

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase by  
Tampa Electric Company

DOCKET NO. 080317-EI  
Filed: November 26, 2008

DIRECT TESTIMONY AND EXHIBIT OF  
TOM HERNDON

ON BEHALF OF  
THE FLORIDA INDUSTRIAL POWER USERS GROUP,  
THE MOSAIC COMPANY, AND  
THE FLORIDA RETAIL FEDERATION

Vicki Gordon Kaufman  
Jon C. Moyle, Jr.  
Anchors Smith Grimsley  
Telephone: 850.681.3828  
Fascimile: 850.681.8788

Robert Scheffel Wright  
Young van Assenderp, PA  
Telephone: 850.222.7206  
Fascimile: 850.561.6834

John W. McWhirter, Jr.  
Telephone: 813.505.8055  
Fascimile: 813.221.1854

Attorneys for FIPUG and Mosaic

Attorneys for The Florida Retail  
Federation

DOCUMENT NUMBER-DATE

10984 NOV 26 8

FPSC-COMMISSION CLERK

1 **Introduction**

2 **Q. Please state your name and where you reside.**

3 A. My name is Tom Herndon and I live in Tallahassee, Florida.

4  
5 **Q. On whose behalf are you providing testimony in this matter?**

6 A. I am testifying on behalf of entities which represent electric customers of Tampa  
7 Electric Company. Specifically, I am testifying on behalf of the Florida Industrial  
8 Power Users Group (FIPUG), the Mosaic Company (Mosaic), and the Florida Retail  
9 Federation (FRF). FIPUG represents the interests of a number of large industrial  
10 businesses, who take service from Tampa Electric Company (Tampa Electric).  
11 Mosaic is a large company that mines phosphate and produces fertilizer and receives  
12 electrical service from Tampa Electric. FRF is a trade organization with over 10,000  
13 retail business members, many of whom take service from Tampa Electric.

14  
15 **Summary of Recommendations**

16 **Q. What recommendations do you make to the Commission in your testimony?**

17 A. After discussing current financial conditions, I recommend that:

- 18 • The Commission adopt a Return on Equity (ROE) for Tampa Electric of 7.5%; the  
19 12% ROE Tampa Electric seeks is out of line with current market conditions and its  
20 low risk profile;
- 21 • The Commission not place undue reliance on computer models to determine ROE in  
22 these unusual economic times; and

- 1       ● The Commission reject the notion that somehow a higher ROE for Tampa Electric  
2       benefits ratepayers.

3  
4                                   **Professional Experience in the Financial Arena**

5       **Q.     Please provide a description of your past financial experience.**

6       A.     I have enjoyed a long career in public service in the state of Florida that started in  
7       1969. I have attached my resume as Exhibit No. \_\_\_ (TH-1) to my testimony.  
8       However, I'd like to briefly summarize some roles in which I have served the state  
9       that are particularly relevant to my testimony in this case.

10               I was Staff Director for the House of Representatives Appropriations  
11               Committee from 1978 to 1980. After that, I served for nearly five years as the  
12               Director of the Governor's Office of Planning and Budgeting. In that position I was  
13               responsible for advising the Governor on a multitude of budgeting and financial  
14               matters.

15               I served as Chief of Staff to Governor Graham and Governor Chiles. I served  
16               on the Florida Public Service Commission from 1986 to 1990. In the early 1990s, I  
17               was the Executive Director of the Florida Department of Revenue. My last position  
18               with the State of Florida was as Executive Director of the Florida State Board of  
19               Administration from 1996 until 2002.

20  
21       **Q.     What do you do presently?**

22       A.     I work part time providing consulting services for a handful of clients and serve on  
23       select boards.

1

2 **Q. Can you describe your duties and responsibilities as the Executive Director of**  
3 **the Florida State Board of Administration in more detail?**

4 A. I was selected by the Governor, Comptroller and Treasurer, who were the Trustees of  
5 the State Board of Administration ("SBA"), to lead and manage the state's pension  
6 fund as well as approximately one dozen other investment accounts. As Executive  
7 Director of the SBA, I was responsible to the Governor and Trustees, as well as the  
8 beneficiaries of the state's pension fund, for prudently managing the fund's assets.

9 During the six years I led the SBA (from 1996 to 2002) the SBA had over  
10 \$100 billion dollars under active management and ranked in the top ten largest (based  
11 on assets under management) pension funds in the world. As SBA Executive  
12 Director, I was charged with overseeing and managing the state's investment policies  
13 and practices as well as providing regular financial reports to the Governor and the  
14 other trustees.

15

16 **Q. Please discuss your financial expertise, particularly the expertise you gained**  
17 **during your service as Executive Director of the SBA.**

18 A. I have gained financial experience and expertise during the course of my professional  
19 responsibilities. While serving as Staff Director of the Florida House of  
20 Representatives Appropriations Committee, I gained considerable expertise in the  
21 state budgeting processes, including how the state uses debt, current revenue or  
22 reserves to fund state government operations. I also gained a thorough understanding

1 of the business of Florida's state government, its functions and how it funds its  
2 operations.

3 When I served as a Public Service Commissioner, I gained financial expertise  
4 in regulating and reviewing financial matters involving public utilities, including  
5 electric utilities, water and waste water utilities, and telecommunications companies.

6 When I served as the Director of the Office of Policy and Budget under  
7 Governor Graham, I was involved with many financial matters, including preparing  
8 and recommending a complete state budget to the Legislature, advising the Governor  
9 on a broad range of economic issues, and working with state economists on future  
10 economic projections. During this time, I also had regular contact and interaction  
11 with other state offices, such as the Division of Bond Finance, concerning the  
12 issuance of state bonds. I met with rating agencies to provide input for risk analysis  
13 associated with state debt ratings.

14 When I served as Executive Director of the SBA, my central focus was  
15 management of the state's \$100 billion pension fund and ensuring a reasonable return  
16 on invested dollars. During this time, I met and interacted with Wall Street  
17 investment advisors, fund managers, key executives of publicly traded companies,  
18 rating services, and others who were involved in a host of financial matters. I also  
19 gained a thorough understanding of risk and its relationship to reasonable returns.  
20 During this period, I also chaired the Council of Institutional Investors and interacted  
21 with the Securities and Exchange Commission and Congress on Pension Reform  
22 Assessment. I also served on the Pension Advisory Committee to the New York  
23 Stock Exchange.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**Q. Are you still involved with the SBA?**

A. No, not in any official capacity. However, I was recently appointed by Governor Crist, Chief Financial Officer Sink, and Attorney General McCollum to a committee which was charged with soliciting, interviewing and recommending candidates to serve as the new SBA Executive Director. In addition, I generally keep up with SBA activities and policies.

**Q. Are you currently involved in managing and investing money?**

A. Yes.

**Q. Please describe your current involvement.**

A. Currently I serve on the Board of Directors of the Helios Education Foundation. I am the Treasurer and Chairman of the Finance and Investment Committee. This Committee is responsible for managing and investing approximately \$500 million dollars in a perpetual foundation portfolio. We manage domestic and international equities and fixed income exposure and until the recent downturn, were quite successful.

In addition to my work with Helios, I also serve on the Finance Committee of Capital Health Plan, a large Tallahassee-based Health Maintenance Organization (HMO). As a member of that committee, I help oversee the investment of over \$200 million in assets.

1 **Purpose of Testimony**

2 **Q. What is the purpose of your testimony?**

3 My testimony focuses largely on financial issues, including the closely related issues  
4 of risk, investor expectations, the current economic climate, and the fact that Tampa  
5 Electric operates as a monopoly provider of an essential service, effectively free of  
6 competition, in a very low risk regulatory environment. More specifically I will  
7 discuss how these factors should impact the return on equity that the Commission will  
8 authorize for purposes of setting Tampa Electric's rates in this case.

9 My testimony will also discuss the models Tampa Electric witness Donald  
10 Murry references in his direct testimony and why those models should be given less  
11 weight in today's economic climate. I will comment on the suggestion of Tampa  
12 Electric witness Susan Abbott that approval of the rate increase Tampa Electric seeks  
13 should result in an A rating from the rating agencies and why this view is erroneous.

14 Finally, I will discuss the notion that permitting Tampa Electric to earn a  
15 higher return on equity will somehow benefit ratepayers by reducing its borrowing  
16 costs. I will explain why this is not the case.

17  
18 **Current Market Conditions**

19 **Q. Please comment on current financial market conditions as it relates to Tampa  
20 Electric.**

21 **A.** As witness Murry pointed out, we are in the midst of severe economic upheaval.  
22 However, many of the economic factors he identified in his direct testimony have  
23 changed since his testimony was filed. For example, interest rates are at an all time

1 low and no sign of increases are in sight. Oil prices have fallen to below \$60 per  
2 barrel -- drastically below the rate witness Murry cites. Consumer confidence  
3 continues to fall and unemployment continues to rise.

4 While there may be some reasons to believe that the U.S. economy and the  
5 world economy will be well on their way to recovery by sometime in 2009, regardless  
6 of whether this turns out to be the case or not, the fact that Tampa Electric has a very  
7 high degree of revenue certainty and very low risk makes its common stock an  
8 attractive investment.

9  
10 **Q. Have current economic conditions affected the credit markets?**

11 A. Yes, but while credit markets are in turmoil for some borrowers, funds are available  
12 at reasonable rates for high quality borrowers. World-wide recognition of the  
13 economic catastrophe has occurred and as a result virtually every developed nation  
14 has adopted some form of an economic bailout package. The United States led this  
15 effort with its \$700 billion dollar bailout plan. While the volatility in the markets  
16 continues, there are some reasons to feel more confident.

17  
18 **Q. Does the economic picture impact investment expectations?**

19 A. Yes. Investors as a rule seek safety and security in times of economic stress and that  
20 is certainly true today. Clear evidence of that trend can be seen in the higher value  
21 investors have put on utility stocks and debt. While all sectors of the U.S. economy  
22 have been damaged in the recent upheaval, utility stocks have been treated better  
23 overall than the broader indexes. Utility debt ratings have also been treated better



1 than many other sectors. This preferred treatment for utility debt reflects the higher  
2 regard investors have for the utility sector. The proverbial “flight to quality” once  
3 again seems to be in play and utility companies are beneficiaries of this trend,  
4 because, as noted above, money is available to well-regarded borrowers. Quite a bit  
5 of anecdotal evidence exists to show that for these well-regarded borrowers, lenders  
6 are stepping up to make loans at competitive rates --- certainly, much below the 12%  
7 ROE level Tampa Electric has requested.

8  
9 **Q. On what do you base this view?**

10 A. As I mentioned, I remain active in providing advice and recommendations regarding  
11 managing and investing funds. It is my observation that well-qualified borrowers can  
12 obtain credit at reasonable costs. That is not to suggest that for every borrower credit  
13 can be easily obtained; however, for an organization as well-regarded as Tampa  
14 Electric, especially where the company is a monopoly that operates in a very low risk  
15 regulatory environment, raising both debt and equity capital should not be overly  
16 problematic.

17  
18 **Q. In your opinion, should Tampa Electric be able to secure debt at competitive  
19 rates?**

20 A. Yes. Tampa Electric enjoys ratings from the major rating agencies which qualifies its  
21 debt as investment grade. Investors are more comfortable with investment grade  
22 debt, while many investors shy away from the debt products of companies that do not  
23 have investment grade ratings.

1

2 **Q. In your opinion, should the Commission feel confident that Tampa Electric can**  
3 **obtain equity capital, i.e., that investors will invest in TECO Energy's common**  
4 **stock, if the Commission sets Tampa Electric's revenue requirements and rates**  
5 **using an authorized rate of return on equity with a midpoint of 7.5%?**

6 A. Yes. The Commission should feel completely confident that Tampa Electric can raise  
7 needed equity capital with its revenues and rates set using an ROE of 7.5%. This is  
8 because investors understand the fundamental security of their investments in Tampa  
9 Electric and other Florida utilities. That security comes from the very low risks that  
10 Tampa Electric faces with its monopoly position as well as the fact that it provides a  
11 necessity, with the routine, secure, virtually certain recovery of well over half its total  
12 costs through cost recovery clauses.

13

14 **Tampa Electric's Risk As A Regulated Utility**

15 **Q. Please comment on the relative risk confronting Tampa Electric, as a regulated**  
16 **utility, when compared to other business sectors.**

17 A. The risk that Tampa Electric faces is much less than businesses in other sectors. Due  
18 to its monopoly status, Tampa Electric does not have to compete for customers in an  
19 open market. It enjoys a defined geographic market and has a government-created  
20 and government-protected monopoly in that market. And for the most part, its  
21 customers are captive – if they want electric service, they must buy it from Tampa  
22 Electric. Indeed, Tampa Electric witness Murry references “market power” as the  
23 basis for utility regulation. Such monopoly power greatly reduces the risk Tampa

1 Electric faces. Obviously, Tampa Electric does not compete with other electric  
2 companies (or anyone else) to serve its customers.

3 In contrast to the market position of Tampa Electric, we are all familiar with  
4 the effects and risk of competition in competitive business sectors. For example,  
5 DHL is exiting the parcel delivery business in the United States, in part, due to  
6 competitive pressures from UPS and FedEx. In the auto industry, in part due to multi-  
7 national competition, U.S. companies are suffering and seeking funds from Congress  
8 to sustain their operations. The national electronic retailer, Circuit City, has recently  
9 filed for bankruptcy protection.

10 The examples of competitive risk that most U.S. businesses face are countless;  
11 however, this is not the case with Tampa Electric. To a very large extent, Tampa  
12 Electric faces no market driven competitive risks. Investors and Wall Street are well  
13 aware of this. This is the key reason that utility stocks and bonds have long been a  
14 safe haven for investors.

15  
16 **Q. Doesn't Tampa Electric still have to address and manage risk?**

17 **A.** Yes. Tampa Electric, as well as other regulated monopoly utilities, has to manage  
18 risk. The utility business is not completely risk free. For example, Congress could  
19 enact additional environmental requirements that could affect the electric utility  
20 industry. My point is that Tampa Electric's risk profile is reduced significantly  
21 because Tampa Electric does not face competition in the marketplace and because the  
22 current regulatory system in Florida ensures that it recovers a very high percentage of

1 its total costs on a current basis through the various “cost recovery” or pass-through  
2 clauses.

3  
4 **Q. Does this reduced risk affect investment expectations?**

5 A. Yes. Reduction in risk is tied to market/investor expectations of return on investment  
6 or return on equity. Less risk equals lower return expectations. As discussed above, in  
7 today’s market environment, investors want: quality, reduced volatility, security, and  
8 reasonable prospects for safety going forward. Very few stocks or bonds offer this  
9 combination of benefits, other than a quality utility like Tampa Electric.

10  
11 **Q. Are you familiar with the regulatory framework in which Tampa Electric  
12 operates?**

13 A. Yes, I am directly familiar with the regulatory environment in which Tampa Electric  
14 operates due to my tenure as a Public Service Commissioner.

15  
16 **Q. How Tampa Electric’s costs currently recovered?**

17 A. A significant portion of Tampa Electric’s annual operating expenses are recovered  
18 through special clauses rather than through base rates. While I do not wish to suggest  
19 that I am an expert in the detailed operation of all of the current regulatory tools the  
20 Florida Commission uses, many of them – such as the fuel adjustment clause -- were  
21 in place during my tenure on the Commission.

22 It is my understanding that currently fuel expenses and purchased power  
23 expenses are recovered through the fuel clause; capacity costs are recovered through

1 the capacity cost recovery clause; energy conservation costs are recovered through  
2 the conservation cost recovery clause, environmental costs may be recovered through  
3 the environmental clause; and hurricane expenses may be recouped through a  
4 hurricane recovery clause. In addition, gross receipts taxes and franchise fees are  
5 recovered as line items on customer bills, thus eliminating the risk of recovery for  
6 those items as well. These recovery mechanisms further reduce the risk Tampa  
7 Electric faces and lessen the risk of a prospective investor.

8 Billions of dollars flow through these clauses every year, and Tampa Electric  
9 has virtually no exposure to any risk of non recovery for these expenses because they  
10 are directly picked up by the ratepayers. Even when such expenses increase, Tampa  
11 Electric has the ability to seek a mid-course correction and recover such actual and  
12 projected cost overruns in between annual fuel adjustment proceedings. Thus, given  
13 the reduction in risk, there should be a commensurate reduction in the expected return  
14 on equity.

15  
16 **Q. What is your understanding of how the investment community views this**  
17 **regulatory framework?**

18 **A.** In addition to serving as a Florida Public Service Commissioner, I have kept abreast  
19 of the Florida regulatory environment as someone charged with managing money.  
20 The investment community views the Florida regulatory environment quite favorably.  
21 The Florida Commission is viewed as responsive to the needs of the entities it  
22 regulates and has numerous mechanisms in place to prevent "regulatory lag."  
23 Witness Abbott's testimony confirms this point. Ms. Abbott notes in Exhibit 3 to her

1 direct testimony that no other Commission in the country is ranked more favorably  
2 than the Florida Commission.

3

4 **Q. Does this view of the Florida Commission affect Tampa Electric's risk profile?**

5 A. Yes and it reinforces the fundamental point I made above. Tampa Electric operates in  
6 a reduced risk environment. This reduced investor risk translates into lower ROE  
7 expectations. Simply put, the favorable regulatory environment and Tampa Electric's  
8 reduced risk argues against the inflated 12% ROE Tampa Electric seeks.

9

10 **Q. What about the suggestion that the Commission has to keep Tampa Electric's**  
11 **authorized ROE at a high level to ensure that investors continue to view Tampa**  
12 **Electric as a low-risk investment that they are willing to invest their equity**  
13 **capital in?**

14 A. In my opinion, such a suggestion is misplaced and overstated. The Commission  
15 already ensures that Tampa Electric operates in a low-risk environment that ensures  
16 Tampa Electric of prompt, secure, and for all intents and purposes, certain recovery of  
17 well over half of its costs on a current basis, and Tampa Electric faces no competitive  
18 pressure and extremely low risk with regard to recovering its base rate revenues.

19

20 **Reasonable and Fair Return on Equity**

21 **Q. What do you believe is a reasonable return on equity for Tampa Electric given**  
22 **your discussion above?**

1 A. For many of the reasons I have discussed, I believe that a fair return on common stock  
2 equity in Tampa Electric Company would be in the range of 7% to 8%, with 7.5%  
3 being the midpoint of the range that the Commission should use for purposes of  
4 determining Tampa Electric's allowed revenue requirements and setting its retail  
5 rates.. My perspective on this issue is based on my experience and informed by the  
6 behavior of the stock market and those investment activities with which I am familiar,  
7 particularly in the public pension area.

8 Traditionally, most public pension funds have an actuarially required rate of  
9 return in the 7.5% to 8.5 % range. This allows for a real rate of return over inflation  
10 and for some modest growth while at the same time recognizing that withdrawals are  
11 occurring. In fact, the Florida State Board of Administration has long held to an 8%  
12 target and the other two foundation boards I have worked with have lower rate of  
13 return targets.

14 I realize that using these benchmarks is not the same as calculating the return  
15 through computer models. However, they serve as useful proxies for what is prevalent  
16 in the investment world. I dare say that Tampa Electric itself has similar targets for its  
17 internal assets under management as well as for its various pension funds.

18 The reason that I believe that a fair rate of return would use 7.5% as the  
19 midpoint is that for investors to reach the 8+% target requires a considerable equity  
20 allocation -- typically over 60% of the portfolio would have to be invested in equities.  
21 That strikes me as unnecessarily high for a regulated utility so the target I suggest  
22 reflects a more modest equity allocation.

23

1 **Q. Does the SBA have a targeted return on capital it invests, and if so, what is that**  
2 **target?**

3 Historically, the SBA seeks a target in the 8% neighborhood, but does so with a  
4 healthy mix of exposure to stocks, many of which are investments in companies faced  
5 with intense industry competition not seen in a business sector comprised of regulated  
6 electric utility monopolies, like Tampa Electric.

7  
8 **Q. How does the rate of return that you are recommending in this case compare to**  
9 **investment opportunities with less risk?**

10 A. My recommended rate of return on equity compares very, very favorably to  
11 investments with lower risk. In financial management, we normally recognize the  
12 interest rate on long-term U.S. Treasury bonds as being the "risk-free rate."  
13 Recently, the interest rate on long-term – 30 year – U.S. Treasury bonds has been in  
14 the range of 4.0% to 4.3%; currently, the rate is below 4.0%. In the most practical  
15 terms, considering the very-low-risk environment in which Tampa Electric operates,  
16 as a monopoly with virtual certainty of recovering well over half of its operating  
17 costs and very little risk with regard to its base rates, a 7.5% return on equity is very  
18 favorable when compared to the "risk-free rate."

19 Stated differently, in practical terms, I am recommending a return on equity  
20 that is almost double the "risk-free rate." Again in practical, common sense terms,  
21 there is no way that Tampa Electric faces risks that justify any higher return than this.

22



**Tampa Electric Witness Murry**

1

2 **Q. Have you reviewed the direct testimony of Tampa Electric witness Murry?**

3 A. Yes.

4

5 **Q. What is your view on the economic outlook witness Murry offers in his direct**  
6 **testimony?**

7 A. While there are risks facing the credit and capital markets, the current picture and the  
8 forecast appear to be less dire than what witness Murry has assumed based on the  
9 information available to him at that time. Many view the fact that energy prices have  
10 fallen drastically and that interest rates, both short and long term, are lower, as signs  
11 that the economy may be improving. Inflation has moderated and with the  
12 Presidential election behind us, more certainty exists in the market. All in all, many  
13 of the economic indicators witness Murry relied upon have improved.

14

15 **Q. Given the current market conditions you have discussed, what is your opinion**  
16 **regarding witness Murry's view that a return on equity of 12% is reasonable for**  
17 **Tampa Electric?**

18 A. I have several thoughts regarding witness Murry's proposed 12% ROE.

19 First, many of the key underlying inputs to the formulas he used are no longer  
20 valid. Interest rates, oil prices, and inflation rates are all significantly below the  
21 levels witness Murry relied upon in his direct testimony. These decreases in rates and  
22 prices produce different investor conclusions about the relative risks and returns

1 associated with Tampa Electric. If the witness intends to rely on mechanistic  
2 formulas, the inputs should at a minimum be current and valid.

3 Second, while I would not quarrel with witness Murry's formulaic approach in  
4 a **NORMAL** investment environment, that is not where we find ourselves today.  
5 Many analysts have likened the current economic upheaval to the financial  
6 devastation of the 1920s. While that may be an overstatement, there is no denying  
7 that we are not experiencing normal economic conditions. Given these unusual  
8 financial conditions, the mechanical application of formulas simply isn't adequate  
9 and should not be the beginning and ending of an ROE analysis. Common sense and  
10 a more thoughtful awareness of the market, coupled with some use of the technical  
11 analytics, is the approach called for today.

12 Finally, it is clear that a lender or an investor in today's climate would prefer  
13 to lend to a monopoly client with historically steady and stable growth, a guaranteed  
14 rate of return, substantial assets (in the form of infrastructure and rolling stocks), and  
15 the ability to recover a large degree of its operating costs annually through recovery  
16 clauses.

17  
18 **Rating Agencies and the Suggestion of Witness Abbott that Approval of Tampa**  
19 **Electric's Rate Request Will result in an A level Rating**  
20

21 **Q. Have you reviewed the direct testimony of Susan Abbott?**

22 **A. Yes.**  
23

1 **Q. Witness Abbott provides testimony regarding the rating agencies that follow**  
2 **Tampa Electric. Ms. Abbot suggests in her direct testimony at page 27 that**  
3 **“[a]pproval of TECO’s requested rate increase should improve its credit metrics**  
4 **and in an A level profile.” Can you comment on her conclusion?**

5 A. In general, I agree with witness Abbott’s testimony that improved credit matrices  
6 should improve the credit rating of a company and that should lower borrowing costs;  
7 however, I would make two points that modify this conclusion.

8 First, recent experience with organizations like Standard & Poor’s and  
9 Moody’s amply demonstrates that their work is art, not science. We are all too  
10 familiar with the various mistakes credit rating agencies have made that in part, led us  
11 to the current financial situation. To suggest that an “A” level profile will  
12 automatically result from a certain ROE takes too much for granted.

13 Second, while the actions and “grades” of the rating agencies can be valuable  
14 aides in investment and loan decisions, they are not the final answer. Common sense  
15 and thoughtful awareness of market conditions must also be considered. Tampa  
16 Electric’s circumstances, including its low risk profile, the positive regulatory climate  
17 in Florida, the solid earnings path and stable growth forecast, do not support a 12%  
18 ROE.

19

20 **Q. Some have suggested that allowing Tampa Electric a 12% ROE may benefit**  
21 **ratepayers by lowering borrowing costs. Do you agree with this?**

22 A. No. I do not believe that allowing an elevated ROE benefits ratepayers. Any  
23 reduction in borrowing costs would likely be a slight incremental amount and would

1 not offset the increased revenue requirements for ratepayers if a 12% ROE were to be  
2 authorized. Customers would be worse off because they would be paying higher rates  
3 than necessary. This is especially the case when, as the Commission is well aware,  
4 individual consumers, commercial consumers, and governmental and institutional  
5 consumers, such as school districts, are struggling to pay their electric bills.

6 And of course, the cost of electricity affects the production costs and the  
7 ability to compete of industrial consumers, such as FIPUG's participating companies.

8 In this time of great economic uncertainty, the Commission needs to be  
9 mindful of the role that energy costs play in the lives of individuals and businesses.  
10 With virtually every business straining to compete just to stay above water, and with  
11 many individual residential customers having to decide between paying their electric  
12 bills and buying food or prescriptions, approval of an excessively generous ROE is  
13 very short-sighted. The last thing the Commission should do is to further inflate  
14 (artificially I might add) energy costs which would cause even more dislocation in the  
15 business community and increase the costs to those businesses left standing.

16  
17 **Q. What is your recommendation to the Commission?**

18 A. As noted above, I urge the Commission to evaluate the current economic climate and  
19 the stable regulatory environment in which Tampa Electric operates to arrive at a  
20 reasonable ROE. I would respectfully suggest that a fair return on equity is 7.5  
21 percent. I further urge the Commission to temper its reliance on computer modeling  
22 with its knowledge of the current unusual financial conditions. I recommend that the

1 Commission reject any suggestion that approval of a high ROE somehow benefits  
2 ratepayers.

3 Finally, I strongly urge the Commission to consider its fundamental mission,  
4 which is to regulate utilities under its jurisdiction in the public interest. In this case,  
5 the public interest will be served by setting Tampa Electric's revenues and rates using  
6 a fair, compensatory rate of return on equity of 7.5%; this rate will, in my opinion,  
7 enable Tampa Electric to attract needed capital and provide Tampa Electric's equity  
8 stockholders with a very fair rate of return on a very low risk investment, while  
9 minimizing further economic stress on the citizens and businesses who must buy their  
10 electricity from the regulated monopoly provider, Tampa Electric Company.

11

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

13 **A. Yes it does.**

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Testimony and Exhibit of Tom Herndon has been furnished by U.S. Mail and (\*) hand delivery this 26<sup>th</sup> day of November, 2008 to the following:

Keino Young  
Florida Public Service Commission  
Office of the General Counsel  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

J.R. Kelly  
Public Counsel  
Patricia Christensen  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32399-1400

Mike Twomey  
P. O. Box 5256  
Tallahassee, FL 32314-5256

Cecilia Bradley  
Office of the Attorney General  
400 S. Monroe St # PL-01  
Tallahassee, Florida 32399-6536

\*Lee Willis  
James Beasley  
Ausley Law Firm  
Post Office Box 391  
Tallahassee, FL 32302

R. Scheffel Wright  
Young Law Firm  
225 S. Adams Street, Suite 200  
Tallahassee, FL 32301

s/Vicki Gordon Kaufman  
Vicki Gordon Kaufman

## RESUME

### JOHN T. (TOM) HERNDON

---

#### RESIDENCE

552 Woodfern Court  
Tallahassee, Florida 32312  
850-893-2252 Home  
850-893-4212 Fax  
850-459-3513 Cell  
[tom-herndon@comcast.net](mailto:tom-herndon@comcast.net)

#### PERSONAL HISTORY:

Born: December 13, 1945 - St Petersburg, Florida  
Married: Cathleen (Cathie) M. Williams  
Children: 2 grown daughters

#### EDUCATION:

St. Petersburg Junior College, AA degree, 1966  
University of South Florida, Interdisciplinary Social Sciences. BA, 1968  
Florida State University, Masters Degree in Social Work, 1972

#### WORK EXPERIENCE:

##### Current Work Experience

##### RETIRED FROM FULL-TIME CONSULTING

##### Lobbyist/Business Consultant

##### SOUTHERN STRATEGY GROUP

September 2002 to October 2005

Partner and Shareholder in the largest lobbying firm in Florida. Provides representation and professional advocacy for various clients before the Executive and Legislative branches of Florida State Government. Professionalism and extensive governmental and business experience is the mainstay of the firm, along with a commitment to deliver services with integrity and enthusiasm. Former personal clients included, Wachovia Bank, Ernst & Young accounting firm, and Walt Disney World, among others.

##### Executive Director

##### FLORIDA STATE BOARD OF ADMINISTRATION

November 12, 1996 to July 2002

Selected by Governor, Comptroller and Treasurer (Board of Trustees) to manage the largest investment arm of Florida government. Assets under management at the present time exceed \$125 billion, which ranks the State Board of Administration (SBA) as the third largest pension fund in the United States and the ninth largest in the world. As an "off-budget" agency of

John T. (Tom) Herndon  
Page 2.

Florida government, our operations are supported exclusively by fees charged to our clients. During my tenure, the SBA received the “Top Gun” award as the best performing public pension fund in the United States for FY 1998, and the Davis Productivity Award as an “Exemplary State Agency” for 1999.

**President**

**TOM HERNDON & ASSOCIATES**

**August 11, 1995 to November 11, 1996**

Established and directed the activities of a “boutique” lobbying firm in Tallahassee, Florida. The firm specialized in providing consulting services to clients who needed problem-solving expertise. Areas of concentration were the legislative and executive branches of Florida government.

**Chief of Staff to Governor Lawton Chiles**

**EXECUTIVE OFFICE OF THE GOVERNOR**

**August 10, 1992 to August 11, 1995**

Chief Operating Officer for the Executive Branch of Florida government. Directed the overall legislative program for the Governor, and supervised the day-to-day operation of the Governor's Office. Participated extensively in all major policy discussions and advised the Governor, Lieutenant Governor, Agency Heads, United States Congressional Delegation and others regarding policies of the office. Supervised several functioning units within the Executive Office of the Governor including Public Information, Cabinet Affairs, Legal Affairs, Legislative Affairs, Community Outreach, and the Office of Planning and Budgeting. During the Hurricane Andrew crisis served on site for 60 days as the state coordinating officer for the Executive Branch of Florida Government, interfacing with officials in Washington, Miami and Tallahassee. Directed the emergency response to restore order, supply shelter and security and worked with the Congressional Delegation and other federal officials to obtain relief aid in the wake of the devastating natural disaster.

**Executive Director**

**FLORIDA DEPARTMENT OF REVENUE**

**April 18, 1990 to August 7, 1992**

Administered the state agency charged with tax collection, administration and implementation on behalf of Florida government. Directed a work force of over 2700 employees located in 21 field offices throughout the United States. Processed over \$13 billion through the agency's remittance processing system, administered 31 different taxes and, contracted with five other state agencies to provide tax collection services. The Department is also responsible for supervising locally elected property appraisers and tax collectors. The Executive Director is appointed by and serves at the pleasure of the Governor and Cabinet, an elected body of senior government officials who provide overall policy direction and supervision to the agency. Active participation in the development of state financial policy was a key component of the position, as well as substantial interaction with the Legislature, other government agencies, the press and the private business sector.

**Commissioner**

**FLORIDA PUBLIC SERVICE COMMISSION**

**January 6, 1986 to April 17, 1990**

Appointed as one of five Public Service Commissioners (PSC) to arbitrate cases involving the



John T. (Tom) Herndon  
Page 3.

regulation of water and sewer companies, telephone companies and electric utilities. Responsible for protecting the interests of the ratepayers of Florida, while affording, through regulation, an opportunity for utilities to earn a reasonable rate of return. The PSC is a quasi-judicial agency responsible for the regulation of over 705 utility companies in Florida. With a staff of over 350, Florida's Public Service Commission is recognized as one of the leading utility boards in the nation. Appointed by the Governor and subject to Senate confirmation, the Commissioners serve 4-year staggered terms.

**Chief of Staff to Governor Bob Graham**  
**EXECUTIVE OFFICE OF THE GOVERNOR**  
**July 1, 1985 to January 5, 1986**

See position description as Chief of Staff to Governor Chiles for general description of duties.

**Director**  
**OFFICE OF PLANNING AND BUDGETING**  
**Executive Office of the Governor**  
**August 1980 to July 1985**

Directed the Governor's planning and budget office which is statutorily charged with preparing legislative budget requests (at that time, approximately \$10.5 billion annually), allocating and managing the operating budgets for state agencies and generally controlling and overseeing the financial posture of Florida government. Directed a staff of approximately 110 employees, primarily budget analysts, economists, planning and policy staff and, operated a 20-person data processing unit which administered the statewide automated planning and budgeting systems. The Office of Planning and Budget acts as the major staff resource to the Governor on a wide variety of issues and engages in substantive policy discussions at the highest level of government. In addition to the above responsibilities, served as the Secretary to the Administration Commission, a Cabinet agency charged by the State Constitution with interim budget controlling activities. Served as Clerk to the Land and Water Adjudicatory Commission, another Cabinet function which controls major regional developments throughout the State. From October 1984 through July 1985 simultaneously served as Deputy Chief of Staff to the Governor.

**Staff Director**  
**FLORIDA HOUSE OF REPRESENTATIVES**  
**Committee on Appropriations**  
**August 1978 to August 1980**

Supervised a staff of nine professional budget analysts and associated clerical support. Directed preparation of the House's General Appropriations Act (GAA) which required a working knowledge of all state agencies planning and budgeting activities. Participated in converting Florida to a biennial budget system as well as ensuring that major changes wrought by the revised Florida Constitution (adopted November 1978) were reflected in the GAA. Involved in substantial policy-making discussions and recommendations on a wide range of areas and issues affecting Florida. Represented the Legislature with numerous state, regional and national organizations.

**Deputy Assistant Secretary for Operations**  
**State of Florida**  
**DEPARTMENT OF HEALTH & REHABILITATIVE SERVICES**

John T. (Tom) Herndon  
Page 4.

**October 1977 to August 1978**

Served as a key administrator for the Florida Department of Health and Rehabilitative Services (DHRS), an umbrella human service agency which administered all health and social services programs in the State with over 30,000 employees and an annual budget of \$2.0 billion. Direct line responsibility for 1200 employees in Central Operations (Headquarters) and shared responsibility for the administration and management of all departmental programs and employees in 11 regional areas of the State. Additional responsibilities included managing three statewide budgets representing 4500 employees and \$250 million, directing the implementation of the operations segment of the Department's five-year Computer Based Information System Development Plan (CBISDP).

**Administrator, District V**

**State of Florida**

**DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES**

**November 1975 to October 1977**

Established and managed one of 11 service districts (Pinellas and Pasco counties) created after a major decentralization and reorganization initiative of the Department of Health and Rehabilitative Services by the Legislature. Responsible for management of over 1200 employees and approximately \$40 million annual operating budget. Services managed included 8 major program areas: Social and Economic Services, Youth Services, Vocational Rehabilitation, Mental Retardation, Health, Aging and Adult Services, Children's Medical Services and Mental Health.

**Staff Director**

**FLORIDA HOUSE OF REPRESENTATIVES**

**Committee on Health & Rehabilitative Services**

**June 1974 to November 1975**

Directed the staff committee work effort including the operation and management of several subcommittees as well as the full committee. Supervised the drafting and analysis of legislation for possible introduction. Focus areas included health care issues relating to Medicaid, indigent health care, Children's Medical Services programs and public health programs - to social service issues relating to welfare, elderly programs, day care and juvenile justice. Major legislative initiatives included the reorganization of the Department of Health and Rehabilitative Services from a centralized bureaucracy to 11 regional districts. Position required extensive policy expertise and the ability to work with 120 individually elected legislators, all with different perspectives and backgrounds.

**Legislative Analyst III, II, I, and Graduate Intern**

**FLORIDA HOUSE OF REPRESENTATIVES**

**Committee on Health and Rehabilitative Services**

**January 1971 to June 1974**

Functioned at a variety of staff levels as a technical expert to the Committee, legislators and the public on policy matters relating to major health and social service issues including indigent care, health care financing, public health, mental health, elderly programs, children's welfare, child abuse, etc.

**Protective Service Worker**

**PINELLAS COUNTY JUVENILE WELFARE BOARD**

**September 1969 to September 1970**

Provided long-term social work services to families and to children who had been identified as victims of abuse and/or neglect. Responsible for 24-hour on-call caseload which dealt with alcoholic or drug abusing parents, parent-child conflicts, children who were emotionally disturbed, physically abused, acting out or delinquent. This experience was prior to the creation of the statewide child abuse registry.

**SELECTED PROFESSIONAL ACTIVITIES:**

- \* Former Board member and member of Executive Committee of the **Federation of Tax Administrators (FTA)**
- \* Former member **National Governor's Association Task Force** on Electric Transmission and Distribution
- \* Former member **National Association of State Budget Officers**, Chairman of Education and Human Resources Committee and Executive Committee, Southern Regional Director
- \* Past President of the **National Governors' Association Council of State Planning Agencies** for 1985-86
- \* Former member of **National Association of Regulatory Utility Commissioners**
- \* Former Member of the **Southern States Energy Board**
- \* Former Chairman of the **Florida Energy Center Advisory Board**
- \* Former member **Council of Institutional Investors**, Board of Directors and Chair of Executive Committee
- \* Former member **New York Stock Exchange**, Pension Managers Advisory Committee

**SELECTED CIVIC AND VOLUNTARY ACTIVITIES:**

- \* Current Treasurer and Chairman of the Finance and Investment Committee, **The Helios Education Foundation**
- \* Current member **Capital Health Plan** Board of Directors, Personnel and Finance Committees
- \* Current member **Lawton Chiles Foundation**, Chair of Investment Committee
- \* Past Chairman and current member **Florida Economics Club** Board of Directors
- \* Former Chairman and member, **Big Bend United Way** Board of Directors; Chair,

John T. (Tom) Herndon  
Page 6.

Strategic Planning Committees

- \* Executive Director of the **Claude Pepper Foundation,**
- \* Past Chairman **Big Bend Child Care Coordinating Council**
- \* Past Chairman of **Florida Comprehensive Health Association.**

**SELECTED AWARDS:**

- 1983 Outstanding Public Administrator, presented by the American Society of Public Administrators
- 1985 Distinguished Alumnus for the University of South Florida, Florida Chapter
- 1990 Distinguished Alumnus for the University of South Florida, National
- 1990 Distinguished Alumnus for Florida State University School of Social Work
- 1995 Jack Brizius Memorial Roughrider Award for Excellence in Public Policy, presented by the Council for Governor's Policy Advisors of National Governor's Association.
- 1995 Florida Distinguished Service Medal for Exceptionally Meritorious Service to the State of Florida, presented by the Governor and the Florida National Guard
- 1999 Exemplary Agency Award from the Davis Productivity Awards Program presented to State Board of Administration

**References Available Upon Request**