

State of Florida

ORIGINAL



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: July 30, 2003
TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director
FROM: Division of Economic Regulation (McNulty) *UBM*
RE: ~~Docket No.~~ 0300001-EI

Please place the attached letter addressed to Governor Bush in the above docket. Thanks.

BM:kb

*POF TAKEN OFFLINE ON 8/1/03
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July 25, 2003

The Honorable Jeb Bush
Governor
PL 05 The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

From:
Jim Devlin

Governor:

As you may be aware, a situation is currently developing involving Tampa Electric Company and the Florida Public Service Commission, the ramifications of which will be immediate and important to the people of Florida. I continue to monitor this situation from a strategic position, communicating with reporters and public officials anonymously in the hope that neither ratepayers nor Tampa Electric is hurt by bad decision-making and failed leadership.

Allow me to set the stage. Tampa Electric is in dire financial trouble, as reported many times in the *St. Petersburg Times* and *Tampa Tribune*, as recently as July 24, 2003. The company recorded a \$100 million loss in the 2nd Quarter of 2003, partly due to bad investments in new wholesale power ventures. To combat these financial troubles, Tampa Electric is attempting to sell non-core assets. However, the company has had to halt the sale of one of these assets, one of its most valuable assets, the Synthetic Fuels Program, because of investigations by the IRS. Because of this investigation, Tampa Electric is running out of things to sell.

Now, Governor, Tampa Electric is trying to sell other assets such as TECo Transport, a subsidiary that ships in the Gulf region, and TECo Transfer, a subsidiary based in Davant, Louisiana, that stores and loads ocean-going freight. The problem is that, at market value, TECo Transport is not worth enough to bail out Tampa Electric. Therefore, to add value to TECo Transport, Tampa Electric is attempting to enter into long-term contracts with the very company it is trying to sale.

The company's executives have their backs against the wall, and I am of the opinion that they will attempt almost anything to get out of the mess they've caused. We've seen what other executives around the country have done when faced with possible bankruptcy. Even in the face of criticism from PSC members, whom you appointed, Tampa Electric executives are charging ahead with the sale.

The PSC, along with others in the industry, has raised objections about potential long-term contracts with TECo Transport. First of all, Tampa Electric requires subcontractors to ship materials through the Davant, Louisiana, port facility it owns, even when there are much quicker, cost-effective routes. In fact, Tampa Electric's most recent Request for Bids for coal shipment stipulated that all shipments must go through Davant, Louisiana. The only reason for such a stipulation is to profit Tampa Electric.

Here's an example of how absurd that is. Records show that in 2002, Tampa Electric required a shipment of 290,000 tons of coal from the Paso Diablo mine in Venezuela to cross the Gulf of Mexico to Davant - bypassing Tampa - just so the company could ship

the coal back across the Gulf using TECo Transport barges. I hope you agree with me that such a route is absurd and unjustified. It is blatant corporate incest.

Meanwhile, nearby companies such as Lakeland Electric are shipping directly to Tampa without the added cost of a pit-stop in Louisiana. To make matters worse, documents show that the trip from Davant, Louisiana, to Tampa costs Tampa Electric almost \$14 per ton of coal, nearly triple what other companies pay for similar shipments.

Second, the PSC and TECo Transport's competitors have argued that Tampa Electric designed the bid in a way that only TECo Transport could be the winner. The PSC's objections are well documented in the press and regulators appear to have drawn a line in the sand. Tampa Electric, though, has disregarded these objections and has every intention of signing long-term contracts with TECo Transport in August.

The question is: Why should executives at Tampa Electric care? By selling TECo Transport at an inflated cost, they are able to solve their short-term cash problem. What's more, the consequences of such a sale become the problem either of the company's shareholders or the company's ratepayers. Governor, wouldn't it be better if the PSC worked to obviate this sale before ratepayers bills go up or Tampa Electric's shareholders see yet another decline in stock prices?

Governor, it is clear to all involved that Tampa Electric is thumbing its nose at the PSC's valid questions into whether long-term contracts with TECo Transport are ethical and prudent. I do not accept the notion that the PSC has no authority to stop a regulated company from harming ratepayers or shareholders [*See note*]. If the PSC and the governor who appoints them cannot stop this, we have a system that is badly in need of repair.

The executive branch cannot "unknow" this information, and neither can the Florida PSC. I understand that you and the PSC have limited power to stop businesses from entering into contracts, but the PSC has every right to refuse recovery of additional costs associated with inflated contracts. If the PSC allows recovery of such contracts, even after it made clear to Tampa Electric that its bid process was flawed at best, then I am certain FERC will conduct an investigation of this matter.

If FERC is compelled to investigate this matter, and it very well may be, neither you nor the Florida PSC will escape scrutiny, unless you act swiftly and decisively given the information you now know. The reporters copied below have documents that substantiate all the claims I make in this letter.

Cc:

Federal Energy Regulatory Commission
Comm. Lila Jaber, Florida PSC
Comm. Rudy Bradley, Florida PSC
Comm. J. Terry Deason, Florida PSC
Comm. Braulio Baez, Florida PSC
Comm. Charles Davidson, Florida PSC

Mr. Tim Devlin, Florida PSC
Robert Vandiver, Off. of Public Counsel
Chief Inspector General Derry Harper
Mr. Louis Hau, *The St. Petersburg Times*
Mr. Will Rodgers, *The Tampa Tribune*
John McWhirter, Esq., FIPUG

Note:

Beginning in early August, this situation will come to a head. In a nutshell, if the PSC does not take action to halt Tampa Electric's sale of its subsidiary, TECo Transport, one of two events will occur:

1. The PSC, during Fuel Cost Recovery hearings, will grant pass-through of the cost Tampa Electric's long-term contracts with TECo Transport, meaning the company's electric ratepayers foot the bill.
2. The PSC, during Fuel Cost Recovery hearings, will not grant pass through of the cost Tampa Electric's long-term contracts with TECo Transport, meaning Tampa Electric's shareholders eat the cost of expensive long-term contracts with TECo Transport.

Governor, neither scenario is acceptable. The first signifies that the PSC has no power to stop regulated companies from executing bad business decisions that rip off ratepayers. The second means that Tampa Electric, whose debt already is considered junk status and whose balance sheets are teetering on bankruptcy, takes another considerable blow from which it may not recover. Shareholders will take the hit.