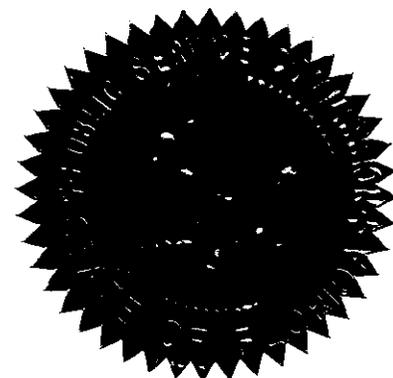


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080317-EI

In the Matter of:

PETITION FOR RATE INCREASE BY TAMPA
ELECTRIC COMPANY.



VOLUME 1
Pages 1 through 71

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PROCEEDINGS: HEARING

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, January 20, 2009

TIME: Commenced at 9:45 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, CRR, RPR
Official FPSC Reporter
(850) 413-6732

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FPSC-COMMISSION CLERK

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6 JON MOYLE, ESQUIRE, and VICKI GORDON KAUFMAN,
7 ESQUIRE, Keefe, Anchors, Gordon & Moyle Law Firm, 118 North
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17 ESQUIRE, Young Law Firm, 225 South Adams Street, Suite 200,
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19 Retail Federation.

20 CECELIA BRADLEY, ESQUIRE, Office of the Attorney
21 General, The Capitol PL-01, Tallahassee, Florida 32399-1050,
22 appearing on behalf of the Citizens of the State of Florida.

23

24

25

1 APPEARANCES CONTINUED:

2 J. R. KELLY, PUBLIC COUNSEL, PATRICIA CHRISTENSEN,
3 ESQUIRE, and CHARLES REHWINKEL, ESQUIRE, Office of Public
4 Counsel, c/o The Florida Legislature, 111 West Madison Street,
5 Room 812, Tallahassee, Florida 32399-1400, appearing on behalf
6 of the Citizens of the State of Florida.

7 KEINO YOUNG, ESQUIRE, MARTHA CARTER BROWN, ESQUIRE,
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10 appearing on behalf of the Commission Staff.

11 MARY ANNE HELTON, ESQUIRE, FPSC General Counsel's
12 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida
13 32399-0850, appearing as advisor to the Commission.

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I N D E X

1		
2		PAGE NO.
3	PUBLIC TESTIMONY:	
4	MARYELLEN ELIA	9
5		
6	OPENING STATEMENTS:	
7	LEE L. WILLIS	36
8	PATRICIA CHRISTENSEN	42
9	CECELIA BRADLEY	47
10	JON MOYLE	50
11	R. SCHEFFEL WRIGHT	58
12	MICHAEL B. TWOMEY	66
13		
14		
15		
16	CERTIFICATE OF REPORTER	71
17		
18		
19		
20		
21		
22		
23		
24		
25		

EXHIBITS

	NUMBER:		ID.	ADMTD.
1				
2				
3				
4	1	Comprehensive Exhibit List	23	23
5	2	Service Hearing Exhibit 2	24	24
6	3	Service Hearing Exhibit 3	24	24
7	4	Service Hearing Exhibit 4	24	24
8	5	Service Hearing Exhibit 5	24	24
9	7	Service Hearing Exhibit 7	24	24
10	8	Service Hearing Exhibit 8	24	24
11	9	Service Hearing Exhibit 9	24	24
12	10	Service Hearing Exhibit 10	24	24
13	11	Service Hearing Exhibit 11	24	24
14	12	Service Hearing Exhibit 12	24	24
15	13	Staff's Composite Exhibit 13 -stipulated	25	25
16	87	Tampa Electric Stipulated Comprehensive Exhibit List	26	26
17	88	OPC Stipulated Comprehensive Exhibit List	27	27
18				
19	89	FIPUG Stipulated Comprehensive Exhibit List	27	27
20				
21				
22				
23				
24				
25				

P R O C E E D I N G S

1
2 CHAIRMAN CARTER: Good morning. I'd like to welcome
3 everyone here to this hearing this morning. I want to convene
4 the hearing. And with that, staff, would you please read the
5 notice.

6 MR. YOUNG: By notice issued December 22nd, 2008, in
7 Docket Number 080317, In Re: Tampa Electric Company, petition
8 for base rate increase by Tampa Electric Company, this time and
9 place has been set for a hearing in Docket Number 080317 on
10 January 20th, 2009, 9:30 a.m. with the following dates,
11 January 21st, 22nd, 28th, 29th and 30th, 2009. The purpose of
12 the, the purpose of the hearing is set out in the notice.

13 CHAIRMAN CARTER: Thank you. Now let's take the
14 appearances of the parties.

15 MR. WILLIS: I am Lee L. Willis appearing together
16 with James D. Beasley, Kenneth R. Hart and Jeffry J. Wahlen of
17 the firm of Ausley & McMullen, P.O. Box 391, Tallahassee,
18 Florida 32302 appearing on behalf of Tampa Electric Company.

19 MR. TWOMEY: Mr. Chairman, Commissioners, good
20 morning. I'm Mike Twomey appearing on behalf of AARP.

21 MR. WRIGHT: Good morning, Mr. Chairman,
22 Commissioners, Robert Scheffel Wright. And I'd also like to
23 enter an appearance for my law partner John T. Lavia, III,
24 appearing on behalf of the Florida Retail Federation. Thank
25 you.

1 MR. MOYLE: Good morning. Jon Moyle, Vicki Kaufman
2 and John McWhirter are representing FIPUG. Vicki Kaufman and I
3 are with Keefe, Anchors, Gordon & Moyle, and Mr. McWhirter is
4 in Tampa.

5 MS. BRADLEY: Cecilia Bradley, Office of the Attorney
6 General, on behalf of the citizens of Florida.

7 MS. CHRISTENSEN: Patty Christensen along with
8 Charles Rehwinkel on behalf of the Office of Public Counsel,
9 along with J.R. Kelly, Public Counsel.

10 MR. YOUNG: Keino Young, Martha Carter Brown and Jean
11 Hartman for Commission staff.

12 CHAIRMAN CARTER: Thank you. Commissioners, now that
13 we've had, the hearing has been convened and we've had the
14 notice read and we've had all of the parties -- have all of the
15 parties been identified?

16 MR. YOUNG: Yes, sir.

17 CHAIRMAN CARTER: With that, Commissioners, just kind
18 of a preliminary matter before we get there. For our staff, to
19 give staff an opportunity to participate in this historic day,
20 our break today will be from 11:15 to 1:45 to give them an
21 opportunity to witness one of the most fascinating aspects of
22 American history and also an opportunity to have some lunch.

23 So with that, staff, you're recognized for
24 preliminary matters.

25 MR. YOUNG: Yes, sir. Before we proceed, I'd like to

1 put an appearance in for Ms. Mary Anne Helton. She's in the
2 back.

3 CHAIRMAN CARTER: Oh, okay. Thank you. You may
4 proceed.

5 MR. YOUNG: Yes, sir. There are some housekeeping
6 matters which staff recommends be taken up after the public
7 testimony portion at the beginning, after the public testimony
8 at the beginning of the technical portion of the hearing.

9 CHAIRMAN CARTER: Okay. We'll do that.

10 Exhibits?

11 MR. YOUNG: Yes, sir. Staff requests that the list
12 of the exhibits be identified and marked for -- be marked.
13 Staff would note that the list includes exhibits submitted at
14 the Service Hearing in Tampa on February, on February -- on
15 October 21st, 2008, and Winter Haven, Florida, on October 22nd,
16 2008. Staff suggests that any exhibits proffered during the
17 public testimony be numbered sequentially following the exhibit
18 list. Staff suggests waiting until the technical portion of
19 the hearing before moving the exhibits into the record.

20 CHAIRMAN CARTER: Thank you. Before we proceed
21 further, Commissioners, I know we're to do our technical
22 portion. But from a public testimony standpoint it's come to
23 my attention that I think we have the Superintendent for the
24 Hillsborough County Schools System, MaryEllen Elia is here
25 today. And she so graciously provided some good information to

1 us, you know, in our hearing, and I think it would be
2 appropriate for us to hear from her today. So if there's any
3 other members of the public that would like to testify today,
4 would you please stand so I can swear you all in as a group
5 other than, other than the Commissioner -- other than the
6 Superintendent. And those of you that would like to, there's a
7 sheet in the back. Raise your hand there, Bev. Okay.

8 Superintendent, would you just raise your right hand.
9 Whereupon,

10 MARYELLEN ELIA

11 was called as a witness and, having been duly sworn, testified
12 as follows:

13 CHAIRMAN CARTER: Thank you. Please be seated and
14 come over and take your seat to my right. You are recognized.
15 It's good to see you again, and sorry about the weather up
16 here. You gave us greater weather when we came to visit with
17 you.

18 SUPERINTENDENT ELIA: Thank you. Well, thank you
19 very much. I appreciate your time this morning. Actually
20 we're very glad we got here. The wind was supposed to be real
21 bad and we were in a small plane, but we're all set.

22 As you're aware, and I had the opportunity to speak
23 to you earlier, I represent Hillsborough County schools. We
24 are the eighth largest school district in the nation with
25 approximately 191,000 students. And I am here to make a case

1 for school districts receiving special rates.

2 Let me tell you a little bit about how this will be
3 affecting Hillsborough County. This proposed rate increase
4 will impact Hillsborough County by approximately \$10 million if
5 in fact both the granted fuel rate and the proposed base rate
6 are imposed.

7 Last year our electricity bill was approximately
8 \$39 million. This year even without increases we anticipate
9 those costs will go above \$40 million due to the fact that we
10 are opening five new schools and increasing our classroom space
11 at 40 additional schools so that we can meet the class size
12 amendment.

13 I think it's important for you to realize that
14 schools are different than other customers. We don't have the
15 means to directly pass along rate increases to customers. What
16 we have to do is reduce services. We will impact more than
17 190,000 students and their families if we reduce services.
18 Unfortunately this increase comes at a time when school
19 districts are faced with a very difficult question of how to
20 make it through the financial crises that are facing this
21 nation and certainly Florida.

22 The cost of electricity is paid by homeowners and so
23 they're property owners and in fact they will, for whatever
24 rate that this Commission chooses to give to TECO or any other
25 firm, they will have the opportunity to pay that. However,

1 when we have students from those families in our schools, we're
2 really giving that rate a second time to all of those families
3 in Hillsborough County.

4 I would say to you that the fact that we are billed
5 as 240 separate customers instead of one customer does not
6 allow us to get a better rate. The school district is unable
7 to negotiate better rates with utilities even though we are one
8 of their largest customers.

9 The operating schedules of our buildings relates to
10 rates being not as good for us as they are for commercial
11 customers. Schools are locked into operating during what are
12 considered peak times. You can't take advantage of having
13 school at night for elementary students, and therefore most of
14 our consumption is during the favorable higher rate times for
15 TECO. The load factor punishes school districts in that the
16 load factor is the ratio of demand to consumption. And because
17 of how we operate our schools, the rate we pay is very
18 dependent on the demand charge, which is where TECO is
19 proposing the most significant increases.

20 We have worked closely with the TECO staff and done
21 analysis on our buildings to determine exactly how this rate
22 will affect us. And what we are seeing is that it will be
23 approximately, as I pointed out to you, a 25 percent increase
24 for us from approximately \$40 million with an additional
25 \$10 million if this is granted.

1 We respectfully ask the Public Service Commission to
2 investigate the possibility of special rates for schools. From
3 our school district's perspective, allowing this increase will
4 impose a crushing additional burden, forcing us to decide
5 between teachers, textbooks and paying our power bills. I
6 appreciate your time. Thank you very much. I understand
7 difficult decisions, we're making them every day, so I know you
8 can identify with some of the things that we talked about.

9 CHAIRMAN CARTER: Thank you, Superintendent Elia.
10 And before, before you go, Commissioners, any comments to the
11 Superintendent?

12 COMMISSIONER ARGENZIANO: To staff.

13 CHAIRMAN CARTER: Commissioner Argenziano, you're
14 recognized.

15 COMMISSIONER ARGENZIANO: Thank you. The question
16 really is for staff.

17 CHAIRMAN CARTER: For staff.

18 COMMISSIONER ARGENZIANO: The school districts are
19 facing incredible cuts to begin with and I think we've talked
20 about some of them during the week, I know I discussed with
21 staff. Can someone articulate in simple terms the problems of
22 changing the rate for the school districts?

23 MS. BROWN: Commissioner, we have some cross
24 questions for Mr. Ashburn that will tee that up for you, if
25 that will be satisfactory.

1 COMMISSIONER ARGENZIANO: Okay. We'll just go
2 through that and see. Thank you.

3 CHAIRMAN CARTER: We'll go through that at the
4 appropriate time.

5 Commissioners, anything further for Commissioner
6 Elia or Superintendent Elia? Thank you for making the
7 sacrifice to come up. Again, as I said to you, we appreciate
8 the things that you had to say. You came to us not only with
9 the problem, the problem, but you also recommended a solution,
10 innovative, creative, but also realizing the situation that the
11 school districts are in and particularly this school district.
12 And I'm glad that staff has a witness so we can, you know, go
13 through that line of questions.

14 MR. MOYLE: Would the parties be able to ask her a
15 couple of questions?

16 CHAIRMAN CARTER: Of course. Would you like to ask
17 her a question? You're recognized.

18 MR. MOYLE: Just a couple.

19 CHAIRMAN CARTER: Sure.

20 MR. MOYLE: Hi. I'm Jon Moyle. I represent a group
21 of large electric users in the Tampa Bay area and other areas.

22 You used the term "a crushing burden" on the, on the
23 school system. In the Tampa area you also have public
24 universities, the University of South Florida, I guess the
25 University of Tampa, that's a private university, but wouldn't

1 you similarly expect if this rate increase is approved for them
2 also to suffer financial strain as a result of the rate
3 increase?

4 SUPERINTENDENT ELIA: Well, yes, I would. And I
5 guess, I think from the perspective that I'm coming from, right
6 now the K12 environment is, at this point in time does not have
7 an option. We don't charge a tuition. There are options for
8 other entities, our community college system and our university
9 system, to make those tough decisions and increase tuition so
10 that they can cover some of the bills. I can't do that.

11 MR. MOYLE: Yeah. I understand. You're funded with
12 ad valorem taxes primarily; correct?

13 SUPERINTENDENT ELIA: Yes.

14 MR. MOYLE: And you also get state funding as well?

15 SUPERINTENDENT ELIA: Yes.

16 MR. MOYLE: And like, I was going to use an example
17 of Tampa General. I mean, that's a public, public entity.
18 They're funded largely with Medicare and Medicaid dollars, so
19 they have separate funding sources. What I really wanted to
20 get from you was the point, it's kind of like the rising tide
21 floats all boats, the sinking tide works in converse. But that
22 you would also expect entities like the Tampa General, if this
23 rate increase is approved, to suffer considerable financial
24 strain; correct?

25 SUPERINTENDENT ELIA: I can only speak for school

1 systems. But I think I get back to the real issue; if you have
2 the capability of charging higher rates, a higher cost for the
3 services, then you're in a different pool, and we are in a
4 different pool. The universities, Tampa General, all of them
5 could be here representing their case. I'm here representing
6 public schools who do not have the opportunity to increase any
7 charges to anyone because we don't have that.

8 So I agree with you, yes, I think it will affect
9 them. But I can only speak for the K12 environment, and from
10 my perspective it is intolerable.

11 MR. MOYLE: Is your school system at its maximum
12 permitted ad valorem levy?

13 SUPERINTENDENT ELIA: We are close, and our school
14 board is going right now to consider doing something about
15 that. Because as, as we're all aware, you know, with homes
16 that are now in foreclosure, no one is paying taxes.

17 MR. MOYLE: Thank you, Mr. Chairman.

18 CHAIRMAN CARTER: Commissioner Skop.

19 COMMISSIONER SKOP: Thank you, Mr. Chairman.

20 Good morning.

21 SUPERINTENDENT ELIA: Good morning.

22 COMMISSIONER SKOP: I know that this issue came up
23 extensively at the service hearings that we, our customer
24 service hearings we had down in the Tampa area, and I
25 appreciate you taking the time to come before the Commission

1 this morning.

2 I guess to Commissioner Argenziano's point, I guess
3 that there had been some staff discussion, I look forward to
4 the cross-examination questions that will occur, but it's my
5 understanding and I hope that staff would be able to flesh this
6 out based upon this discussion that I've heard that there was
7 the ability to do something but now that's kind of been
8 precluded. So hopefully staff can flesh that out in the
9 discussion as we go through the proceeding. Thank you.

10 CHAIRMAN CARTER: Thank you. Commissioner
11 Argenziano.

12 COMMISSIONER ARGENZIANO: I do have a question and it
13 comes from another question. And I know this is asking you to
14 presume, but how likely is it that the Commission and
15 Hillsborough County or any other county, some counties, I
16 should say, and probably more the northern counties would raise
17 ad valorem taxes?

18 SUPERINTENDENT ELIA: Well, in the environment we're
19 in right now, understand that if we were to do that, those are
20 the parents that we're talking about who are sending their
21 children to us every day and I can't say that that's something
22 that's going to happen. It's a very, very difficult decision
23 for anyone to make. I believe that a 25 percent increase for a
24 school system without the financial constraints that we're
25 under right now is very, very difficult, but certainly in this

1 environment it is. And that is what we believe that the rates
2 that currently have been approved and the proposed rates will
3 mean for Hillsborough County schools. So we're talking
4 approximately \$10 million at least increase.

5 COMMISSIONER ARGENZIANO: Well, Mr. Chair, the reason
6 I bring that up is that it's really not very likely. And as a
7 past legislator of 13 counties I can tell you those 13 counties
8 pretty much wouldn't want to raise ad valorem taxes at this
9 time.

10 SUPERINTENDENT ELIA: And who do you help then? I
11 mean, you know, you're taking it out of parents and those that
12 are in the county to give it to the schools. We appreciate
13 that and know that it has to, we have to be able to function.

14 COMMISSIONER ARGENZIANO: Can I ask you one other
15 question? Have you talked to the Legislature? I mean, I know
16 that they've cut, but in this particular realm of asking for a
17 different rate class.

18 SUPERINTENDENT ELIA: Well, yes, we have.

19 COMMISSIONER ARGENZIANO: Additional money or
20 something to cover it.

21 SUPERINTENDENT ELIA: But the understanding is that
22 that really is under the power of the, of you sitting as the
23 Public Service Commission.

24 COMMISSIONER ARGENZIANO: Oh, that old shuffle.
25 Okay.

1 SUPERINTENDENT ELIA: Oh, boy, I'm shocked.

2 COMMISSIONER ARGENZIANO: I am too. I am too. Thank
3 you.

4 CHAIRMAN CARTER: Thank you.

5 Ms. Bradley.

6 MS. BRADLEY: Thank you, sir.

7 I thought you -- we've been talking about some of the
8 cutbacks, and if you've already given this information, I
9 apologize. And I don't mean to put you on the spot, but what
10 kind of cutbacks are you all looking at for this next year?

11 SUPERINTENDENT ELIA: Since July of 2007, so last
12 year's, our budget last year and our budget this year, we have,
13 we have taken cuts of in excess of \$85 million. That will take
14 us through July 1st of this year. Our proposed cuts for next
15 year are somewhere between what we're, you know, worst-case
16 scenario probably close to \$100 million. If it in fact, if it
17 is 10 percent of our budget, it will be \$120 million. And
18 hopefully it will be less than that with any other changes that
19 are made in other revenue sources and/or funds that come in
20 from Washington, but we believe that it's going to be again at
21 least \$60 to \$100 million coming up for next year.

22 MS. BRADLEY: And you mentioned you have five new
23 schools and additional space at 40 new schools?

24 SUPERINTENDENT ELIA: Yes. And that is so that we
25 can meet the class size reduction amendment. And we are

1 opening the five new schools now so that in fact we can meet
2 them. And although Tampa is really flat, we're catching up in
3 terms of what needs to be done so we can accommodate all the
4 students that we have, 190,000.

5 MS. BRADLEY: One thing we usually hear from the
6 utilities is their customers need to be more careful in how
7 they use electricity and be more conservative. And I think you
8 said something about meeting with staff and looking at some of
9 those issues?

10 SUPERINTENDENT ELIA: Well, we have put a whole new
11 department in our facilities department. Kathy Valdez is our
12 Chief Facilities Officer. She's here with me today. In that
13 department the focus is that we are going to cut back in every
14 one of our buildings. We have achieved approximately a
15 10 percent reduction and that's gotten us down to the
16 \$39 million. And that is by having people whose job it is to
17 work throughout the entire district at over 240 sites working
18 specifically on energy saving tactics to make sure that we are
19 all focused on that. We've increased those efforts. They
20 actually have their jobs based on their success. So if we
21 don't save money, then they don't have a job. And we're saving
22 money, we're making sure that that's put into effect.

23 We also are wherever possible in all of our
24 construction jobs doing everything that we can to be more
25 energy efficient. And hopefully if there's funds that come

1 down from Washington, and we believe that there will be,
2 related to energy efficiency, that we will take advantage of
3 that and do anything that we possibly can.

4 Hillsborough County was in a growth spurt for about
5 12 years. We built over 70 schools. And at the time we also
6 were a district that had virtually no impact, \$191 impact fee
7 at our growth, our highest growth time. And so consequently we
8 bonded a lot but we kept up with our construction. It wasn't
9 until the class size amendment came in that we had to increase
10 all of our facilities to be able to handle that and change
11 boundaries and do all those things. We're doing them. This
12 rate increase would be on top of that.

13 MS. BRADLEY: All right. Thank you very much.

14 No further questions, sir.

15 CHAIRMAN CARTER: Thank you.

16 Mr. Wright.

17 MR. WRIGHT: Thank you, Mr. Chairman. Just a couple
18 of questions.

19 Good morning, Ms. Elia.

20 SUPERINTENDENT ELIA: Good morning.

21 MR. WRIGHT: I just have a couple of questions for
22 you. You mentioned that the combined fuel charge increase and
23 the projected base rate increase would impose about a
24 25 percent increase on the Hillsborough County School Board; is
25 that right?

1 SUPERINTENDENT ELIA: Yes.

2 MR. WRIGHT: Now we, unfortunately we really can't do
3 anything about the fuel costs in this docket.

4 SUPERINTENDENT ELIA: We understand.

5 MR. WRIGHT: You do recognize this is only about the
6 base rates.

7 SUPERINTENDENT ELIA: Yes.

8 MR. WRIGHT: The company has asked for a \$228 million
9 rate increase. Is that your understanding?

10 SUPERINTENDENT ELIA: Yes.

11 MR. WRIGHT: And that represents about a 10 percent
12 increase in its total revenues.

13 My question for you is this, the consumers in this
14 case, myself representing the Retail Federation, Mr. Moyle,
15 Ms. Bradley, Ms. Christensen and Mr. Twomey, are advocating
16 positions that would hold the company's increase to no more
17 than \$39 million. That would represent an increase of maybe
18 1.5 percent to 1.6 percent on the company's total rates. My
19 question for you is would you find that at least more
20 manageable and easier to deal with than what the company has
21 asked for?

22 SUPERINTENDENT ELIA: Well, absolutely. I mean, I'm
23 here taking a position that any increases are going to be
24 difficult. But clearly the more controls that are placed on
25 the increase, the better any of the school systems and any of

1 the other firms, the other entities that you mentioned would
2 be, the least they'd be impacted. And clearly I think you have
3 to say that schools and our public systems, both the university
4 and the community college, are going to be in the same position
5 that I am. That's where right now we are taking the greatest
6 hits in Florida's economy, and that is projected for the next
7 two to three to four years.

8 MR. WRIGHT: Thank you very much.

9 Thank you, Mr. Chairman.

10 CHAIRMAN CARTER: Thank you. From any of the other
11 rest of the parties, any other questions?

12 Madam Superintendent, let me just take an opportunity
13 on behalf of my colleagues and I again to express our profound
14 appreciation for you not only participating at the public
15 hearings when we were down in the area, but also making the
16 extraordinary effort to come again here in Tallahassee to
17 reiterate. And as I said, you didn't just come with the
18 problems, you came with some recommended solutions, which we
19 sincerely appreciate that.

20 Commissioners, anything further for this witness?

21 Thank you so kindly.

22 SUPERINTENDENT ELIA: Thank you very much. I
23 appreciate it.

24 CHAIRMAN CARTER: Yes, ma'am.

25 Do we have any other, any other persons that have

1 signed up from the public to speak? I'm looking in the back.
2 Cindy, do we have anyone that's signed?

3 Is there anyone that wanted to speak on behalf of the
4 public that did not get an opportunity to speak? Okay.

5 Hearing none, Commissioners, we'll now move into the technical
6 portion of our program. Our technical -- program. I feel like
7 the, what is that with the skaters, is that the technical
8 portion, then they do the creative portion? We just won't be
9 doing any flying flips or somersaults or anything like that.

10 Let's go into our technical hearing. With that,
11 staff, you're recognized for preliminary matters.

12 MR. YOUNG: Thank you, sir. At this time staff
13 recommends that the Comprehensive Exhibit List be marked as
14 Exhibit Number 1 and moved into the record.

15 CHAIRMAN CARTER: Okay. The Comprehensive Exhibit
16 List will be marked. Have you got your copy?

17 MR. YOUNG: It's underneath the green sheet.

18 CHAIRMAN CARTER: Underneath the green sheet. Okay.
19 Without objection, show it down.

20 (Exhibit 1 marked for identification and admitted
21 into the record.)

22 You may proceed.

23 MR. YOUNG: Thank you. Also, staff recommends that
24 the Service Hearings exhibits be marked at Exhibits Numbers
25 2 through 5 and 7 through 12 and moved into the record.

1 Staff -- the Service Hearing exhibit, the Service
2 Hearing exhibit previously marked as Exhibit 6 was never
3 received because it was a late-filed exhibit and never
4 received.

5 CHAIRMAN CARTER: Without objection, show it done.

6 (Exhibits 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12 marked
7 for identification and admitted into the record.)

8 You may proceed.

9 MR. YOUNG: Thank you. Staff also recommends that
10 staff's Composite Exhibit List be marked as Exhibit 13 and
11 moved into the record, and which staff has, has a separate
12 sheet in terms of what the staff composite exhibit was and
13 handed it out to the parties.

14 CHAIRMAN CARTER: Does, do any of the parties have
15 any questions about the exhibit list that staff has just
16 presented?

17 MR. WILLIS: We have no questions about it or any
18 objections, but several of the parties had submitted
19 supplements and I think that's next up on staff's list.

20 MR. YOUNG: Yes.

21 MR. WILLIS: Okay.

22 CHAIRMAN CARTER: I think it's like riding to Disney
23 World with the kids. I don't think we're there yet, are we?
24 Are we there yet?

25 MR. YOUNG: I think Mr. Wright was looking for his.

1 MR. WRIGHT: We don't have any problems with the
2 exhibits, Mr. Chairman. I was just trying to locate a copy of
3 the exhibit list so I could follow along.

4 CHAIRMAN CARTER: Without objection, show it done.

5 (Exhibit 13 marked for identification and admitted
6 into the record.)

7 You may proceed.

8 MR. YOUNG: Yes. Thank you. Staff also recommends
9 that TECO, Tampa Electric, OPC and the other parties' composite
10 exhibit, FIPUG and the other parties' composite exhibits,
11 discovery, discovery exhibits be marked and moved into the
12 record, and I think each party will go in turn.

13 CHAIRMAN CARTER: Is there any objection?

14 Mr. Willis?

15 MR. WILLIS: Mr. Chairman, we had a document that is
16 up there on the desk. It's titled Tampa Electric's Stipulated
17 Composite Exhibit Supplementing Staff's Stipulated Composite
18 Exhibit 13, which we'd request be marked for identification and
19 moved into the record.

20 CHAIRMAN CARTER: That would give us number -- let me
21 get my numbers straight here. Is that Number 14, staff, or
22 what number would this be in sequence?

23 MR. YOUNG: No, sir. If you turn to the end, we'll
24 do it at the end starting --

25 CHAIRMAN CARTER: Okay.

1 MR. YOUNG: -- starting with Number 87. That would
2 be Number 87.

3 CHAIRMAN CARTER: Number 87. Commissioners, this is
4 this document here, this lovely document. Oh, wait a minute.
5 Let's make sure we've got the right one here. 87.

6 MR. WILLIS: I'd request that it be moved into the
7 record.

8 CHAIRMAN CARTER: Any objections? Without objection,
9 show it done.

10 (Exhibit 87 marked for identification and admitted
11 into the record.)

12 You may proceed.

13 MR. YOUNG: OPC.

14 CHAIRMAN CARTER: Ms. Christensen.

15 MS. CHRISTENSEN: Yes, Commissioner. OPC has a
16 composite exhibit to enter into the record. It consists of --
17 I think there were several different packets. There's a packet
18 consisting of OPC or Tampa Electric's responses to OPC
19 interrogatories and there's a packet consisting of production
20 of document request number 35 and another one for production of
21 document number 111.

22 CHAIRMAN CARTER: That will be Number 88. That's
23 this?

24 MS. CHRISTENSEN: Yeah. If we can combine them as
25 Number 88, that would be --

1 CHAIRMAN CARTER: Okay. We'll number it as Number
2 88. Any objections? Without objection, show it done.

3 (Exhibit 88 marked for identification and admitted
4 into the record.)

5 MR. YOUNG: Next is FIPUG.

6 MS. KAUFMAN: Yes, Mr. Chairman. FIPUG also
7 distributed a stipulated composite exhibit list consisting of
8 five items that we'd ask be marked as 89 and entered into the
9 record.

10 CHAIRMAN CARTER: Wait. Hang on a second.

11 MS. KAUFMAN: Right. It has a CD at the back.

12 CHAIRMAN CARTER: Okay. That would be Number 89.
13 Any objections? Without objection, show it done.

14 (Exhibit 89 marked for identification and admitted
15 into the record.)

16 You may proceed.

17 MR. YOUNG: Yes. Any stipulated prefiled, any
18 stipulated prefiled testimony and exhibits can be taken up in
19 turn as the witnesses are called at the hearing.

20 CHAIRMAN CARTER: Okay.

21 MR. YOUNG: Also, staff recommends that any exhibits
22 proffered during the technical hearing that are not identified
23 on the exhibit list be numbered sequentially following those
24 exhibits, those in the exhibit list.

25 CHAIRMAN CARTER: Okay. Show it done.

1 Okay. Anything further?

2 MR. YOUNG: Yes, sir. There are several preliminary
3 matters, continuing on preliminary matters.

4 Mr. Chairman, staff has prepared a separate document
5 outlining a list of proposed stipulations entitled Proposed
6 Stipulated Issues for the Commission to vote on as an
7 alternative -- to vote on it at, to vote on at its convenience.
8 Staff would note that the parties have taken no position on
9 most of the issues, and the stipulated issues are 1, 25, 40,
10 42, 43, 44, 45, 81, 82, 85, 89, 90, 92, 96, 106, 108, 111 and
11 113. And it's, it's given to you in a separate attached
12 document, separate document.

13 CHAIRMAN CARTER: Commissioners, that's this.

14 MR. YOUNG: And I would note that on the separate
15 attached document Issue Number 3, the reason I didn't call
16 Issue 3 is because FIPUG, excuse me, FRF took no, took the
17 position of no and it's not stipulated.

18 CHAIRMAN CARTER: So we'll just, with the exception
19 of Issue 3, Commissioners. Motion? Commissioner Edgar, you're
20 recognized.

21 COMMISSIONER EDGAR: Thank you. Mr. Chairman, at
22 this time, seeing no objections from the parties, I can offer
23 the motion that we adopt the document and what it includes
24 titled Proposed Stipulated Issues, TECO Rate Case, with the
25 removal of Issue 3.

1 COMMISSIONER SKOP: Second.

2 CHAIRMAN CARTER: Moved and properly seconded.

3 Commissioners, any further questions, discussion, debate? All
4 in favor, let it be known by the sign of aye.

5 (Unanimous affirmative vote.)

6 All those opposed, like sign. Show it done.

7 MR. WRIGHT: Mr. Chairman?

8 CHAIRMAN CARTER: Mr. Wright.

9 MR. WRIGHT: May I just ask for, to make sure that
10 I'm clear on the adoption of the stipulations? These are what
11 we typically call a Type 1 or Type A stipulations where they're
12 stipulations as between the company and the staff with the
13 other parties not having agreed to but not opposing the
14 stipulations. That is our position.

15 CHAIRMAN CARTER: That's the way I understood it.

16 MR. WRIGHT: Thank you, sir. I just wanted to make
17 sure. Appreciate it.

18 CHAIRMAN CARTER: There you go. See? See how easy
19 that was?

20 You may proceed, staff.

21 MR. YOUNG: Thank you. The following witness has
22 been excused from the hearing, Ms. Lori L. Cifuentes.

23 Also, Mr. Chairman, TECO has requested that its
24 witnesses, that its witnesses except for Dr. Donald A. Murry to
25 present their direct and rebuttal testimony at the same time.

1 If there are no objections from the Chairman or the Commission,
2 staff recommends that TECO's request be granted.

3 CHAIRMAN CARTER: Commissioners, any objections?
4 Without objection, show it done.

5 MR. YOUNG: Per Commissioner Skop's ruling at the
6 prehearing, FIPUG's witness Jeffrey Pollock shall be, shall be,
7 shall present his direct, the direct testimony out of order,
8 and said testimony shall be presented before January 29th,
9 2009 -- should not be presented before January 29th, 2009.

10 CHAIRMAN CARTER: Commissioners, any objection?
11 Without objection, show it done.

12 MR. YOUNG: OPC's request -- OPC requests that its
13 witness Dr. J. Randall Woolridge be taken out of order and
14 present his direct testimony on January 28th, 2009.

15 CHAIRMAN CARTER: Any objections?

16 MR. WILLIS: We don't object to it, although on the
17 28th we would like to try to finish the company's case prior to
18 his testimony.

19 CHAIRMAN CARTER: Okay. Well, as much as possible
20 we'll try and accommodate the parties. So let's --

21 MS. CHRISTENSEN: Commissioner, I think we can
22 probably --

23 CHAIRMAN CARTER: Ms. Christensen, you're recognized.

24 MS. CHRISTENSEN: Thank you. I think we can
25 accommodate that. So long as Dr. Woolridge testifies before

1 5:00 on the 29th I think we'll be okay. He has to be at
2 another venue on the 30th. So if we can -- I think it'll
3 happen through the natural course of the witnesses, but we just
4 wanted to make the Commission aware that he needs to testify
5 before 5:00 on the 29th.

6 CHAIRMAN CARTER: Okay. We'll try, we'll try as much
7 as possible to accommodate you and take them out of order.

8 Commissioner Argenziano.

9 COMMISSIONER ARGENZIANO: Mr. Chair, I'd like to make
10 sure that he has ample time too because I have questions and I
11 don't want to cut him off short.

12 CHAIRMAN CARTER: Okay. Let's -- with that in mind,
13 with that in mind, we will do that. Okay.

14 Staff.

15 MR. WILLIS: Mr. Chairman, on the previous testimony
16 that has been, where cross-examination has been waived of
17 Lorraine Cifuentes, can we have that testimony inserted into
18 the record and her Exhibit 21 accepted into evidence, please?

19 CHAIRMAN CARTER: Here's what I like to do is that
20 when we get to that witness, we do it at that point in time.

21 MR. WILLIS: All right. That's fine.

22 CHAIRMAN CARTER: We'll read it into the record, and
23 if there's any exhibits, we'll do that. It'll be without
24 objection but we'll do it in the sequence of that order. I
25 prefer to do it that way.

1 MR. WILLIS: That's fine.

2 CHAIRMAN CARTER: Any, any further preliminary
3 matters from the parties?

4 MR. YOUNG: Yes, sir. Finally staff would note that
5 there was an error in the Prehearing Order on position 102 of
6 TECO's position.

7 MR. WILLIS: Mr. Chairman, if you look at Page 76 of
8 the Prehearing Order, there are positions stated for an
9 SBF-1 and then on Page 77 for SBF-1 and SBF-2. There's no such
10 thing as SBF-1 or 2, and the position is just that first
11 paragraph stated "plus the rates stated for the SBF rate," and
12 we'd just ask that Tampa Electric's position be altered
13 accordingly.

14 CHAIRMAN CARTER: This is just merely a correction of
15 language, is that --

16 MR. WILLIS: Yes. It's just eliminating the last set
17 of numbers at the bottom of Page 76 and the numbers and
18 designations at the top of Page 77.

19 CHAIRMAN CARTER: Okay. Any objections? Okay.
20 Without objection, show it done.

21 Okay. Staff, anything further, preliminary matters?

22 MR. YOUNG: No, sir, not that staff is aware of. The
23 parties might have some. I don't know.

24 CHAIRMAN CARTER: Let me, let me do this before we go
25 into opening statements and that whole process. One is that

1 the parties are permitted to opening statements each, and just
2 as a general reminder, if you're on similar sides, if something
3 has already been said and that issue has already been
4 identified, just for the sake of efficiency we can, we can
5 proceed further.

6 Secondly is that on friendly cross, just a brief
7 comment. I feel I need to make this because it, we, we -- it's
8 obvious that we have numerous parties and numerous witnesses.
9 I want to give everyone, every party an opportunity and every
10 witness the time they need to get the job done, and, but we ask
11 for your cooperation. To that end I'd like to ask the parties
12 to make an effort to limit friendly cross because -- just let's
13 limit friendly cross. I also would like to note that I
14 anticipate there to be a long hearing, so I'd ask parties not
15 to conduct discovery during the proceedings.

16 Secondly or thirdly or whatever number I'm up to now
17 is that when you present your witness, we've told the attorneys
18 that practice before us before and we'll continue to tell you
19 again is that when your witness goes to make their summary of
20 their statement, let's limit that to five minutes. And I think
21 that that's, that's, that just kind of -- that's a reminder, a
22 friendly reminder that we do that. All right?

23 Okay.

24 COMMISSIONER EDGAR: Mr. Chairman, I'm sorry.

25 CHAIRMAN CARTER: Commissioner Edgar, you're

1 recognized.

2 COMMISSIONER EDGAR: Just for my -- thank you. For
3 my own records before we move into the next stage, the exhibits
4 that we marked at the very end, the composite exhibits from
5 some of the parties we marked 87, 88 and 89. Have we entered
6 those in the record?

7 CHAIRMAN CARTER: We didn't give them any -- I think
8 we did. Do you need a title or what?

9 COMMISSIONER EDGAR: No. I just wanted to know if we
10 did enter them.

11 CHAIRMAN CARTER: I think we did. We entered them.
12 Yes, we did.

13 COMMISSIONER EDGAR: Okay. Thank you.

14 MR. MOYLE: So those, those are all in evidence?

15 CHAIRMAN CARTER: Yes. Yes, they are.

16 MR. MOYLE: Okay.

17 CHAIRMAN CARTER: Yes, they are.

18 MR. MOYLE: I had --

19 CHAIRMAN CARTER: Mr. Moyle.

20 MR. MOYLE: On a preliminary matter I had one just
21 kind of question for planning purposes.

22 CHAIRMAN CARTER: Okay. You're recognized.

23 MR. MOYLE: We haven't had a rate case in a while.
24 This is the first one that I've had the pleasure of
25 experiencing.

1 Is it the Chair's intent -- I know you're going to
2 have to sort of see how the, how the proceedings go, but for
3 this week to try to wrap up by, by 5:00 during the hearing or
4 at least as close to that hour with the witness schedule or --
5 I just was trying to get a sense of kind of your thoughts on
6 that.

7 CHAIRMAN CARTER: Well, I thought you guys would all
8 stipulate by 2:00 and we'd be home for dinner.

9 MR. MOYLE: I've got an ROE proposed stipulation I
10 can float by TECO.

11 CHAIRMAN CARTER: So it won't be 2:00 then.

12 (Laughter.)

13 What we'll try and do is that today, today our plan
14 is to go five-ish. Because, as I said, initially with our
15 preliminary statement is that because of the nature of what
16 we're trying to do, allow staff an opportunity to witness
17 history and also the opportunity to have lunch, we were going
18 to break from 11:15 to 1:45 and return. But today, today being
19 the first day, we want to see as much, get done as much as we
20 can done. So today we probably won't go beyond 5:00,
21 Commissioners. We probably won't go beyond 5:00 today. And
22 that, if that helps the parties with your planning purposes,
23 then so be it.

24 Okay. Any other preliminary from any of the parties,
25 any preliminary matters before we go further?

1 Okay. All right then. Let's do this, let's see how
2 far can we get going with our opening statements. And I'm not
3 going to reiterate my statements initially about opening
4 statements, witnesses and friendly cross. Just, just remember.
5 You're recognized.

6 MR. WILLIS: Good morning, Commissioners. We are
7 appearing before you today at the end of a long and arduous
8 process which began with a voluminous filing of testimony,
9 exhibits and minimum filing requirements on August the 11th.
10 Since that time your staff and the Intervenors have been very
11 busy aggressively reviewing that filing through a protracted
12 and thorough staff audit that was conducted by staff in Tampa.
13 Through asking 460 interrogatory questions, 276 requests for
14 admission, taking nine depositions with numerous late-filed
15 exhibits, Tampa Electric has produced over 650,000 pages of
16 materials for review. Tampa Electric's preparation for this
17 filing and making the complete and timely responses to
18 discovery has taken several hundred employees almost a year to
19 complete.

20 Tampa Electric greatly appreciates the
21 professionalism by which this process has taken place. It has
22 taken place all around with the people that are before you.
23 And one point upon which all of us agree is that your staff has
24 done an outstanding and remarkable job of presenting this case
25 to you today for hearing. And it's a tremendous administrative

1 burden and technical burden on them to review it and they've
2 done a great job.

3 Now let's look at the reasons for this filing. Tampa
4 Electric filed this case after an extensive and careful
5 analysis that unquestionably shows that Tampa Electric needs a
6 significant base rate increase to continue reliable and
7 effective service in its service area. While various parties
8 are suggesting a number of adjustments to the company's
9 \$228 million rate increase request, it is clear that after all
10 the dust settles here that Tampa Electric needs a substantial
11 base rate increase.

12 Over the past 16 years since the company's last rate
13 case Tampa Electric has continuously and successfully
14 controlled its costs and avoided seeking a base rate increase.
15 But now the company has simply run out of options without
16 impacting service quality and without failing to comply with
17 this Commission's mandates with respect to the generating
18 reserves, service quality standards, storm hardening activities
19 and other matters over the past 16 years since Tampa Electric's
20 customer base has grown some 42 percent. And the company has
21 invested \$1.7 billion in additional generating facilities,
22 including a significant environmental commitment plan. They've
23 also invested \$1.5 billion in transmission and distribution
24 facilities.

25 Since the last rate case, Tampa Electric has

1 successfully succeeded in maintaining its total O&M expenses
2 below this Commission's benchmark which tracks inflation
3 together with the company's growth to test the company's
4 spending levels. This is clear evidence of the company's
5 strong focus on controlling operating and maintenance expenses,
6 and its projected expenses remain below the benchmark for 2009.

7 But Tampa Electric is at a point in time where
8 further efficiency cannot be achieved without -- while
9 maintaining adequate service, and without rate relief Tampa
10 Electric's return on equity will drop to near 4 percent in
11 2009. While we may quibble over what is the appropriate earned
12 return on equity, none of the parties before you contend that
13 the result should be that low.

14 Return on equity is one of the central issues in the
15 case and Tampa Electric proposes a return on equity of
16 12 percent. The company will also present evidence on the
17 appropriateness of an equity ratio of 55.3 percent, which is
18 similar to the equity ratios of the other major electric
19 utilities in Florida.

20 Now much has been said and will be said about current
21 market conditions and how these conditions should be considered
22 here. We will present evidence that the current market
23 conditions have restricted the availability of capital and have
24 increased the cost of capital to electric utilities. We cannot
25 overemphasize the importance of maintaining the financial

1 integrity of Tampa Electric in the face of enormous capital
2 requirements driven by the company's construction program
3 necessary to serve its customers. Financial integrity is
4 critically important to maintain vital access to markets at
5 reasonable cost. A reasonable rate of return on equity and
6 appropriate capital structure are critical in maintaining the
7 company's financial integrity. The return on equity and the
8 capital structure advocated by your Intervenors will not meet
9 this objective.

10 Tampa Electric has also included in its rate base in
11 this case five, the cost and expenses of five combustion
12 turbine generating service units that will go into service in
13 May and September of this year to provide additional reserves
14 and critically needed operating flexibility. It's also
15 included a new rail facility that will begin receiving coal in
16 December at Big Bend Station and will provide lower fuel costs
17 for customers.

18 Now Intervenors have complained that these facilities
19 were not in service on the first day of this year and should be
20 completely ignored. That would be shortsighted. Two of the
21 five CTs are going into service in May, about the same time as
22 the new rates will go into effect. The others will go into
23 September and will be providing customer benefits in this test
24 year, as well as the rail facility will begin shipping coal or
25 receiving coal at Big Bend Station.

1 Failure to recognize these investments will, will
2 cause an immediate and severe drop in the company's earned
3 return, which essentially would build in a need for a rate
4 proceeding in 2010. Such a severe consequence should be
5 avoided by meaningfully recognizing these facilities in this
6 case.

7 Intervenor also propose Tampa Electric's \$16 million
8 proposed increase in its storm damage accrual and its proposed
9 target of \$20 million -- \$120 million in the Storm Damage
10 Reserve. The current accrual of \$4 million and the target of
11 \$55 million was established shortly after Hurricane Andrew, and
12 the company's transmission and distribution facilities for
13 which they cannot obtain insurance are about three times what
14 they were when this \$4 million accrual was established. It
15 won't take much of a storm to wipe out this reserve, and it's a
16 far better policy to have an appropriate accrual every year.

17 Now you're going to hear a lot about securitization.
18 And securitization can be an effective tool to deal with this,
19 but not for the higher probability events and not for damage of
20 less than \$150 to \$200 million because of the high issuance
21 costs and the administrative costs of securitization which
22 makes it practically impractical for Tampa Electric.

23 Now your Intervenor have also presented a garden
24 variety of proposed adjustments to rate base and expenses based
25 on such things as historical average, actual results in some

1 categories being below budget at times and accounting theory.
2 Many of these recommended adjustments are fundamentally flawed
3 with erroneous calculations and many are shortsighted and do
4 not consider overall revenue requirements. If the proposed
5 Intervenor adjustments are made in total, it will also cause an
6 immediate shortfall and a need for further rate relief of Tampa
7 Electric.

8 Now in conclusion, Tampa Electric and each of its
9 employees are acutely aware of the economic circumstances in
10 which we find ourselves. Tampa Electric has demonstrated a
11 concerted effort to avoid seeking rate relief for 16 years.
12 However, it's the company's duty to meet customers' needs,
13 expectations, and indeed statutory right to continue to receive
14 safe, reliable and cost-effective electric service, and that
15 makes this increase necessary. This decision was difficult but
16 it cannot be shelved or otherwise ignored. We urge you to
17 recognize the company's proposed rates are necessary to enable
18 it to continue meeting its commitment and its obligation to
19 serve its customers with the quality of service that they
20 deserve and expect. Thank you, sir.

21 CHAIRMAN CARTER: Thank you.

22 Mr. Twomey, you're recognized, sir.

23 MR. TWOMEY: Mr. Chair, if it's agreeable to you --

24 CHAIRMAN CARTER: You want to do a different order?

25 MR. TWOMEY: Yes, sir. The customer parties have

1 agreed amongst ourselves that Public Counsel should go first,
2 AARP last, which will help us say "me too" more often and
3 reduce the total time expended.

4 CHAIRMAN CARTER: I love it when a plan comes
5 together.

6 MR. TWOMEY: Yes, sir. Thank you.

7 CHAIRMAN CARTER: Ms. Christensen, good morning.
8 You're recognized.

9 MS. CHRISTENSEN: Good morning, Commissioners.
10 Again, my name is Patty Christensen, and I represent the
11 citizens of the State of Florida. As you heard and undoubtedly
12 will hear numerous times during this hearing, in these economic
13 times where families, businesses, the State of Florida and
14 local governments are tightening their belts this Commission
15 needs to make sure that the company only get the dollars it
16 needs to provide reliable service, not a wish list of dollars
17 for projects and items it can make do without.

18 Tampa Electric has asked for an increase of
19 \$228 million to its base rates and a 12 percent return on its
20 investment. Tampa Electric's request is grossly overstated and
21 excessive in today's economy.

22 As you heard Mr. Willis say and we readily
23 acknowledge, we have conducted thorough discovery through
24 Dr. Woolridge, Hugh Larkin, Bill Schultz, Ms. Merchant of our
25 office and others, and we have reviewed this discovery and the

1 company's minimum filing requirements. And based on our close
2 review of the company's proposal, we believe that it shows that
3 the company has supported at most only \$38 million of its
4 \$228 million request and that is all that is needed for Tampa
5 Electric to earn a fair rate of return and to meet its
6 operating and maintenance expenses.

7 Moreover, the 12 percent return on equity requested
8 by the company is extremely inflated and unsupported by current
9 market conditions. The correct return on equity which is
10 supported by today's market and recognizing the uncertainties
11 which, which have persisted in the market is 9.75 percent
12 return on equity. And using that 9.75 percent return on
13 equity, the reasonable and supported overall fair rate of
14 return is 7.33 percent. Along with applying the correct return
15 on equity of 9.75 percent, the Commission should apply the
16 numerous adjustments suggested by the citizens to the company's
17 projected 2009 test year rate base and operating expenses.
18 These adjustments are warranted since Tampa Electric has
19 significantly overstated certain amounts, which if left
20 uncorrected would result in customers paying rates in excess of
21 rates that would be reasonable and necessary to provide safe
22 and reliable service. To not make the adjustments to remove
23 the excess in Tampa Electric's request, especially in today's
24 economy, is unthinkable.

25 Several adjustments deserve special discussion. As

1 you heard Mr. Willis bring up, first Tampa Electric is
2 scheduled to bring on new plant during the 2009 year and it is
3 seeking to annualize these costs. But as Mr. Willis pointed
4 out, two of these new simple cycle combustion turbines will not
5 come online for public service until May 2009 and three of the
6 CTs will not come online until September 2009. And as for the
7 Big Bend rail facility, that will not be put into service until
8 2009, December 2009. It is the Intervenors' position and
9 Office of Public Counsel's position that these should come into
10 rate base when they come into public service, the dates that
11 they actually become used and useful for the public service.
12 But Tampa Electric wants to treat these as if they became
13 useful for public service on January 1st, 2009. We believe
14 that Tampa Electric's request to annualize these plants
15 violates ratemaking principles and the requirement in Florida
16 Statute that only property used and useful for the public
17 service be used for ratemaking purposes. So we disagree with
18 Tampa Electric's contention that we're ignoring this plant. We
19 just want it treated appropriately.

20 Next, Tampa Electric is requesting that the
21 Commission approve the creation of a transmission base rate
22 adjustment mechanism. Tampa Electric's request is unreasonable
23 and should be denied. And while the Commission and the
24 Legislature have created several clauses which lessen the
25 utility's exposure to underrecoveries of certain costs such as

1 fuel and environmental costs, citizens are not aware of this
2 Commission or any other commission authorizing an automatic or
3 any other type of adjustment clause for the recovery of
4 transmission facilities.

5 In fact, base rates are designed to recoup this type
6 of cost, and to remove this cost from base rates would in
7 effect reduce the company's risk to plan and to properly build
8 transmission. Moreover, given the long time frame required to
9 build transmission, the utility has ample time to request a
10 base rate change, if needed. The company presently recovers
11 almost 60 percent of its revenues through existing clauses.
12 Shifting new transmission costs to clauses would shift
13 additional risk for which the company is compensated in base
14 rates by the ratepayers and it would unnecessarily add
15 additional administrative cost. This request should flat out
16 be denied.

17 In addition to the adjustments I've discussed, Tampa
18 Electric has included what I call wish list dollars. Some
19 examples of this are Tampa Electric's request to increase its
20 employees and its incentive compensation program for its
21 executive employees. Tampa Electric has asked for 151 new
22 employees above the 2007 levels, even though the company has
23 decreased its employee levels 11 of the last 15 years, as you
24 will hear through testimony.

25 Also, Tampa Electric has included an incentive

1 compensation program which does not appear to be necessary to
2 retain or motivate its employees, especially its executives,
3 nor do the dollars associated with this program appear to be
4 at-risk pay.

5 But -- last but not least you've heard from Tampa
6 Electric's customers that this would create a hardship for
7 them. You specifically heard from the Superintendent today,
8 you heard during the Customer Service Hearings, and that was
9 prior to the economic downturn, that this was going to create
10 economic hardship, and more so today.

11 The customers need and deserve all of the fat and
12 excess to be trimmed from Tampa Electric's request, especially
13 since the customers will not only feel the increase in their
14 own residential bills, but the increases that get passed along
15 through everyday items through the increases that Retail
16 Federation's customers will have to pass on or FIPUG's
17 customers will have to pass on to theirs. It will be a
18 trickle-down effect, so we must trim the excess fat.

19 Based on Citizens' recommended reductions to Tampa
20 Electric's request to remove this excess that I discussed today
21 and that are discussed in Dr. Woolridge's, Mr. Larkin and
22 Mr. Schultz's prefiled testimonies, an overall reduction to
23 Tampa Electric's request of at least \$189 million is warranted.
24 We are convinced that after hearing all the evidence the
25 Commission will agree that these adjustments are not only

1 warranted but appropriate given today's economic circumstances.

2 Thank you.

3 CHAIRMAN CARTER: Thank you, Ms. Christensen.

4 Now, Ms. Bradley, are you next?

5 MS. BRADLEY: Yes, sir, I believe so.

6 CHAIRMAN CARTER: Okay. Ms. Bradley, you're
7 recognized.

8 MS. BRADLEY: Thank you, Mr. Chairman, Commissioners.
9 I want to first thank Mr. Beasley and Mr. Willis for their
10 professionalism in getting us material and information. We had
11 less professionalism in a recent case, so I particularly
12 appreciated their efforts, even though they've worked hard for
13 their company and obviously we disagree on the issues.

14 Ms. Christensen mentioned the public hearing. That
15 was a very interesting hearing. We had people coming in and
16 saying that they were having to make decisions about do we eat
17 today or do we have electricity or do we pay our medical bills?
18 These are things some of our citizens are facing. And one of
19 the ladies who worked in a nursing home talked about how
20 concerned the seniors she works with are. She was very
21 disturbed about it and concerned about how this was going to
22 affect them. We also heard from the Superintendent of Schools
23 about efforts they're doing, you know, to care for the
24 children, to provide an education and trying to conserve.
25 They've opened a new office, she said, to deal with this

1 specific issue. In their, in their new buildings they are
2 doing things to conserve energy. So citizens are trying to
3 conserve energy. They shouldn't have to do without it though.
4 And your duty is to provide affordable rates for customers.
5 That has to be balanced against the companies trying to make a
6 profit. We understand they're trying to make a profit, we
7 understand they want to be profitable and we're not saying they
8 shouldn't be, but there's a limit to how far and how much the
9 company can make when our citizens are being affected this
10 greatly.

11 The economy is something that has to be considered.
12 There's only so much some people can pay, and unfortunately a
13 lot of them are already at that limit when we're talking about
14 this kind of increase, over \$228 million and a 12 percent
15 return on equity. We heard at the public hearing from one of
16 the representatives, a couple of representatives from Publix
17 who said, you know, we'd love this kind of return on equity for
18 our company. And a lot of the companies are facing real
19 problems because they're not anywhere near this, and we'd like
20 those companies to be here next year too. So it's somewhat of
21 a balancing test. We'd like all of the companies to be here.
22 And if you give one so much, then the others are going to be
23 hurt too. And unfortunately there's a trickle down to the
24 customers who have to have food, who have to have consumer
25 goods, who have to have electricity and medical services and

1 all the other things they're looking at.

2 So when you start looking at all these things -- it
3 was also an impact of one of the ladies who came forward at the
4 public hearing and she said, well, I'm trying to pay my bills,
5 but she said they've closed the places, so now I have to pay
6 somebody to pay my bill. And we seem to be making it harder
7 and harder for folks that are just trying to get by.

8 There was the father who came and testified about
9 his, his child had been seriously ill and they had huge medical
10 expenses and all of the sudden he lost his job because his
11 company was having problems, and they told him that he would
12 have to pay something like a month and a half deposit. And if
13 he was a day late again, they would hit that, they would take
14 that money. This is a person already having trouble and now
15 he's faced with a huge extra bill that they're looking at him
16 to pay. And this is the kind of thing our customers or
17 citizens are having to deal with. So we have to look for some
18 solution that keeps their companies profitable but not overly
19 so and at the same time allows our citizens to be able to
20 afford services, be able to afford to, the electricity they
21 need for living in their homes. And we would ask you to look
22 at this and, and find something a little bit more reasonable
23 for the citizens.

24 Obviously the utilities are in a nice position
25 because they, we have to have those services. We're going to

1 keep going to those utilities as long as we can, as long as
2 people can afford to. But maybe they'd make a little bit more
3 if they didn't raise their rates. Maybe people would use a
4 little bit more electricity or a little bit more of their
5 services, although we're all trying to conserve now. But I
6 would ask that you look at something a lot less because while
7 we'd like them to be profitable, we'd like everybody to be
8 profitable. Thank you.

9 CHAIRMAN CARTER: Thank you, Ms. Bradley.

10 Mr. Moyle.

11 MR. MOYLE: Thank you, Mr. Chairman. Again, for the
12 record, Jon Moyle on behalf of FIPUG.

13 And I'm going to spend a little time previewing what
14 some of FIPUG's witnesses will tell you about. But before I
15 do, I wanted to echo the comments that you've already heard
16 about the cooperation amongst the parties. This is -- it's a
17 privilege for me to be on the consumer side of the table along
18 with the Public Counsel and the Attorney General's Office, the
19 Florida Retail Federation and AARP on behalf of FIPUG. Tampa
20 Electric has handled themselves very professionally, and I've
21 enjoyed working, working with staff as well. Some of the staff
22 have been around a little longer than others, but Mr. Young and
23 I have enjoyed, I think, getting to know each other; at least
24 I've enjoyed getting to know him.

25 And I was kind of joking with him before we started.

1 He used to have a career in the criminal defense system. And I
2 said, well, we're not, we're not dealing with life and liberty
3 today but we are dealing with a significant right, which is a
4 property right. And the property rights of the consumers are
5 potentially going to be adversely affected if this rate
6 increase as requested by Tampa Electric is approved.
7 \$228 million, that's a heck of a lot of money that's being
8 sought. And I think you'll hear testimony and evidence that
9 that is not the right number, that they could make do with a
10 significantly lower amount. Mr. Wright indicated it's in the
11 \$30 million range. You're going to have to make some
12 considered judgments to get to the number. But given these
13 tough economic times, to echo the opening comments of the
14 Attorney General, this isn't the time to be hitting ratepayers,
15 whether they're businesses or AARP members on fixed incomes,
16 with a, with a big rate increase.

17 FIPUG is sponsoring two witnesses in this case. The
18 first is Mr. Tom Herndon, who's going to address you on ROE
19 issues, return on equity. And he comes at it from a little
20 different perspective. He doesn't have a Ph.D. in economics,
21 but he has, I would contend, a lot of real-world experience in
22 dealing with financial matters. He headed up the State Board
23 of Administration Fund for a number of years which was charged
24 with safely managing and investing the state's money, over
25 \$100 billion at the time. He has retired from that but is

1 currently serving on boards that are also actively involved in
2 investing and managing money. The Helios Foundation has over
3 \$500 million in assets and looked to him for advice as to how
4 those monies should be invested. So while you're going to hear
5 from a lot of people about, well, here's, here's what the
6 rating agencies might say and the rating agencies put these
7 publications out that the investors then look to, I would
8 contend that the only investor, the only person representing
9 the views of the investor that you'll hear from during this
10 proceeding are Mr. Herndon. And I'm going to spend a little
11 time talking about the ROE in a minute as to the subject
12 matter.

13 You'll also hear from Jeff Pollock, who is a witness
14 for FIPUG, and he's going to talk to you about cost of service
15 and rate design. One of FIPUG's members is Mosaic, which is a
16 large company involved in the fertilizer business,
17 agribusiness. They produce fertilizer that's used to grow
18 crops in this country and I believe in other places. But it's
19 a key business in the State of Florida, they've been around a
20 long time down in Central Florida, and rates and cost of
21 electricity is a key component to them and to their continued
22 success.

23 Tampa Electric is proposing to make pretty dramatic
24 changes to the interruptible rate that Mosaic has enjoyed for a
25 number of time, and we would ask you to reject the idea of

1 combining the interruptible rate with the GSD and GSLD classes.
2 They're different classes, they're not the same, it's apples
3 and oranges. You should stick with the status quo on that and
4 not take action which will adversely affect companies like
5 Mosaic. Mr. Pollock will give you additional information about
6 that.

7 The interruptible rate is a rate where the companies
8 say we'll take a little less quality service, but in exchange
9 you're going to have to work with us and cut us a break on what
10 we pay. The Mosaic Company since 1999 three times has been
11 interrupted during the course of a year of more than 1,000
12 hours. That's a lot of time to be interrupted. You know,
13 being a lawyer, you know, a lot of times they go, well, lawyers
14 are expected to bill about 1,800 hours a year. That's a lot of
15 hard work. 1,000 hours is a long time, if you think about it,
16 in which your business is interrupted. But in exchange for
17 that, they get some breaks. There's a credit that is provided
18 to Mosaic.

19 And Tampa Electric is proposing some changes that we
20 would, we would ask that when you look at this issue -- you
21 know, when you're running a business, you need to try to be
22 able to predict your revenues and have stability in your
23 revenues, that this credit not vary between rate cases and not
24 vary with the load factors. So Mr. Pollock will get into that,
25 but I just wanted to preview that, that issue for you briefly.

1 The saying "If it ain't broke, don't, don't fix it,"
2 it's not broke. There's a well-known and an accepted
3 principle, I'll quote it to you, 12CP plus 1/13th AD plus cost
4 of service. That properly allocates the cost. You guys have
5 been using it for a long time. We don't think there's a
6 compelling reason to change it. Mosaic would ask that you not
7 change it, continue that rate. It'll help them continue to be
8 a viable entity in the State of Florida and be able to compete
9 in a global marketplace in the agribusiness sector.

10 Let me just spend a couple of minutes on ROE, return
11 on equity. And when I first got into this case people kept
12 saying ROE, ROE, and I had to slow down and try to say, well,
13 you know, I'm not sure I completely understand ROE, return on
14 equity. And so I tried to distill it to terms that were a
15 little easier understood by me and came up with what I call the
16 hamburger stand analogy. And just, just so I hope that we're
17 all on the same page, if, if I wanted to go buy a hamburger
18 stand that was in town that was an existing business, I would
19 come up and say, well, let's say we agreed on \$100,000 for the
20 hamburger stand. The person was going to sell the hamburger
21 stand for \$100,000. Well, I don't have \$100,000. I would need
22 to go get a loan from the bank. I convinced the bank to give
23 me \$60,000. Let's say I was able to come up with \$40,000 on my
24 own. Then I would have \$60,000 in debt and \$40,000 in equity
25 in the hamburger stand. Well, I'd have to pay the bank back,

1 so I'd have to sell enough hamburgers to be able to cover the
2 debt, I'd have to be able to sell enough hamburgers to pay the
3 employees, to pay my electric bill, to do all the things
4 necessary, pay, pay the rent, to do all the things necessary to
5 run that hamburger stand, and then the monies left over would
6 be my return on my, on equity.

7 So if I made -- on the hamburger stand if there was
8 \$4,000 left over on my \$40,000 investment, that would be a
9 10 percent return. Now I'd have to pay taxes on that. You'll
10 hear, I think, in the utility context they're seeking a
11 12 percent return but they don't even have to pay taxes on
12 that. So the real number is closer to 19, as I understand it,
13 if you, if you consider that.

14 A couple of things about the hamburger stand that
15 aren't confronted in the utility industry. My hamburger stand,
16 I'd have to compete with Wendy's and McDonald's and Burger
17 King, and that would argue, well, you know, maybe a little, a
18 little higher. Tampa Electric doesn't have to compete.
19 They're in a regulated environment, they're a monopoly, they
20 don't have to compete. And they also have most of their costs,
21 the majority of their costs are recovered on an annual basis
22 through these clauses, the fuel clause, the purchased power
23 clause, environmental cost recovery. The hamburger stand
24 doesn't have the ability to knock on a door of a regulator and
25 have these costs flowed through. But in terms of kind of

1 understanding what the, what the ROE is, that was helpful to me
2 and I put it out there.

3 The ROE issue is a big issue in this case. You're
4 going to have four expert witnesses in addition, I believe, to
5 the CFO of Tampa Electric talk about it. And, you know, why is
6 it such a big issue? Well, from my perspective one reason it
7 is is each percentage point on the ROE represents about
8 \$30 million that the ratepayers would have to pay.

9 So, for example, you're going to hear from
10 Mr. Herndon who says, look, in today's environment based on my
11 opinion I think a reasonable return on equity is 7 to
12 8 percent. Public Counsel's witness and the Retail Federation
13 has a witness, they say it's closer to 10 percent, 9.75. Tampa
14 Electric has a witness, 12 percent. So there's a pretty big
15 spread there. And candidly it's a judgment call that you all
16 are asked to make. It's not a formula that's applied. It's a
17 judgment call that you are asked to make.

18 And in preparing for this I thought it would be
19 helpful to refer you to a supreme court case that deals with
20 setting rates. There's some good language in there that I
21 think is instructive as to, as to the role that regulators play
22 in setting rates and making the point that it is a judgment
23 call. And you'll hear from all these witnesses that will run
24 these discounted cash flow and CPM and all these models and
25 what not, but at the end of the day you have to take all of the

1 evidence that's presented and make a judgment.

2 And I'll wrap up, Mr. Chairman, but let me just refer
3 you to the supreme court case, it's Bluefield Water Works, and
4 it says, quote, the prescribing of rates is a legislative act.
5 It went on to say that the Commission is an instrumentality of
6 the state exercising delegated powers. The court said that the
7 regulated utility is entitled to ask for a fair return on the
8 value it employs for the public convenience. The court said,
9 and I'm quoting, the ascertainment of value is not controlled
10 by artificial rules, it is not a matter of formulas, but there
11 must be a reasoned judgment having its basis in a proper
12 consideration of all relevant facts.

13 You have to make a tough judgment call: What's the
14 appropriate return on equity? FIPUG would argue particularly
15 in these tough economic times that it's much closer to the
16 rates suggested by FIPUG witness Mr. Herndon than it is to the
17 number suggested by TECO witness Dr. Murry. Dr. Murry wants
18 you to set a rate that no other state in the country has
19 authorized currently according, according to his answer to a
20 deposition question. So he's asking you to be out on the
21 highest rate. We don't think that's appropriate in this time
22 and you ought to come down on the ROE number much, much lower,
23 save the ratepayers money, each point is \$30 million, and
24 exercise a judgment call that benefits the ratepayers while
25 also being fair to Tampa Electric.

1 I think you'll hear that they earned 9.3 ROE this
2 last year. You know, they're a sound company. They're not,
3 they're not suffering. So we would ask you to give a lot of
4 thought on that ROE and exercise good, sound judgment. Thank
5 you, Mr. Chairman.

6 CHAIRMAN CARTER: Thank you.

7 Mr. Wright.

8 MR. WRIGHT: Thank you, Mr. Chairman. Good morning,
9 Commissioners.

10 COMMISSIONER ARGENZIANO: Mr. Chair.

11 CHAIRMAN CARTER: Wait a second. Commissioner
12 Argenziano.

13 COMMISSIONER ARGENZIANO: Could I ask to get a copy
14 of the supreme court quotes in part that you had read?

15 MR. MOYLE: Sure.

16 CHAIRMAN CARTER: You want that before we come back
17 in the afternoon, just get a copy?

18 MS. HELTON: We would be happy to do that.

19 CHAIRMAN CARTER: Okay. No problem.

20 You may proceed, Mr. Wright.

21 MR. WRIGHT: Thank you, Mr. Chairman, Commissioners.
22 Good morning. I'm Schef Wright and I have the privilege of
23 representing the Florida Retail Federation in this proceeding.
24 The Retail Federation today has nearly 10,000 members. You've
25 probably heard me say in the past that the federation has more

1 than 10,000 members. It did. But times are tough and we've
2 lost a lot of members. The federation's members include the
3 largest retailers and thousands of mom and pop retail
4 operations in Florida, many of whom are captive customers of
5 Tampa Electric Company. And we respectfully seek your help in
6 substantially reducing the unjustified rate increases sought by
7 Tampa Electric, thereby ensuring that the rates you set in this
8 proceeding will be fair, just and reasonable and thereby
9 averting further economic harm and hardship to Floridians and
10 to Florida's economy in these troubled, very difficult economic
11 times.

12 I want to say we too, like the other counsel have
13 said, appreciate the professionalism, cooperation and
14 consideration shown by all counsel in this case and by all
15 parties in this case. We agree with the comments of the other
16 consumer representatives who have spoken first. I can't hit
17 all the issues but here is what we believe important.

18 At the outset I believe, I believe I get to wear the
19 mantle of Mr. McWhirter briefly today in that I'm going to talk
20 --

21 CHAIRMAN CARTER: Just don't talk as long as
22 Mr. McWhirter. I will have to gavel you down. Okay?

23 (Laughter.)

24 MR. WRIGHT: I practiced this at ten minutes and
25 five seconds, Mr. Chairman.

1 CHAIRMAN CARTER: You got it.

2 MR. WRIGHT: But I do intend to speak about, briefly
3 about your history of regulating this company in this case.

4 Commissioners, a maxim that I've heard a lot of the
5 conventional wisdom regarding utility requests for rate
6 increases is that the utility typically asks for twice as much
7 as it needs and is then generally happy when it gets half as
8 much as it asks for. I believe that this context is especially
9 important in this case because the evidence, in fact a number
10 of your orders, this Commission's orders that I will ask you to
11 take judicial notice of at the appropriate times will show the
12 following.

13 In 1985, Tampa Electric requested a total rate
14 increase of approximately \$136.5 million a year. The
15 Commission awarded only \$63.7 million a year, including two
16 subsequent year rate increases. The Commission cut the
17 company's request by more than 53 percent. In the 1985 case,
18 Tampa Electric asked for an ROE of 16 percent. The Commission
19 cut it by 150 basis points to 14.5 percent.

20 In 1992, Tampa Electric requested a total increase in
21 base rates spread over two years of \$97.9 million. The
22 Commission -- per year. The Commission initially awarded the
23 company increases to be implemented over 1993 and 1994 totaling
24 \$18,575,000. The Commission cut the company's request by more
25 than 81 percent. Also in the 1992 case the company requested

1 an ROE of 13.75 percent below its previously awarded 14.5
2 percent from the 1985 case. The 1993 Commission, however, cut
3 the company's request by 175 basis points and set revenues and
4 rates based on a 12 percent ROE.

5 A crucial fact here is that despite the Commission's
6 setting the company's revenue requirement and its rates and its
7 ROE at levels dramatically less than the company requested, the
8 company fared very, very well over the ensuing 15 years. From
9 1993 through 2001 the company first proposed and then agreed to
10 lower ROEs that resulted in its ROE being set at 11.75 percent
11 where it is today. The company also entered into settlement
12 agreements with Public Counsel and FIPUG that produced
13 approximately \$63 million in refunds and was also ordered by
14 the Commission to refund an additional \$6.3 million all because
15 it was overearning during this period after a relatively
16 minimal rate increase granted by the Commission in 1993.

17 This evidence is clear as to several points. Tampa
18 Electric Company has a proven track record of asking for far
19 more than it needs, as proven by this Commission's decisions in
20 the last two general rate cases. It is further proven by the
21 fact that after its last general rate case the company agreed
22 to additional reductions in its authorized ROE to a level that
23 is a full 200 basis points below what it asked for in 1992.

24 In the nine years following its request it was
25 earning so much that it either agreed to or was ordered to

1 refund an additional \$69.3 million. It's also clear that the
2 company, despite the Commission's dramatic cuts from its
3 1992 request, was doing just fine throughout this period
4 earning above its authorized rate of return for most of the
5 period and not having any difficulty raising capital.

6 The company would have you believe that it was only
7 through its numerous efforts and initiatives that it's avoided
8 requesting base rate increases for the past 16 years. This
9 claim that it hasn't requested a base rate increase in 16 years
10 is true, but it is specious. The real reason is that the
11 company has been the beneficiary of very strong customer growth
12 and declining generation costs. The company deserves no
13 sympathy or slack because it hasn't asked for a rate increase
14 since 1992. It didn't need one and it couldn't justify one.
15 Not only didn't it need an increase, it was making so much
16 money that it had to give back about \$70 million and had to
17 agree to reduce its ROE below what the Commission authorized in
18 1993.

19 We agree with the Public Counsel's witnesses that the
20 Commission should not allow annualization of the five CTs or
21 annualization for the CSX rail facilities. These facilities
22 will not be in service for the whole test year. They should
23 only be recognized for that period of time for which they're in
24 service.

25 We also agree with Public Counsel and the other

1 consumers that any increase in the company's -- that the
2 Commission should not allow any increase in the company's storm
3 reserve accrual. Based on its accruals at \$4 million a year
4 since 1996, the company presently has a storm reserve balance
5 of about \$21.6 million even after the 2004 and 2005 storm
6 seasons. By my arithmetic, from 2004 through 2008 is five
7 years and accruing \$4 million a year with some interest should
8 produce right around \$21 million or so. So it appears that
9 even after the worst two-year period of hurricane seasons in
10 recorded Florida history the company's reserve apparently went
11 down to about zero in 2004 and has been fully replenished
12 since. We agree with the citizens and FIPUG on the many other
13 rate issues and O&M issues that they address.

14 Regarding return on equity: In today's economy the
15 federation's members and I believe all of the other consumers
16 represented by the Public Counsel, AARP, the Florida Industrial
17 Power Users Group and by the Attorney General of Florida view
18 the company's request for a 12 percent after-tax ROE as at best
19 overreaching. The 30-year Treasury Bond rate, which is
20 generally recognized as the risk-free rate in the U.S. economy,
21 is presently around 2.9 or 3.0 percent, and there is no way on
22 earth that Tampa Electric Company as a monopolist in its
23 relevant market and in the current regulatory environment faces
24 risks that are remotely close to four times the risk on U.S.
25 Treasury Bonds. The company is a monopoly provider of a

1 necessity and the Commission ensures that the company recovers
2 nearly three-fifths of its total revenues and nearly two-thirds
3 of its total operating costs through annually trued-up cost
4 recovery clauses.

5 Competent substantial evidence of record,
6 specifically the testimony of Tom Herndon, both a former member
7 of the Florida Public Service Commission and former Executive
8 Director of the Florida State Board of Administration, will
9 show that a 7.5 percent ROE is sufficient for the company to
10 raise needed equity capital.

11 The testimony of two additional witnesses, Mr. Kevin
12 O'Donnell, a former employee of the North Carolina Utilities
13 Commission and a veteran of many general rate cases, and
14 Professor Randy Woolridge, indicates that an ROE of
15 9.75 percent is more than sufficient to provide the company
16 with access to any needed capital.

17 In better economic times your predecessors, the
18 1985 Commission and the 1993 Commission, exercised their
19 discretion and judgment to significantly reduce the rate relief
20 and the ROE used to set revenues and rates from what this
21 company requested. In deciding Tampa Electric's 1985 case the
22 company (sic.) cut the company's requested revenues by more
23 than 53 percent and cut 150 basis points from its ROE. The
24 1993 Commission cut this company's requested revenue increase
25 by more than 80 percent and its requested ROE by 175 basis

1 points. Even with that the company did so well that it had to
2 continue to give back money and agree to further lower ROEs.
3 No one and no rational investor with any knowledge of this
4 Commission's history of regulation can seriously suggest that
5 this Commission would not ensure that Tampa Electric or any
6 other regulated public utility in Florida has sufficient funds
7 to pay its debt service, regardless whether the ROE is set at
8 7.5 percent or 9.75 percent or anywhere in between.

9 I've summarized the actions of your predecessors in
10 1985 and 1993, the last two times Tampa Electric Company sought
11 base rate increases. This Commission needn't worry about Tampa
12 Electric failing financially if you grant relief based on the
13 consumers' testimony and positions in this case. History
14 demonstrates that the company should be expected to be just
15 fine with much reduced increases and rates far lower than
16 requested.

17 The Florida Retail Federation and the other consumer
18 intervenors in this case ask you, we beseech you to protect us
19 as your predecessors did by reducing the company's requested
20 ROE to no more than 9.75 percent and by reducing the company's
21 overall requested rate increase to no more than \$39 million a
22 year. These actions will protect Tampa Electric Company by
23 ensuring that it recovers all of its reasonable and prudent
24 costs of providing service, this falls straight out of their
25 MFRs, and also that the company has an opportunity to earn a

1 fair, in our witnesses' opinion, a generous return on its
2 investment, and it will protect residential, commercial,
3 industrial, and industrial customers and institutional
4 customers, governmental customers like the Hillsborough County
5 School Board who are desperately struggling in the real world
6 today. These actions as requested by the consumers will result
7 in rates that are fair, just and reasonable and in the public
8 interest. Anything greater will result in the company's rates
9 being so high as to be unfair, unjust and unreasonable.

10 We consumers need you and the public interests needs
11 your informed, straightforward, common sense action on these
12 matters, especially in these tough economic times. We know
13 that you will consider all the evidence, and when we do -- when
14 you do we have complete confidence that you will recognize that
15 the substantial preponderance of the evidence supports your
16 decision to hold the line on any rate increase to at most the
17 level supported by the consumers' witnesses. Thank you.

18 CHAIRMAN CARTER: Thank you.

19 Mr. Twomey.

20 MR. TWOMEY: Mr. Chairman, Mike Twomey on behalf of
21 AARP, which, as you know, has over 3 million members in the
22 great State of Florida, many of whom are served by this
23 company, too many of whom live on fixed incomes, often low
24 fixed incomes. I'll try and be done in half my time so on this
25 auspicious day we can adjourn and prepare to view this historic

1 inauguration.

2 Like the others, I congratulate the staff and the
3 company on an excellent case. They've been a pleasure to work
4 with.

5 Mr. Wright stole my best line, so I'm going to repeat
6 it anyways. In 1980, I think it was, as my first rate case as
7 a staff attorney at this Commission I appeared at a Customer
8 Service Hearing at Century Village only to be challenged on the
9 record by some crusty, cigar-chomping senior citizen that I was
10 in bed with the utility. And he went on to say, as Mr. Wright
11 said, "Everybody understands how this thing works. The utility
12 comes in and asks for twice as much as it needs, the Commission
13 looks tough by cutting it in half, and everybody but the
14 customers go home happy."

15 Now as Mr. Wright told you, in this case, this, in
16 the case of this utility the Commissions over the last number
17 of years as evidenced by your own rate orders have shown that
18 they've asked for more than, too often asked for more than
19 twice what they needed. In this case if you accept the Office
20 of Public Counsel's final revenue position which AARP supports
21 of roughly \$39 million, it'll give the company 17 percent of
22 the \$228 million being requested. And as a threshold issue you
23 might say to yourself how could any company go so long without
24 a rate increase and not, and spend money on new units and
25 trucks and so forth and not demand a legitimate increase? And

1 the simple answer was given to you by, in part by Mr. Willis in
2 his opening where he said since their last rate case this
3 utility has enjoyed a 42 percent increase in its customers.
4 That necessarily results in at least a 42 percent increase in
5 its annual revenues. And I think as the evidence will show in
6 this case, and it's been true throughout the rest of the state
7 for many decades now, it's necessarily more than a 42 percent
8 increase in revenues since the last case because the per capita
9 consumption of energy by all customers in virtually all
10 electric utilities in this state has also gone up. So they've
11 had additional expenses, additional costs, they've enjoyed
12 substantially increased revenue since the last case.

13 Now so we're supporting Public Counsel's position of
14 roughly \$39 million or 17 percent. Some of the adjustments
15 necessary to get there are fairly obvious and seemingly easily
16 understood. For example, AARP witness Steve Stewart will
17 testify to you that the storm damage annual accrual of
18 \$20 million being requested by TECO should be reduced to the
19 current amount of \$4 million, which, if you accept, instantly
20 gives you a \$16 million revenue reduction. We believe
21 Mr. Stewart will tell you that the securitization, essentially
22 the same thing that happened in the last Florida Power & Light
23 storm damage case, is available to this company. You can save
24 \$16 million. We'll urge that you do that.

25 A seemingly example of excess on behalf

1 of the company in this case is what I understand is the up to
2 \$290,000 the company will pay for ROE-related witness
3 Ms. Abbott. That's a lot of dough if you compare it to any of
4 the salaries that y'all might be familiar with on an annual
5 basis and this is for one assignment. If that amount is
6 correct and if all of it is being requested in rate case
7 expense, which expense will be borne by the customers, you
8 could and we would suggest should reduce the amount of her fee
9 that goes into the customers' account. The company can still
10 pay it. Pay it out of the shareholders' account and they
11 should.

12 ROE, I'm not going to dwell on this, but as I
13 suggested to you at our Customer Service Hearings in the Tampa
14 area, this is by far your greatest area of discretion. There
15 is roughly something a little short of, I think, \$19 million
16 per percentage point on equity. If you reduce the company's
17 request of 12 percent to just the number requested and
18 suggested by Public Counsel and supported by most of the other
19 parties to 9.75 percent, that will give you a \$45 million
20 reduction from the 228. AARP supports that number. And while
21 it may seem low compared to historic numbers, we're in a time
22 that requires belt tightening. And we think that, as well as
23 other things Mr. Wright said and others, that former
24 Commissioner Herndon's suggested number of 7.5 percent should
25 inform your decision here in this case and cause you to come

1 closer, if not to, Public Counsel's number of 9.75 percent.

2 AARP supports the company's proposed inverted rate
3 structure. In addition, we support the company's proposal to
4 move to the 12CP and 25 percent average demand, which, as I
5 understand their testimony, was suggested, if not ordered, by
6 this Commission years ago and which, if you do adopt it as
7 proposed by the company, will result in an equitable \$7 million
8 shift from the residential class of customers to the other
9 classes. I thank you for your time.

10 CHAIRMAN CARTER: Thank you, Mr. Twomey. Perfect as
11 usual. Right on time and right on the case.

12 Commissioners, we'll now take our break and we'll
13 return at 1:45. At this point in time we're on recess.

14 (Recess taken.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 21st day of January, 2009.

Linda Boles
LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734