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October 23, 2003

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BY HAND DELIVERY

Blanca Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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Re: Fuel and Purchased Power Cost Recovery, Docket No.
030001-EI

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies of CSX Transportation's Petition to Intervene and Notice of Joinder in Motions filed in the above-styled docket. I have also enclosed a 3.5" diskette containing these pleadings in WordPerfect format. I will appreciate your confirming receipt of these pleadings by stamping the attached filing copies thereof and returning same to my attention.

As always, my thanks to you and to your professional Staff for their kind and courteous assistance. If you have any questions, please give me a call at (850)681-0311.

Cordially yours,

Robert Scheffel Wright
Robert Scheffel Wright

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Notice
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10448 OCT 23 8
TPSC-OPERATIONS/CLERK

Petition
DOCUMENT NUMBER-DATE
10447 OCT 23 8
TPSC-OPERATIONS/CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost)
Recovery Clause with Generation) DOCKET NO. 030001-EI
Performance Incentive Factor) FILED: OCTOBER 23, 2003
_____)

CSX TRANSPORTATION'S PETITION TO INTERVENE

CSX Transportation ("CSX"), pursuant to Chapter 120, Florida Statutes,¹ and Rules 25-22.039 and 28-106.201, Florida Administrative Code ("F.A.C."), hereby petitions to intervene in the above-styled docket. In summary, CSX is a substantial customer of Tampa Electric Company ("TECO") and petitions to intervene in order to protect its interests in having the Commission determine fair, just, and reasonable fuel cost recovery charges to be charged by TECO and in having the Commission take such other action to protect the interests of CSX and of all of TECO's customers as the Commission may deem appropriate. In further support of its Petition to Intervene, CSX states as follows.

1. The name and address of the Petitioner are:

CSX Transportation
Attention: Mr. Gil Feltel
500 Water Street, J150
Jacksonville, Florida 32202
(904) 359-1958.

¹ All references herein to the Florida Statutes are to the 2003 edition thereof.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright, Attorney at Law
John T. LaVia, III, Attorney at Law
Landers & Parsons, P.A.
310 West College Avenue (ZIP 32301)
Post Office Box 271
Tallahassee, Florida 32302
(850) 681-0311 Telephone
(850) 224-5595 Facsimile.

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

4. This proceeding is designed to establish the fair, just, and reasonable rates that Florida's investor-owned public utilities providing electric service are to be allowed to charge to recover the costs of fuel and purchased power expenses incurred to provide service in 2004.

CSX TRANSPORTATION'S SUBSTANTIAL INTERESTS

5. CSX Transportation has a substantial interest in the outcome of this proceeding. CSX owns and operates a significant number of railroad facilities in Florida and provides rail transportation to several Florida electric utilities and other Florida industrial customers. CSX is a significant customer of TECO, having several different accounts, served under different rate schedules, at several different points of delivery located within TECO's service area.

6. CSX's substantial interests are of sufficient immediacy to entitle it to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). As a substantial retail electric customer of TECO, CSX is subject to the fuel and purchased power cost recovery charges that the Commission will establish in this proceeding. To the extent that these charges may -- and will, if TECO's proposed rates are approved -- be set at rates that are unfair, unjust, and unreasonable, CSX's interests will be immediately and adversely affected. See PSC Order No. 03-1154-PCO-EI, Order Granting Intervention (intervention granted in the instant docket to a group of 9 residential customers of TECO on the basis that these "residential electric customers' substantial interests may be affected by this proceeding"). (As noted below, CSX alleges that the rates that TECO proposes to charge are unfair, unjust, and unreasonable in that they include costs to be paid to TECO's affiliate, TECO Transport, that are unreasonably and imprudently

high for the transport of coal to TECO's Big Bend electric generating station.) It is facially obvious that this docket is designed to protect TECO's captive customers against charges that are unfair, unjust, and unreasonable.

DISPUTED ISSUES OF MATERIAL FACT

7. Disputed issues of material fact include, but are not limited to, the following (as numbered in the Draft Prehearing Order distributed by the Commission Staff on October 22, 2003):

- Issue 5: What are the appropriate projected net fuel and purchased power cost recovery amounts to be included in the recovery factors for the period January 2004 through December 2004?
- Issue 6: What are the appropriate levelized fuel cost recovery factors for the period January 2004 through December 2004?
- Issue 8: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?
- Issue 17E: Is Tampa Electric's June 27, 2003, request for proposals sufficient to determine the current market price for coal transportation?
- Issue 17F: Are Tampa Electric's projected coal transportation costs for 2004 through 2008 under the winning bid to its June 27, 2003, request for proposals for coal transportation reasonable for cost recovery purposes?
- Issue 17G: Is the waterborne coal transportation benchmark that was established by Order No. PSC-93-0443-FOF-EI, issued March 23, 1993, in Docket No. 930001-EI, still a relevant and sufficient means for assessing the prudence of transportation costs paid by Tampa Electric Company to its affiliate, TECO Transport?

Issue 17H: Should the Commission modify or eliminate the waterborne coal transportation benchmark that was established for Tampa Electric by Order No. PSC-93-0443-FOF-EI, issued March 23, 1993, in Docket No. 930001-EI?

ULTIMATE FACTS THAT ENTITLE CSX TRANSPORTATION TO RELIEF

8. The ultimate facts that entitle CSX to relief are as follows.
- a. CSX is a retail customer of TECO.
 - b. TECO turned down offers for coal transportation services from CSX that would have saved TECO's retail customers, including CSX, millions of dollars over the period 2004 through 2008.
 - c. TECO's decision to turn down CSX's offers and to contract instead with its affiliate, TECO Transport, was imprudent and unreasonable and will, if implemented, result in TECO's fuel cost recovery charges being unfair, unjust, and unreasonable.
 - d. TECO's June 27, 2003, request for proposals was not sufficient to determine the current market price for coal transportation.
 - e. TECO's projected coal transportation costs for 2004 through 2008 under the purported winning bid to TECO's June 27, 2003, request for proposals for coal transportation are not reasonable for cost recovery purposes. In fact, these projected costs are

unreasonable and imprudent.

STATUTES AND RULES THAT ENTITLE CSX TRANSPORTATION TO RELIEF

9. The applicable statutes and rules that entitle CSX Transportation to relief include, but are not limited to, Sections 120.569, 120.57(1), 366.04(1), 366.05(1), and 366.06(1)&(2), Florida Statutes, and Rule 25-22.039 and Chapter 28-106, Florida Administrative Code.

10. Statement Explaining How the Facts Alleged By CSX Relate to the Above-Cited Rules and Statutes In Compliance With Section 120.54(5)(b)4.f, Florida Statutes. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. As a substantial retail customer of TECO, CSX's substantial interests are subject to determination in and will be affected through the Commission's decisions in this docket, and accordingly, CSX is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over TECO's rates and the Commission's statutory mandate to ensure that TECO's rates are fair, just, and reasonable. The facts alleged here by CSX demonstrate that the Commission's decisions herein will have a significant impact on TECO's fuel cost recovery rates and charges, and accordingly, that these statutes provide the basis for the relief requested by

CSX herein.

RELIEF REQUESTED

WHEREFORE, CSX Transportation respectfully requests the Florida Public Service Commission to enter its order GRANTING this Petition to Intervene and authorizing CSX Transportation to intervene in this proceeding with full party status, and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on CSX Transportation's representatives indicated in paragraphs 1 and 2 above.

Respectfully submitted this 23rd day of October , 2003.



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Attorneys for CSX Transportation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Mail or hand delivery (*) this 23rd day of October, 2003 on the following:

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