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June 8, 2001

HAND DELIVERED

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

Re: Determination of regulated earnings of Tampa Electric Company pursuant to stipulations for calendar years 1995 through 1999; FPSC Docket No. 950379-EI

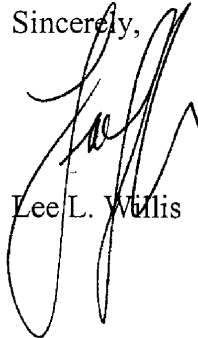
Dear Ms. Bayo:

Enclosed for filing in the above docket, on behalf of Tampa Electric Company, are the original and fifteen (15) copies of Rebuttal Testimony of Delaine M. Bacon.

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,



Lee L. Willis

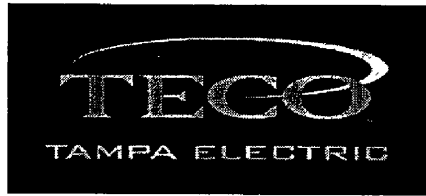
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Enclosures

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

DOCUMENT NUMBER-DATE

07134 JUN-80

FPSC-RECORDS AND REPORTING



BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION  
DOCKET NO. 950379-EI  
IN RE: DETERMINATION OF REGULATED  
EARNINGS OF TAMPA ELECTRIC COMPANY PURSUANT  
TO STIPULATIONS FOR CALENDAR YEARS  
1995 THROUGH 1999  
REBUTTAL TESTIMONY  
OF  
DELAINE M. BACON

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY

OF

DELAINÉ M. BACON

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5  
6 Q. Please state your name, address, occupation and employer.

7  
8 A. My name is DeLaine M. Bacon. My business address is 702  
9 North Franklin Street, Tampa, Florida, 33602. I am the  
10 Director, Financial and Strategic Analysis for TECO  
11 Energy, Tampa Electric Company's ("Tampa Electric" or  
12 "company") parent.

13  
14 Q. Are you the same DeLaine M. Bacon who filed direct  
15 testimony in this docket related to the tax deficiency  
16 interest expense recorded in 1999?

17  
18 A. Yes I am.

19  
20 Q. What is the purpose of your rebuttal testimony?

21  
22 A. The purpose of my rebuttal testimony is to respond to the  
23 direct testimony of the Office of Public Counsel's  
24 ("OPC") witness Hugh Larkin, Jr. I will first explain  
25 how witness Larkin has misrepresented the language of the

1 Stipulation. Just as OPC did in its petition protesting  
2 the Florida Public Service Commission's ("Commission")  
3 decision regarding the amount of refund from 1999,  
4 witness Larkin must add or alter wording in the  
5 Stipulation to make his case. Next, I will point out how  
6 witness Larkin distorts the Commission's 1992 rate case  
7 decision for Tampa Electric to incorrectly interpret the  
8 application and results of the cost/benefit analysis. As  
9 a result, witness Larkin misstates the customer benefits  
10 from the deferred revenue plan. Finally, I will address  
11 witness Larkin's inconsistencies in interpreting  
12 adjustments made by the Commission under the deferred  
13 revenue plan.

14  
15 **Stipulation Language**

16 Q. How has witness Larkin added or altered wording in the  
17 Stipulation to make his case?

18  
19 A. In several instances, witness Larkin, while explaining  
20 provisions in the Stipulation, changed or added wording  
21 to the language of the Stipulation. On page 5, line 15-  
22 19 of witness Larkin's direct testimony, he quotes  
23 paragraph 10 of the Stipulation.

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The Parties agree that any interest expense that might be incurred as the result of a Polk Power Station related tax deficiency assessment will be considered a prudent expense for ratemaking purposes and will support this position in any proceeding before the FPSC.

Witness Larkin explains that it is clear that the parties intended that only interest assessed on tax deficiencies related to the Polk Power Station would be included as reductions of operating income for refund purposes. If, however, the parties had intended for the Stipulation to limit all other tax deficiencies, the sentence would have read, "the Parties agree that only interest expense..." rather than "the Parties agree that any interest expense...."

On page 7, lines 4-6 of witness Larkin's testimony, he quotes the first sentence of paragraph 11 in the Stipulation.

The calculations of the actual ROE for each calendar year will be on an "FPSC Adjusted Basis" using the appropriate adjustments approved in Tampa Electric's full revenue

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requirements proceeding.

Witness Larkin concludes that the calculation of the return on equity for each year covered by the Stipulation includes only those adjustments approved by the Commission in Tampa Electric's last full revenue requirements proceeding. Again, this sentence in the Stipulation does not contain the word "only." If the parties had intended for the Stipulation to limit adjustments of operating income to those approved in Tampa Electric's last rate proceeding, the language would have reflected that intention.

On page 8, lines 1-3 of witness Larkin's testimony, he references the second sentence of paragraph 11.

All reasonable and prudent expenses and investment will be allowed in the computation and no annualization or proforma adjustments shall be made.

He concludes that the meaning of this sentence allows for the inclusion of increases in plant investment and operating and maintenance ("O&M") expenses. This sentence in paragraph 11 does not contain the words

1 "operating and maintenance." If the parties had intended  
2 this sentence of the Stipulation to limit allowed  
3 increases in expenses to only O&M expenses, the sentence  
4 would have stated that "all reasonable and prudent  
5 operating and maintenance expenses and investment will be  
6 allowed."

7  
8 It is also clear that OPC's misrepresentations of the  
9 Stipulations discussed above are inconsistent with how  
10 the Commission interpreted the Stipulations in prior  
11 deferred revenue years. If the Commission had applied  
12 the interpretations now being asserted by OPC, it would  
13 not have made certain adjustments that it did in other  
14 deferred revenue years, such as the adjustments to the  
15 equity ratio, short-term debt and deferred revenues in  
16 the capital structure.

17  
18 **Q.** Do you disagree with any other interpretations of the  
19 Stipulation made by witness Larkin?

20  
21 **A.** Yes. I disagree with two other interpretations he makes.  
22 First, he concludes on page 6, lines 15-17 of his direct  
23 testimony that there would have been no reason or basis  
24 for including paragraph 10 in the Stipulation if, in  
25 fact, one could include any and all interest on tax

1 deficiencies as a reduction of operating income.

2  
3 The Stipulation does not allow for any and all tax  
4 deficiency interest. The Stipulation allows for all  
5 reasonable and prudent expenses, which would include  
6 prudent tax deficiency interest expense. Also, it is  
7 inaccurate to say that paragraph 10 loses its basis or  
8 reasoning if other tax deficiency interest is allowed.  
9 The purpose of paragraph 10 is to document an agreement  
10 among the parties to support recovery should the Polk  
11 Power Station tax life position be questioned by the IRS  
12 at a future date.

13  
14 Secondly, I disagree with witness Larkin's statement on  
15 page 8, lines 10-12 of his testimony. He states that  
16 paragraph 11 does not allow for the inclusion of an  
17 expense which was never before included in the  
18 calculation of operating income for ratemaking purposes.  
19 Paragraph 11 does not limit allowed expenses to those  
20 costs included in the last rate case. The second  
21 sentence of paragraph 11 states that all reasonable and  
22 prudent expenses and investment will be allowed. Again,  
23 this is consistent with other adjustments made for  
24 calculating the amount of deferred revenues and refunds.



1 Cost/Benefit Analysis

2 Q. Has witness Larkin misinterpreted the cost/benefit  
3 analysis?

4  
5 A. Yes. He has misapplied the cost-benefit analysis in two  
6 respects; he misconstrued benefits associated with the  
7 last rate proceeding and he has misinterpreted the effect  
8 of using a cost-benefit analysis as a tool to determine  
9 the prudence of an expense incurred in the relevant year.

10  
11 Q. How has witness Larkin misconstrued the Commission's 1992  
12 rate proceeding decision?

13  
14 A. Witness Larkin states, "clearly, rates were established  
15 at an excess level in Docket No. 920324-EI." This is not  
16 true. Rates were established based upon costs incurred  
17 at the time of the 1992 proceeding. Subsequent to the  
18 rate proceeding, Tampa Electric initiated a corporate  
19 restructuring in late 1994 and instigated stringent cost  
20 control efforts which resulted in a 1995 projected return  
21 on equity ("ROE") in excess of 12.75 percent. As a  
22 result, Tampa Electric's cost control efforts led to the  
23 deferred revenue plan that has provided customers with  
24 \$63 million of refunds thus far, along with other  
25 benefits. It is erroneous to state that permanent rates

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were established at an excess level.

**Q.** Witness Larkin suggests that customers have been overcharged subsequent to the company's last rate case and Tampa Electric has been able to retain a substantial part of overearnings for stockholders from 1995 through 1998. Do you agree?

**A.** No, his assertion is incorrect. In no year did Tampa Electric retain earnings above the top of its ROE range. In fact, as a part of its Stipulations with OPC and the Florida Industrial Power Users Group ("FIPUG"), Tampa Electric has been deferring and sharing 60 percent of all earnings in excess of 11.75 percent, the company's ROE midpoint.

**Q.** Witness Larkin states on page 14, lines 5-7 that "the company's cost-benefit analysis assumes that the deferral of revenues was to flow to the benefit of ratepayers and, therefore, should be counted in the cost-benefit analysis as a customer benefit." Is witness Larkin correct in this statement?

1     **A.**    No.    Witness Larkin has not correctly interpreted the  
2            application of the cost/benefit analysis for the deferred  
3            revenue period.  The deferral of revenues did flow to the  
4            benefit of the ratepayers, but the cost/benefit analysis  
5            is not computing additional deferred revenues.  The  
6            analysis demonstrates that if deferred tax balances had  
7            been less, deferred revenues would have been less.

8

9     **Q.**    Is witness Larkin correct in his arguments that the rate  
10            case cannot be included in the cost-benefit analysis  
11            because of the 3.75 times interest coverage target?

12

13     **A.**    No, he is not.  Witness Larkin states that no benefits  
14            can be derived from deferring taxes in the last rate case  
15            because if there had been less deferred taxes, the  
16            Commission would have adjusted the allowed Construction  
17            Work In Progress ("CWIP") in rate base to retarget the  
18            3.75 interest coverage.

19

20            First, Witness Larkin has misunderstood the 1993 test  
21            year.  The Commission did not approve any CWIP in the  
22            1993 rate base that was eligible for Allowance for Funds  
23            Used During Construction ("AFUDC").  In other words, the  
24            \$18.8 million of CWIP included in rate base for 1993 was  
25            short-term CWIP that was not the type of CWIP that the

1 Commission was granting to retain the 3.75 times interest  
2 coverage ratio. In fact, the interest coverage resulting  
3 from the Commission's approval of rates for 1993 was 4.16  
4 times interest coverage.

5  
6 It also does not matter if CWIP would have been adjusted  
7 in the 1994 test year. Real benefits were included in  
8 the revenue requirements from the last rate case because  
9 of the deferred taxes associated with Tampa Electric's  
10 tax positions. Because CWIP may have been re-adjusted  
11 does not take away from this fact. Ignoring or not  
12 recognizing the efforts of the company could lead to  
13 flawed decision making.

14  
15 Furthermore, witness Larkin neglected to consider that  
16 the \$36.2 million of CWIP in the 1994 test year rate base  
17 is now a threshold that is being used before the company  
18 can earn AFUDC on its current capital projects. This  
19 benefits customers' rates because less AFUDC is being  
20 charged to customers on significant capital projects.

21  
22 Finally, even if the 1994 test year were ignored and only  
23 the 1993 test year and the 1995 to 1999 deferred revenue  
24 benefits were examined in the cost-benefit analysis,  
25 customers have been provided a \$8.5 million nominal

1 benefit due to the company's tax positions. Further, as  
2 I explained on page 8 of my direct testimony, \$6.8  
3 million of net benefits result from the cost-benefit  
4 analysis even if all of the rate case benefits are  
5 ignored.

6  
7 **Q.** Can the Commission use tools other than the cost-benefit  
8 analysis to consider the fair treatment of tax deficiency  
9 interest expense?

10  
11 **A.** Yes. A cost-benefit analysis is only one of many tools  
12 used by the Commission to contemplate prudence of an  
13 expense. For example, if the Commission generally  
14 believes that aggressive tax positions are in the best  
15 interest of the utilities and ratepayers, it can use  
16 logic and reasoning in addition to a quantitative  
17 analysis in determining that the tax deficiency interest  
18 should be allowed. This type of judgment is used by the  
19 Commission for a majority of its decisions.

20  
21 **Q.** Could you please address witness Larkin's retroactive  
22 ratemaking arguments on pages 16 and 17 of his testimony?

23  
24 **A.** Yes. Witness Larkin is completely incorrect in his  
25 suggestion that the cost/benefit analysis is being used

1 to offset refunds from 1999. As I explained in my direct  
2 testimony, the cost-benefit analysis demonstrates that  
3 the benefits of Tampa Electric's tax positions far  
4 outweigh the tax deficiency interest expense. The  
5 analysis is only being used to show the reasonableness of  
6 incurring the interest expense in the period under  
7 review. There is a considerable difference between  
8 employing a cost/benefit analysis to ensure prudence of  
9 an expense and asking for the proven benefits from the  
10 analysis to be given back to the company. Tampa Electric  
11 is not doing this.

12  
13 **Commission Adjustments and Customer Benefits**

14 Q. Please address witness Larkin's discussion on page 18 of  
15 his testimony regarding other adjustments made by the  
16 Commission in this docket.

17  
18 A. Witness Larkin asserts that Tampa Electric cannot raise  
19 other issues in this proceeding because the company has  
20 not disputed these issues for the other deferred revenue  
21 years. Tampa Electric raised these issues, however, only  
22 to demonstrate that OPC's positions are inconsistent with  
23 past Commission decisions under the Stipulations. OPC  
24 has supported these Commission decisions for each year  
25 under the deferred revenue plan. This support was based

1 upon reasoning that is completely at odds with OPC's  
2 arguments in this proceeding.

3  
4 It is clearly inappropriate for OPC to oppose an  
5 adjustment that is beneficial to the company, while  
6 accepting adjustments that are detrimental. The  
7 Commission's Order protested by OPC provided historically  
8 consistent treatment for all adjustments made in 1999.  
9 OPC seeks contradictory treatment while the Commission  
10 has applied its adjustments consistently.

11  
12 **Q.** Witness Larkin states on page 15, lines 8-9 of his  
13 testimony that "the excess revenue paid by ratepayers  
14 primarily went to the benefit of the company's  
15 stockholders." Could you please comment on this  
16 statement?

17  
18 **A.** Yes. Witness Larkin grossly underestimates the customer  
19 benefits provided from the deferred revenue plan by  
20 asserting that customers only received \$734,332 of  
21 benefit from deferred revenues. He ignores the initial  
22 \$26 million refund, the \$25 million temporary base rate  
23 reduction, the \$50 million of savings to customers from  
24 collapsing the Oil Backout Clause, and the \$6.1 million  
25 refund already acknowledged by the Commission from 1999

1 earnings. The total benefits, including the \$13 million  
2 refund from 1998, are about \$120 million, a far cry from  
3 witness Larkin's suggested benefits to customers.  
4

5 **Q.** On page 19 of his testimony, Witness Larkin questions  
6 whether the tax positions taken by Tampa Electric were  
7 for the benefit of ratepayers or shareholders. Could you  
8 please respond?  
9

10 **A.** Yes. Witness Larkin states that "tax benefits of any  
11 position taken on a tax return flow to the stockholders  
12 and are only reflected in rates if a rate case were filed  
13 in that given year." Witness Larkin's statement is  
14 unreasonable and misleading. Delaying tax payments  
15 provides additional cash flows that reduce the company's  
16 cost of capital and benefit its customers at all times.  
17 For example, a rate case reflects much more than the tax  
18 positions taken in the year of the rate proceeding. Most  
19 of the deferred income taxes resulting from Tampa  
20 Electric's tax return positions prior to the year of its  
21 last rate proceeding also reduced the rate case cost of  
22 capital.  
23

24 Also, since its last rate case, Tampa Electric has been  
25 under a deferred revenue plan that has provided refunds



1 contingent upon the company's earnings from 1995 through  
2 1999. As recognized in the cost/benefit analysis, the  
3 1998 and 1999 refunds would have been much less but for  
4 the reduced cost of capital resulting from the deferred  
5 taxes associated with tax positions taken by the company.

6

7 Q. Please summarize your rebuttal testimony.

8

9 A. In my rebuttal testimony, I have pointed out the  
10 shortcomings in witness Larkin's testimony. His  
11 testimony distorts the plain language of the  
12 Stipulations. He also has attempted to discount the  
13 Commission's decisions in Tampa Electric's last rate case  
14 rather than recognize the company's efforts to lower  
15 costs.

16

17 I have explained the meaning of the results of the  
18 cost/benefit analysis, which differ from witness Larkin's  
19 interpretation, and how a cost/benefit analysis does not  
20 equate to retroactive ratemaking as long as the benefits  
21 over and above the tax deficiency interest are not taken  
22 from customers.

23

24 I demonstrated the appropriate overall customer benefits  
25 from the deferred revenue plan, which includes \$120

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million in lower rates. I then explain why re-  
contemplating other adjustments used in determining  
refunds highlights the inconsistency in OPC's positions  
for removing tax deficiency interest. Finally, I refute  
witness Larkin's suggestion that customers have not and  
do not receive any benefits from Tampa Electric's tax  
positions in years that there are no rate cases.

**Q.** Does this conclude your testimony?

**A.** Yes, it does.