. If the Company, in fact, felt that these adjustments were inappropriate and did
8 not fall within the stipulation, or were not adjustments made in the last rate
9 proceeding, then it could have protested the Commission's decision. It should
10 not be allowed to now raise these issues as justification for including interest on
11 tax deficiencies as a reduction to the rate refund. For Ms. Bacon to now state
12 "...then all adjustments made by the Commission to date that were not
13 contemplated in the stipulation would not be allowed and should be removed."
14 would, in my opinion, circumvent the nature of this proceeding. If the OPC had
15 not raised the interest on tax deficiency as an issue in its protest, obviously there
16 would be no hearing even on that issue. If, in fact, as Ms. Bacon states that these
17 items were not in the stipulation nor in the last rate proceeding, it is
18 inappropriate for the Company to now attempt to raise those issues in this
19 proceeding.

20
21 EFFECT OF EXCLUDING INTEREST ON TAX DEFICIENCIES FROM
22 REFUND CALCULATION

1 Q. MR. SHARPE, IN HIS TESTIMONY, IMPLIED THAT THE TAX
2 POSITIONS TAKEN BY TAMPA ELECTRIC WERE FOR THE BENEFIT OF
3 THE RATEPAYERS, DO YOU AGREE WITH THAT CONCLUSION?

4 A. No, I do not. The tax positions taken by Tampa Electric on its returns filed with
5 the IRS are designed to maximize the Company's cash flow for the benefit of
6 stockholders. In other words, Tampa Electric does not file a tax return through
7 its parent TECO with the thought in mind that it would benefit ratepayers. The
8 positions taken by the Company on its tax return are done so to limit its tax
9 liability. Rates are not established every time the Company files a tax return.
10 Therefore, the tax benefits of any position taken on a tax return flow to the
11 stockholders and are only reflected in rates if a rate case were filed in that given
12 year. For instance, Tampa Electric's rates were adjusted in the mid-1980s. Any
13 so-called "aggressive" tax position taken after rates were established in that rate
14 case would flow to the benefit of the stockholders. Unless the same deduction
15 were available when rates were established in the next rate case, which was filed
16 in 1992 with rates being implemented in February 1993, any deduction taken
17 and the cash flow benefit would flow to the stockholders because rates were
18 established on the revenues, expenses and tax deductions implicit in the rate case
19 in the mid-1980s. Tax positions taken by a company are taken not with a view
20 in mind of benefitting ratepayers, but with the view in mind of benefitting
21 stockholders.
22

1 Q. DOES THAT CONCLUDE YOUR TESTIMONY?

2 A. Yes, it does.

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

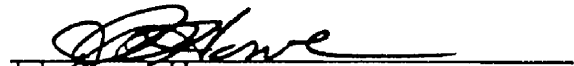
I HEREBY certify that a copy of the foregoing DIRECT TESTIMONY OF HUGH LARKIN, JR. has been served by *hand delivery or U.S. Mail to the following parties of record on this 14th day of May, 2001.

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