State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER ● 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: March 5, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Slemkewicz, Bulecza-Banks, Draper, Hewitt, Higgins, Kummer, Kyle, Lee, Lester, Livingston, Marsh, Matlock, Maurey, Ollila, Prestwood, Springer)
Office of the General Counsel (Young, Brown, Brubaker, Hartman)
Office of Strategic Analysis and Governmental Affairs (Graves, Sickel)

RE: Docket No. 080317-EI – Petition for rate increase by Tampa Electric Company.

AGENDA: 03/17/09 – Regular Agenda – Post-Hearing Decision - Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Skop

CRITICAL DATES: 04/13/09 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\080317.RCM.DOC

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Case Background

This proceeding commenced on August 11, 2008, with the filing of a petition for a permanent rate increase by Tampa Electric Company (TECO or Company). The Company is engaged in business as a public utility providing electric service as defined in Section 366.02, Florida Statutes (F.S.), and is subject to the jurisdiction of the Commission. TECO provides electric service in all of Hillsborough County and parts of Polk, Pasco and Pinellas Counties. TECO serves over 667,000 residential, commercial and industrial customers.

TECO requested an increase in its retail rates and charges to generate $228.2 million in additional gross annual revenues. This increase would allow the Company to earn an overall rate of return of 8.82 percent or a 12.00 percent return on equity (range 11.00 percent to 13.00 percent). The Company based its request on a projected test year ending December 31, 2009. TECO stated that this test year is the appropriate period to be utilized because it best represents expected future operations. TECO did not request any interim rate relief.

Pursuant to Section 366.06, F.S., Order No. PSC-08-0693-PCO-EI, issued October 20, 2008, TECO's proposed permanent rate schedules were suspended pending review.

The Office of Public Counsel (OPC), Office of Attorney General (OAG), AARP, Florida Industrial Power Users Group (FIPUG) and the Florida Retail Federation (FRF) intervened in this proceeding.

Customer service hearings were held in Tampa and Winter Haven on October 21, 2008, and October 22, 2008, respectively. A total of 40 customers presented testimony at the two customer service hearings. The technical hearing was held January 20, 21, 27-29, 2009, in Tallahassee. At the start of the hearing, the following issues were stipulated: 1, 25, 40, 42, 43, 44, 45, 81, 82, 85, 89, 90, 92, 96, 106, 108, 111 and 113.

This recommendation addresses the requested permanent rate increase. The Commission has jurisdiction pursuant to Sections 366.06(2) and (4), and 366.071, F.S.

Discussion of Issues

TEST PERIOD

Issue 1: Is TECO's projected test period of the 12 months ending December 31, 2009 appropriate? (Stipulated)

Approved Stipulation: Yes, TECO's projected test period of the 12 months ending December 31, 2009 is the appropriate test year to be utilized in this docket with appropriate adjustments.

Issue 2: Are TECO's forecasts of Customer, KWH, and KW by Rate Class for the 2009 projected test year appropriate?

Recommendation: Yes. TECO's customer and load forecast assumptions, regression models, and projected system peak demands are appropriate for the 2009 projected test year. (Hewitt, Stallcup)

Position of the Parties

TECO: Yes. TECO's forecasts of customer growth, energy sales and peak demand are appropriate. TECO uses proven forward-looking econometric models and relies on reasonable assumptions in developing its forecasts. Tampa Electric witness Lorraine Cifuentes' direct testimony and exhibit addressing this issue was stipulated into the record and Ms. Cifuentes was excused from testifying.

OPC: No position.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No position.

FRF: No position.

Staff Analysis: The Company's load and customer forecast supporting the rate case petition was sponsored by TECO witness Lorraine L. Cifuentes. Witness Cifuentes offered direct testimony, exhibits attached to her testimony summarizing the forecasts and the historical data, forecast assumptions, and the regression models used to create the projected system peaks. No other witness offered an alternative forecast to that presented by TECO witness Cifuentes.

Staff reviewed TECO's customer and load forecast assumptions, regression models, and the projected system peak demands and believes they are appropriate for use in this docket. The forecast assumptions were drawn from independent sources[1] which the Commission has relied upon in prior proceedings.[2] The regression models used to calculate the projected peak demands conform to accepted economic and statistical practices. Staff believes that the projected peak demands produced by the models appear to be a reasonable extension of historical trends.

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[1] University of Florida's Bureau of Economic and Business Research and Moody's Economy.com.
[2] TECO Ten-Year Site Plans, undocketed; FPL Need Determination, in Docket No. 080203-EI, In re: Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company..

QUALITY OF SERVICE

Issue 3: Is the quality of electric service provided by TECO adequate?

Recommendation: Yes, TECO's quality of service is adequate. (Slemkewicz)

Position of the Parties

TECO: Yes, the quality of service provided by TECO is adequate. TECO has delivered reliable generation, transmission and distribution service and quality customer service. FRF was the only party taking a contrary position on this issue, simply stating a "no" position by presenting no evidence on the issue.

OPC: No position.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No position.

FRF: No.

Staff Analysis: TECO witness Black testified that "Since the company's last base rate increase, Tampa Electric has experienced tremendous customer growth while providing cost-effective, reliable service." (TR 83) He further stated that the approximately 667,000 customers that TECO currently serves is almost 200,000 (42 percent) more than in 1992. (TR 84) None of the intervenors presented testimony concerning the quality of service provided by TECO. A total of 40 customers testified at the customer service hearings held in Tampa and Winter Haven. The customers that testified at the customer service hearings represent .006 percent of TECO's total customer base. Although some of the customers did have issues with the service provided by TECO, the reported problems were not wide spread or systemic.

FRF is the only intervenor to take a position on this issue. FRF took the position "No" in its brief, citing the testimony that was presented at the customer service hearings. FRF urged the Commission to "find that the Company's service is no better than adequate." (FRF BR at 12-13) Based on the record, staff believes that TECO's quality of service is adequate.

RATE BASE

Issue 4: Has TECO removed all non-utility activities from rate base?

Recommendation: No. The adjustment is discussed in Issue 19. Except as discussed in Issue 19, no adjustments to rate base for non-utility activities are needed. (Marsh)

Position of the Parties

TECO: Yes. Except for the adjustment described in Issue 19 below, the company has removed all non-utility activities from rate base. None of the other parties have identified any non-utility activities that were not properly removed from rate base.

OPC: No. As described in Issue 19, the Company has not removed all non-utility activities from rate base.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. See Issue 19.

FRF: Agree with OPC.

Staff Analysis: No party filed specific testimony for this issue. OPC stated in its brief that it disagrees with the inclusion of Account 146, Accounts Receivable from Associated Companies, in the amount of $6,309,000. (OPC BR at 3) Issue 19 specifically addresses Account 146. Accordingly, the adjustment will be discussed in that issue. Staff recommends that, except as discussed in Issue 19, no adjustments to rate base for non-utility activities are needed.

Issue 5: Is the pro forma adjustment related to the annualization of five simple cycle combustion turbine units to be placed in service in 2009 appropriate?

Recommendation: No. Staff recommends the elimination of the pro forma adjustments to annualize the May CTs (2 units) and September CTs (3 units). This decreases jurisdictional Utility Plant in Service and Accumulated Depreciation Reserve by $37,246,000 ($38,672,000 system) and $1,121,000 ($1,163,000 system), respectively for the May CTs. The elimination of the pro forma adjustment to annualize the September CTs (3 units) decreases jurisdictional Utility Plant in Service and Accumulated Depreciation Reserve by $97,193,000 ($100,915,000 system) and $2,630,000 ($2,730,000 system), respectively. The total of both adjustments decrease jurisdictional Utility Plant in Service and Accumulated Depreciation Reserve by $134,439,000 ($139,587,000 system) and $3,750,000 ($3,894,000 system), respectively. The impacts to Net Operating Income of staff's proposed adjustments are discussed in Issue 71. (Prestwood)

Position of the Parties

TECO: Yes. TECO appropriately included $36,125,000 and $94,562,000 in rate base and reduced NOI by $2,352,000 and $4,864,000, for the May and September units, respectively. The units will serve peak customer demand periods and improved system reliability. Should the Commission conclude that the three September CTs should not be annualized in 2009, TECO recommends a subsequent year increase of $27,700,000 (jurisdictional) effective January 1, 2010.

OPC: No. Annualizations of plant additions should not be allowed. Two turbines are to be added in May 2009 and three in September 2009. When plant additions are revenue-producing or growth-related assets and no adjustment for increased customers or demand has been made, the revenue requirement is overstated. The Company's request to annualize the five simple cycle turbines should be denied. A reduction of $130,687,000 to rate base reflecting the actual in-service dates is warranted.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. It is inappropriate to annualize the cost of the 5 CTs. If the Commission allows this annualization without an adjustment to recognize increased growth in sales, the company's revenue requirements will be overstated. Further, the CTs are not needed to meet reliability requirements. Rate base should be reduced to remove the CTs from the test year.

FRF: No. TECO's proposed annualization is not appropriate because it would, at best, cause customers to pay an entire year's revenue requirement for assets that are only used and useful for part of the test year, and 3 of the CTs may not be in service during 2009 at all.

Staff Analysis:

PARTIES' ARGUMENTS

Company witness Hornick testified that TECO's Ten Year Site Plan (TYSP) indicated the need for additional peaking capacity in the near term and that projects were underway to add 2 simple cycle combustion turbines (CTs) in 2009, each with a nominal capacity of 60 megawatts (MW). (TR 822) According to witness Hornick, 2 of the CTs will go in service in May 2009 and three of the CTs will go in service in September 2009. (TR 824)

Company witness Chronister testified that because these units will be generating electricity for customers for the period of time covered by new rates, it is appropriate for the revenue requirement requested to reflect the significant investment and operating costs associated with these assets. (TR 1440-1441) According to witness Chronister, these adjustments bring the Company's total cost profile to an amount that reflects a full year of operation for these units. (TR 1441)

The Company's pro forma adjustment to annualize the May CTs (2 units) increases Utility Plant in Service and Accumulated Depreciation Reserve by $38,672,000 and $1,163,000, respectively. The Company's pro forma adjustment to annualize the September CTs (3 units) increases Utility Plant in Service and Accumulated Depreciation Reserve by $100,915,000 and $2,730,000, respectively. The pro forma adjustments combined increase Utility Plant in Service and Accumulated Depreciation Reserve by $139,587,000 and $3,894,000, respectively for all 5 CT units. (EXH 13, pp. 1143-1144) The effects on Net Operating Income of the Company's pro forma adjustments to annualize these CTs are discussed in Issue 71.

OPC witness Larkin testified that the Company is treating these facilities as if they were in-service as of January 1, 2009, and not the actual in-service dates of May and September. (TR 2010) According to witness Larkin, the projected test year is supposed to result in a matching of the Company's projected investment with its projected earnings on a month-to-month and annual basis. (TR 2011) The projected test year methodology uses forecasted data for a 12-month period and matches average rate base investment to average expenses and revenues. (TR 2011) Per witness Larkin, under TECO's annualization proposal, the cost of the new plant would be put in rates without accounting for the new customer growth that would otherwise support those costs. (TR 2011) This type of allowance will create a mismatch between the projected test year revenues and expenses and the projected investment related to assets that generated the test period revenues. (TR 2012)

Witness Larkin noted that the Commission moved away from using historical test years with pro forma adjustments early in 1981 and began using projected test years. (TR 2010) TECO's use of pro forma adjustments for selected changes that occur during a projected test period as if they occur on the first day of the period creates something other than a projected test year. As noted by the Commission in TECO's last rate case, ". . . pro forma adjustments usually do not represent all the changes which occur from the end of the historical period to the time new rates are in effect. Therefore, this option generally does not present as complete an analysis of the expected financial operations as a projected test year."[3]

ANALYSIS

The staff acknowledges that different test periods can be used in determining a utility's revenue requirement. An appropriate test year can be historical, historical with pro forma adjustments, or projected. While it is true that that most electric utility companies base their increase requests on a fully-projected test year, the use of a projected test year is not required by rule or statute. Other Commission-regulated industries often base their rate increase requests using historical data.

TECO's budgeted calendar year 2009 was requested by the Company in this case to be used as its projected test year. (TR 1421) Witness Chronister testified that the Company's 2009 budget process resulted in a fair and reasonable projection of amounts necessary for the Company to provide safe and reliable service. (TR 1421) By proposing selected pro forma adjustments to a projected test year, and not recalculating all elements of the Company's operations that make up the test year, the Company has produced a year that does not include "all information related to rate base, NOI and capital structure for the time new rates will be in effect."[3]

The May CT units will go into service at approximately the same time the new rates from this case go into effect. However, if the pro forma adjustment for the 3 CTs scheduled to go into service in September 2009 is included in the revenue requirement, it will result in customers being charged new rates in May several months before the operating costs are recognized on the Company's books. (EXH 13, pp. 184-190) Company witness Hornick stated that these peaking units, as the description suggests, will serve the demand of customers at peak periods of time. (TR 845) During his deposition, witness Hornick agreed that customer demand is what creates the sales of electricity. (EXH 13, pp. 2564-2662) During the hearings, Company witness Black testified that not all of the 5 CTs may be needed in 2009. (TR 106) Witness Black indicated that some of the later CTs might be pushed out. (TR 107) After the hearings, the Company affirmed that all 5 CTs will be placed in service during 2009. (LF EXH 112, p. 1)

CONCLUSION

Staff accepts OPC's position that the Company's pro forma adjustments to annualize the 5 simple CTs as if they were in service on January 1, 2009, violates the principle of matching revenue, expenses, and rate base for a projected test year. The use of pro forma adjustments to annualize selected changes that occur several months after the beginning of the test year as if they occur on the first day of the test year ignores all of the other components that change during the test year such as employees, customers, usage, maintenance, financing, etc. Staff rejects the Company's position for the same reasons.

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[3] Order No. PSC-93-0165-FOF-EI, issued February 2, 1993, in Docket No. 920324-EI, In re: Application for a rate increase by Tampa Electric Company.

The Company's pro forma adjustments for the 5 simple cycle combustion turbine units should be eliminated from the test year results. Staff recommends the elimination of the pro forma adjustment to annualize the May CTs (2 units) decreases jurisdictional Utility Plant in Service and Accumulated Depreciation Reserve by $37,246,000 ($38,672,000 system) and $1,121,000 ($1,163,000 system), respectively. Staff further recommends the elimination of the pro forma adjustment to annualize the September CTs (3 units) which decreases jurisdictional Utility Plant in Service and Accumulated Depreciation Reserve by $97,193,000 ($100,915,000 system) and $2,630,000 ($2,730,000 system), respectively. (EXH 13, pp. 58604-58613)

Staff recommends that TECO's pro forma adjustments for all 5 CTs be eliminated. Staff's recommendation for the total of both adjustments is a decrease in jurisdictional Utility Plant in Service and Accumulated Depreciation Reserve of $134,439,000 ($139,587,000 system) and $3,750,000 ($3,894,000 system), respectively. The impacts to Net Operating Income of staff's proposed adjustments are discussed in Issue 71.

In the event TECO places in service these 5 combustion turbine units as planned, it may experience a significant adverse impact on earnings in 2010. The estimated revenue requirement effect of excluding the pro forma adjustments associated with these units is about $28.3 million. This includes rate base and expense effects. Depending on other factors such as electricity consumption, this impact could drive TECO's achieved ROE to a level below the bottom of its authorized range within a year of the establishment of rates in this proceeding. If TECO believes its ROE will drop below the floor of its authorized ROE in 2010 because of the costs associated with these combustion turbines, it has the option of petitioning the Commission in a limited scope proceeding to increase rates for the increased costs relating to these 5 combustion turbines.

Issue 6: Should an adjustment be made for the credit from CSX for the Big Bend Rail Project?

Recommendation: No. The refunds or credits to be received from CSX during the first five years of service of the rail facilities should be recorded in the fuel accounts and subsequently flowed through to customers in the fuel and purchase power cost recovery clause. Furthermore, no part of the refunds or credits should be recorded as a reduction to the capital project and the related asset accounts to correct for an under projection of costs for the rail project. The Company should record the Big Bend Rail Facilities construction project without any consideration given to the refunds or credits to be received from CSX. No other adjustments for the freight discounts or credits are necessary in this case. (Prestwood)

Position of the Parties

TECO: No. TECO has properly accounted for the Big Bend Rail Project. The credit is specifically associated with the construction costs. The Commission should approved TECO's proposal to use the reimbursement to first offset capital costs associated with the facilities in excess of those granted in base rates in this proceeding with any remainder being credited to customers through the Fuel and Purchase Power Cost Recovery Clause.

OPC: Yes. The CSX credit should be used a CIAC or contributed capital to offset the capital cost of the Big Bend Rail facility.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. All contributions from CSX made to offset the capital cost of the rail facility should be immediately and directly credited to ratepayers to reduce an allowed increase, not to shareholders, to offset revenue requirements.

FRF: Yes. Agree with OPC.

Staff Analysis:

PARTIES ARGUMENTS

Company witness Hornick testified that rail facilities for unloading coal at Big Bend Power Station will be constructed in 2008 and 2009 for deliveries to begin by January 1, 2010. (TR 826) TECO is a wholly owned subsidiary of TECO Energy, Inc. Under TECO Energy, Inc.'s policy, certain expenditures require a capital allocation approved by TECO Energy, Inc., but it must first be recommended by the Capital Leadership Team (CLT). (EXH 110) The rail facilities at Big Bend Power Station required such a recommendation by the CLT, called a Project Review, which was dated July 23, 2008. (EXH 110) The Project Review document stated in part:

> To mitigate the cost associated with the construction of a facility to accommodate rail, CSXT has offered $45 million in discounted rates as a part of the

> transportation RFP. Tampa Electric included a $45 million capital project as part of the pro-forma used to develop the 2009 rate case request. Tampa Electric proposes that the CSXT discount would first be used to fund the additional $15 million of project cost and once the deficit has been met (approximately 2 years …) the remaining $30 million of discounts would be flowed through to customers through the fuel clause. The discount is valid through the 5 year life of the delivery contract. It is expected that TEC and its customers will receive the full $45 million value offered by CSXT.

(EXH 110)

Company witness Wehle confirmed the CLT position on rebuttal by maintaining that TECO proposes that it use the refund to first offset the capital costs associated with the facilities that are in excess of those granted in base rates with any remainder being credited to customers through the fuel and purchase power cost recovery clause. (TR 938-939) In other words, the Company would like to use the refunds to first cover any construction costs associated with the Big Bend Rail Facilities that are over its original forecast of $45,205,000 ($46,937,000 system). (MFR Schedule B-2; TR 826) The $45,205,000 is the amount included in the development of the Company's revenue requirement. Any freight discounts or refund amounts left over would then be credited to the fuel accounts and subsequently flowed through the fuel cost recovery clause and reduce customer fuel rates.

Under Rule 25-6.014, F.A.C., TECO is required to maintain its accounts and records in conformity with the Uniform System of Accounts (USOA) as found in the Code of Federal Regulations. According to Company witness Chronister, under the USOA, whenever the Company receives a construction reimbursement, it is required to book it against the capital account where it spent the money. (TR 1599) Concerning how some of the refund could be flowed to the fuel accounts, witness Chronister testified:

> Well, it would be based on the Commission's decision. FAS 71 allows you to do regulatory accounting, which is to say that you have the Uniform System of Accounts, you have your debits and credits the way they are supposed to go, but if the Commission makes a decision for a treatment, then you would follow -- your debits and credits would follow the treatment the Commission told you to use.
>
> So in this particular case, if the Commission said, yes, we agree, take the first part of the construction reimbursement against the capital costs, then take the rest of it through the fuel clause to help our ratepayers, then we would book it against the fuel clause based on the Commission's directive.

(TR 1600-1601)

The Company included $45,205,000 ($46,937,000 system) in its original forecast for the construction cost associated with the Big Bend Rail Facilities. (MFR Schedule B-2) The same original Big Bend rail facilities' construction cost was discussed by Company witness Hornick. (TR 826) The Company has provided no justification for updating the original forecasted amounts, and did not ask to update the original forecast. Although the Project Review developed by the CLT discussed a higher number of $60,000,000, no Company witness supported it. (EXH 110) During his deposition, Company witness Hornick provided an updated estimate of a $64,000,000 system cost for the rail project. (EXH 13, pp. 268-309) The Company did not use the $64,000,000 because the Company's proposal is to use the ultimate final cost of the project. The final cost project will be offset by the credit to cover the amount that exceeds the $46,000,000 that the Company included in its original rate case filing. The Company did not present any evidence or reasoning as to why the refund from CSX should be used "to first offset the capital costs associated with the facilities that are in excess of those granted in base rates." (TR 938-939)

ANALYSIS

No other parties presented testimony on this issue. There is no evidence in the record supporting the application of the refund from CSX against the costs that exceeded the original projection. Staff believes that the entire refund should be applied to the fuel accounts and subsequently flowed through the fuel adjustment clause and on to customers in the form of lower rates. Under this approach, the customers will receive the benefit of the refund during the first five years of operation of the rail facilities, as opposed to a much longer period by including the credit to plant in service.

CONCLUSION

No adjustments for the CSX refunds or credits are necessary in this case. Staff recommends that all of the CSX refunds or credits TECO receives during the first five years of service of the rail facilities be recorded in the fuel accounts and subsequently flowed through to customers in the fuel and purchase power cost recovery clause. Furthermore, no part of the CSX refunds or credits should be recorded as a reduction of the capital project and related asset accounts to correct for an under projection of costs for this project. In other words, the Company should record the Big Bend Rail Facilities construction project without any consideration given to the discounts or credits to be received from CSX. All discounts and credits received from CSX related to the project should be recorded in the fuel accounts according to the USOA.

Issue 7: Is the pro forma adjustment related to the annualization of the Big Bend Rail Project to be placed into service in December 2009 appropriate?

Recommendation: No. The Company's pro forma adjustments to annualize the Big Bend Rail Project as if it was in service on January 1, 2009, violates the principle of matching revenue, expenses, and rate base for a projected test year. The use of pro forma adjustments to annualize selected changes that occur several months after the beginning of the test year as if they occur on the first day of the test year ignores all of the other components that change during the test year such as employees, customers, usage, maintenance, financing, etc. The Company's pro forma adjustments to annualize the Big Bend Rail Project should be eliminated from the test year. If the cost of the rail facilities is included in the new rates, customers would be paying for the facilities months before the assets are in service.

The jurisdictional adjustments to Utility Plant in Service and Accumulated Depreciation are decreases of $45,206,000 ($46,937,000 system) and $452,000 ($469,000 system) respectively for the test year. The impacts to Net Operating Income of staff's proposed adjustments are discussed in Issue 72. (Prestwood)

Position of the Parties

TECO: Yes. TECO appropriately included $44,754,000 in rate base and reduced NOI by $1,195,000. Consistent with Order PSC-04-0999-FOF-EI, TECO contracted for bimodal transportation for solid fuels to optimize costs. The rail facilities will be completed in December 2009 for testing and deliveries will begin in January 2010. Should the Commission conclude that the rail facilities should not be annualized in 2009, TECO recommends a subsequent year increase of $7,619,000 (jurisdictional) effective January 1, 2010.

OPC: No. By annualizing the rail facility for the entire 2009 test year when it will have been in service for a month or less, would ignore lower fuel cost benefit and the productive benefit of the facility to the Company when it is fully in service, and shift any benefit to the shareholder. At least a $44,754,000 reduction to rate base reflecting the actual in-service date of December 2009 is warranted.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. This project is not anticipated to come into service until December 2009. It appears that its purpose is to attempt to reduce fuel costs. However, annualization for all of 2009, when the facility will be in service for only a month, violates the well known principle of matching costs to benefits. A reduction should be made to reflect the actual in service date of the facility.

FRF: No. TECO's proposed annualization is not appropriate because it would require the Company's captive customers to pay an entire year's worth of costs for an asset that will only be in service for one month of the Company's requested 2009 test year.

Staff Analysis:

PARTIES' ARGUMENTS

Company witness Hornick testified that rail facilities for unloading coal at Big Bend Power Station will be constructed in 2008 and 2009 for deliveries to begin by January 1, 2010. The Company expects to spend a total of $45,000,000, with $15,900,000 and $29,127,000 being invested in 2008 and 2009, respectively. (TR 826) Company witness Chronister testified that the pro forma adjustment includes an impact on operating expenses as well as an impact on net plant-in-service to bring the Company's total cost profile to an amount that reflects a full year of operation for these units. (TR 1442) The Company's pro forma jurisdictional adjustments to Utility Plant in Service and Accumulated Depreciation are increases of $45,206,000 ($46,937,000 system) and $452,000 ($469,000 system), respectively, for the test year. (EXH 13, pp. 1143-1144)

OPC witness Larkin testified that the Company is treating these facilities as if they were in-service as of January 1, 2009, and not the actual in-service date of December 2009. The projected test year is supposed to result in a matching of the Company's projected investment with its projected earnings on a month-to-month basis and annual basis. The projected test year methodology uses forecasted data for a 12-month period, and matches average rate base investment to average expenses and revenues. Under TECO's annualization proposal, the cost of the new plant would be recovered in rates without accounting for the new customer growth that would otherwise support those costs. This type of allowance will create a mismatch between the projected test year revenues and expenses and the projected investment related to assets that generated the test period revenues. (TR 2010-2011)

Witness Larkin noted in his testimony that the Commission moved away from using historical test years with pro forma adjustments early in 1981 and began using projected test years. (TR 2010) TECO's use of pro forma adjustments for selected changes that occur during a projected test period as if they occur on the first day of the period creates something other than a projected test year. As noted by the Commission in TECO's last rate case ". . . pro forma adjustments usually do not represent all the changes which occur from the end of the historical period to the time new rates are in effect. Therefore, this option generally does not present as complete an analysis of the expected financial operations as a projected test year."[4]

ANALYSIS

The staff acknowledges that different test periods can be used in determining a utility's revenue requirement. An appropriate test year can be historical, historical with pro forma adjustments, or projected. While it is true that that most electric utility companies base their increase requests on a fully-projected test year, the use of a projected test year is not required by rule or statute. Other Commission-regulated industries often base their rate increase requests using historical data.

[4] Order No. PSC-93-0165-FOF-EI, issued February 2, 1993, in Docket No. 920324-EI, In Re: Application for a rate increase by Tampa Electric Company.

TECO's budgeted calendar year 2009 was requested by the Company in this case to be used as its projected test year. (TR 1421) Witness Chronister testified that the Company's 2009 budget process resulted in a fair and reasonable projection of amounts necessary for the Company to provide safe and reliable service. (TR 1421) By proposing selected pro forma adjustments to a projected test year, and not recalculating all elements of the Company's operations that make up the test year, the company has produced a year that does not include "all information related to rate base, NOI and capital structure for the time new rates will be in effect."5

Staff accepts OPC's position that the Company's proposed adjustment to annualize the effects of the Big Bend Rail Project should be rejected entirely because it violates the principle of matching revenue, expenses, and rate base for the projected test year. If the cost of the rail facilities is included in the new rates, customers would be paying for the facilities months before the assets are in service.

CONCLUSION

Staff recommends the elimination of the Company's pro forma adjustment for the Big Bend Rail Project. Staff recommends jurisdictional adjustments to decrease Utility Plant in Service and Accumulated Depreciation by $45,206,000 and $452,000, respectively, for the test year. The impacts to Net Operating Income of staff's proposed adjustments are discussed in Issue 72.

[5] Order No. PSC-93-0165-FOF-EI , issued: February 2, 1993, in Docket No. 920324-EI, In Re: Application for a rate increase by Tampa Electric Company

<u>Issue 8</u>: Should any adjustments be made to TECO's projected level of plant in service?

<u>Recommendation</u>: Yes. TECO's projected level of plant in service should be reduced by $35,671,000 to reflect over-projections in the amounts. Corresponding reductions should be made to accumulated depreciation and depreciation expense in the amount of $1,248,485. (Marsh)

<u>Position of the Parties</u>

TECO: No adjustments, other than those proposed by the company, should be made to TECO's projected level of plant in service. The adjustment proposed by OPC is flawed and should be rejected.

OPC: Yes. An analysis of the projected level with the actual levels through September 2008 shows the projection trend for plant in service is overstated. Utilizing the average percentage difference between the projection and actual data (since the over-projection will be carried forward into the 13-month average ending December 31, 2009) results in a reduction to jurisdictional plant in service of $51,969,000. Depreciation and amortization on a jurisdictional basis should be reduced by $8,187,000.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. TECO's requested plant in service is overstated. The adjustments submitted by intervenors should be implemented and projected plant in service, depreciation and amortization should be reduced accordingly.

FRF: Yes. Pending the development of additional evidence, the FRF agrees with OPC that jurisdictional Plant in Service should be reduced by $51,969,000 (total Company reduction of $53,958,000). Correspondingly, jurisdictional depreciation and amortization should be reduced by $8,187,000.

<u>Staff Analysis</u>:

<u>PARTIES' ARGUMENTS</u>

OPC witness Larkin testified that the Company must project each component of rate base by month for the projected test year ending December 31, 2009. (TR 2017) He opined that "[i]t is unlikely that the Company's projected balances almost two years into the future are without inaccuracies." (TR 2017) He advised that the best method of testing the Company's projections is to compare actual results to projections to determine whether the projected amounts are overstated or understated. (TR 2017-2018)

On Schedule B-3, Exhibit HL-1 (EXH 50) witness Larkin provided a comparison of TECO's projected plant in service balance to the actual plant in service balance based on nine months of data through September 2008. (TR 2018) He contended that the Company over-projected its balances, indicating a trend to over-project balances that translates into projected test year balances that are too high. (TR 2019) He pointed out that the Company's projected plant in service balance exceeded the actual in every month shown in his exhibit. (TR 2019) Witness Larkin advised that "any inaccuracies in 2008 are carried forward into the 2009 test year because the December 31, 2008, balance becomes the first month in the 13-month future test year average, and the same projection methodology is used." (TR 2019-2020)

Witness Larkin made an adjustment based on the percentage difference between the actual plant in service balance and the projected plant in service balance for each of the actual months available. (TR 2020) He applied the average percentage overstatement derived from the 13-month average plant in service balance projected by the Company on MFR Schedule B-3 for the 13-month average ending December 31, 2009. (TR 2020) He recommended a reduction to plant in service for the projected test year 2009 of $53,958,000 on a total Company basis, with the jurisdictional adjustment of $51,969,000. (TR 2020; MFR Schedule B-3, p. 8)

Witness Larkin performed a similar study for the accumulated provision for depreciation and amortization which showed a corresponding overstatement of those amounts. (TR 2020) Using the same average percentage methodology, he reduced the Accumulated Provision for Depreciation and Amortization in the amount of $8,500,000 on a total Company basis and $8,187,000 on a jurisdictional Company basis. (TR 2020-2021) He also recommended a reduction in depreciation expense since any overstatement of the Accumulated Provision resulted from the overstatement of Depreciation expense. (TR 2021)

TECO witness Chronister disagreed with OPC witness Larkin's proposal that plant in service should be reduced for over-projected balances. He argued that witness Larkin's assumption that differences between projected and actual plant in service balances for the months January through September of 2008 are relevant to the projected test year is erroneous. (TR 1458) He pointed out that the September 2008 projected Plant In Service of $5,472,308,000 is only $625,000 higher than the actual Plant In Service of $5,471,683,000 on September 30, 2008, a difference of only one one hundredth of one percent. (TR 1459) He testified that another major flaw in witness Larkin's proposal is that he did not recognize that a part of the Total System Plant In Service is adjusted out of jurisdictional rate base for Plant In Service that has a return provided for through the Environmental Cost Recovery Clause (ECRC) and the Energy Conservation Cost Recovery Clause (ECCR). Witness Chronister contended that only jurisdictional balances that are recovered through base rates should be used in the analysis. (TR 1460) He also noted that witness Larkin used the amount of the difference between actual and projected plant divided by the actual balance, resulting in an overstatement. Witness Chronister contends that witness Larkin should have performed that calculation using the difference amount divided by the projected balance. (TR 1461)

Witness Chronister explained that the budget variances are caused by timing differences in certain projects, such as projects in TECO's energy supply area, some of its transmission projects, the combustion turbine projects, the peaking units, and the rail facilities. (EXH 13, pp. 2033-2034) He also noted that projects may have greater capital expenditures than expected. (EXH 13, p. 2034) He stated that TECO may see budget variances of one or two percent, either higher or lower, based on his experience. (EXH 13, p. 2035)

Witness Chronister advised that witness Larkin's calculations of the accumulated reserve and depreciation expense for the projected test year 2009 contains the same errors as described above with respect to ECRC removal and difference percentages. (TR 1461-1462) He explained that OPC's proposed changes to Plant In Service balances, multiplied by the 3.5 percent composite rate of depreciation, yields the effective accumulated reserve and depreciation expense adjustments. He testified that, based on the corrections to his proposed Plant In Service adjustment discussed above, the reduction amount would be $35,671,000 x 3.5% = $1,248,485 in depreciation expense and a corresponding accumulated reserve offset in the amount of $1,248,485. (TR 1461-1462)

FIPUG took a position in agreement with OPC, but provided no discussion. (FIPUG BR at 9) FRF agreed with OPC witness Larkin in its brief, without further discussion. (FRF BR at 15)

ANALYSIS

OPC witness Larkin's Exhibit HL-1, Schedule B-3, showed data for 2008 in which TECO's projected plant fell short of its projections 8 months out of 8. In additional data provided by TECO, the plant fell short of its internally budgeted projections 10 months out of 12. (EXH 13, pp. 2133-2135) Thus, some 20 months of data were over-projected through September 2008.

Staff does not agree with witness Chronister's argument that the Company will "catch up" as a basis to ignore witness Larkin's adjustment. Witness Chronister admitted that even where there were several months in which the projections were almost equal to the actual plant balances, the thirteen-month average will not be the same. (TR 1605) Since the thirteen-month average is the number used for ratemaking, staff believes the chronic short-fall in the Company's projections are relevant. Further, staff does not believe that TECO will "catch up" its plant construction in 2009.

However, staff does agree with TECO that a number of calculation errors were made by witness Larkin. Two areas are noted: first, witness Larkin did not adjust for amounts that were removed for the ECRC and the ECCR. (TR 1460) Second, witness Larkin used the amount of difference divided by the actual balance, resulting in an overstatement, while he should have performed that calculation using the difference amount divided by the projected balance. (TR 1461)

Witness Chronister provided the corrected numbers, even though he did not agree with the overall adjustment. Those figures are a $35,671,000 reduction to plant in service, a $1,248,485 reduction in depreciation expense and a corresponding accumulated reserve offset in the amount of $1,248,485. (TR 1461-1462) Staff believes these figures should be accepted.

CONCLUSION

Based on the record evidence, staff recommends that TECO's projected level of plant in service be reduced by $35,671,000 to reflect over-projections in the amounts. Corresponding reductions should be made to accumulated depreciation and depreciation expense in the amount of $1,248,485.

<u>Issue 9</u>: Should TECO's requested increase in plant in service for the customer information system be approved?

<u>Recommendation</u>: Yes. The adjustment for CIS modification associated with rate case modifications is appropriate. (Marsh)

<u>Position of the Parties</u>

TECO: Yes. TECO appropriately included $2,445,000 in rate base and reduced NOI by $342,000 for total CIS modification costs of $2,792,000 to be amortized over five years. The modifications are necessary to reflect required rate changes from this proceeding, not changes made in the normal course of business, and even routine software upgrades should be capitalized and depreciated.

OPC: No. The Customer Information System modifications are changes that are routinely done when rate adjustments are approved such as the annual fuel proceeding or a normal base rate case. Moreover, the anticipated billing adjustments may not be approved by the Commission. Therefore, the supposedly extraordinary CIS upgrade of $2,445,000 should be denied and depreciation expense decreased by $558,000.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. The Customer Information System (CIS) changes that TECO seeks to recover are routine changes done whenever rate changes are approved. Thus, the expense of this extraordinary upgrade and related depreciation expense should be denied.

FRF: No. TECO's request should be denied, reducing rate base by $2,445,000 (and correspondingly reducing depreciation expense by $558,000 for the test year).

<u>Staff Analysis</u>:

<u>PARTIES' ARGUMENTS</u>

TECO witness Chronister testified that $2,792,000 should be included for modifications to update the customer information system (CIS) that are needed to implement the rate changes requested in this docket. He asserted that these costs should be amortized over five years. He testified that the jurisdictional net operating income adjustment made by the Company in its MFRs is an increase to amortization expense of $342,000, and the jurisdictional rate base adjustment is an increase of $2,445,000. (TR 1444)

Witness Chronister argued that the CIS modifications are necessary because of the many substantial design changes in the customer rate schedules. He testified that:

> . . . the CIS and its sub-systems must be programmed in advance to ensure accurate billings upon Commission approval of the company's proposed rate design in April 2009. The modifications include, but are not limited to: inverted

> energy rates for residential customers, demand rate changes, new service charges, new lighting schedules, and changes to interruptible customer rate schedules.

(TR 1463-1464)

Witness Chronister explained that, "the project needed to be properly scoped, resources secured, requirements identified and outlined, changes programmed and tested, and Customer Service Professionals and other company team members trained." (TR 1463) He asserted that the changes are extensive and will require an estimated 40,000 hours of resources. He noted that the modifications are dependent on Commission approval in April 2009 in this docket. (TR 1464)

Witness Chronister stated that the CIS modifications are not the types of changes that TECO would routinely make. He argued that the cost is due solely to changes proposed in this proceeding and is appropriately recovered as a cost of service. (TR 1463) He testified that it is appropriate for ratepayers to pay the cost of CIS modifications, even if not all of the requested rate changes are approved. (TR 1463) Witness Chronister also stated that the project must be viewed comprehensively, and certain rate changes that the Commission may not approve does not impact the overall necessity to modify the CIS system. (TR 1463)

OPC witness Larkin argued that none of the items requested by TECO are unusual changes to a CIS system. (TR 2021) He included in his testimony documentation provided by TECO outlining the program costs, which he noted are general in nature, without any specifics. (TR 2022; EXH 121, pp. 1-3) He testified that the rate changes that necessitate the CIS upgrades may never be approved by the Commission. He stated that there is neither a cost benefit analysis provided nor is there any detailed calculation of how the proposed dollars would be used. He asserted that any costs that may be incurred, would be incurred in the normal course of business in any year base rates or fuel rate changes are made and do not justify separate adjustment. Witness Larkin recommended that the Company's request for an increase in rate base of $2,445,000 depreciation expenses be decreased by $558,000. (TR 2022)

OPC reiterated these positions in its brief. (OPC BR at 65)

FIPUG did not provide testimony on this issue. FIPUG's discussion mirrored OPC's. (FIPUG BR at 10-11)

FRF agreed with OPC witness Larkin in its brief, without further discussion. (FRF BR at 16)

ANALYSIS

Staff agrees with TECO that the rate structure changes requested, in particular those for conservation, billing on demand, and the combining of three rate classes are major changes to the rate structure. This is not a simple matter of changing a factor or a dollar figure, as would occur in the various clause proceedings before this Commission noted by OPC. Rather, the CIS upgrade accommodates major structural changes in the rates.

Staff agrees with OPC that the rate restructuring requested by TECO may not be approved. (TR 2022) However, staff also agrees with TECO that if the Company waits for a decision before beginning to make the changes, it will not be possible to complete them before the rates go into effect, as noted by witness Chronister. (TR 1463) Staff believes the modifications to the CIS system are necessary costs of doing business for TECO and should be included in the test year.

Staff notes that the costs included by TECO in its MFRs are slightly lower than the Company-approved program scope approval that TECO submitted in response to discovery. (EXH 121, pp. 1-3)

CONCLUSION

Therefore, staff recommends that the cost of the CIS upgrade associated with rate case modifications is appropriate. No adjustment is necessary.

Issue 10: Is TECO's requested level of Plant in Service in the amount of $5,483,474,000 for the 2009 projected test year appropriate?

Recommendation: No. The appropriate level of Plant in Service for the 2009 projected test year is $5,268,158,000. (Slemkewicz)

Position of the Parties

TECO: Yes. TECO has properly forecasted the amount for plant in service and it is appropriate.

OPC: No. The amount should reflect the adjustments recommended by OPC in this proceeding.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. This amount should be adjusted to reflect the adjustments recommended by Intervenors and discussed in specific issues throughout this Brief.

FRF: No. The amount should reflect the adjustments recommended by OPC's witnesses in this case.

Staff Analysis: This is a fallout issue. Based on staff's recommendations, the appropriate 13-month average of plant in service for the 2009 projected test year is $5,268,158,000. (See Schedule 1)

Issue 11: Is TECO's requested level of accumulated depreciation in the amount of $1,934,489,000 for the 2009 projected test year appropriate?

Recommendation: No. The appropriate Accumulated Depreciation of Electric Plant in Service for the December 2009 projected test year is $1,929,038,515. (Marsh)

Position of the Parties

TECO: Yes. TECO has properly forecasted this amount for accumulated depreciation and is it [sic] not overstated as suggested by OPC.

OPC: No. The reserve is overstated by $8,500,000 total Company ($8,187,000 jurisdictional).

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. Accumulated depreciated should reflect the amounts recommended by intervenor witnesses.

FRF: No. Agree with OPC that the Company's accumulated depreciation is overstated by $8,187,000 on a jurisdictional basis.

Staff Analysis: This is a fallout issue. OPC's positions that lead to its $8,500,000 adjustment ($8,187,000 jurisdictional) are discussed in the aforementioned issues. FIPUG and FRF took positions but did not discuss the issue further. Based on staff's recommendations in Issues 5, 7, and 8, the appropriate 13-month average amount of Accumulated Depreciation of Electric Plant in Service for the projected test year is $1,929,038,515. (See Schedule 1)

Issue 12: Have all costs recovered through the Environmental Cost Recovery Clause been removed from rate base for the 2009 projected test year?

Recommendation: Yes. No adjustment to Construction Work in Progress (CWIP) is needed to remove costs recovered through the ECRC. (Marsh)

Position of the Parties

TECO: Yes. All costs recovered through the Environmental Cost Recovery Clause have been appropriately removed from rate base for the 2009 projected test year.

OPC: No position.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No position.

FRF: No. Agree with OPC.

Staff Analysis: Amounts that are recovered through the ECRC must be removed from the Company's filing to avoid double recovery. Adjustments were shown to Plant in Service (MFR Schedule B-2, p. 6) and other schedules to remove such amounts. However, TECO did not show any amounts removed from CWIP for costs recovered through the ECRC.

On MFR Schedule B-1 under CWIP, an adjustment was made to "remove CWIP eligible for AFUDC per Commission guidelines." (MFR Schedule B-1, p. 4) In response to discovery, TECO explained that the adjustment was mislabeled and provided reconciliations for 2007, 2008, and 2009, showing the amounts broken down by AFUDC-eligible projects and ECRC projects. (EXH 13, pp. 255-258). No party filed testimony on this issue.

Staff agrees with TECO that all costs removed through the ECRC have been removed. Therefore, based on the record evidences, staff recommends that no adjustment to CWIP is needed to remove costs recovered through the ECRC.

Issue 13: Is TECO's requested level of Construction Work in Progress in the amount of $101,071,000 for the 2009 projected test year appropriate?

Recommendation: Yes. TECO's requested level of Construction Work in Progress (CWIP) in the amount of $101,071,000 for the 2009 projected test year is appropriate. (Marsh)

Position of the Parties

TECO: Yes. TECO has properly forecasted this amount for Construction Work in Progress and it is appropriate. The analysis and proposal advanced by OPC is flawed and should be rejected.

OPC: No. Based on an analysis of the Company's projected level of Construction Work in Progress with the actual levels for the first nine months of 2008, the comparison shows that the Company's projection is 1.90% understated. The CWIP balance should be increased by $2,608,000 on a jurisdictional basis, which results in a CWIP balance of $103,679,000.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. Agree with Public Counsel.

FRF: No. Agree with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

Witness Chronister stated that a pro forma adjustment to remove CWIP from rate base was made. He explained that the Company's last rate proceeding included a revenue requirement calculation including $36,171,000 of CWIP normally eligible for AFUDC in rate base. (TR 1446) He testified that the adjustment was made to "maintain specific financial integrity levels given the capital spending plan the company faced in 1992." (TR 1446) He noted that TECO is not requesting additional CWIP in rate base in this proceeding. (TR 1446) He stated that had the additional amount of CWIP had been included in rate base, it would have resulted in an increase to the revenue requirement of $4,316,000. (TR 1446)

OPC witness Larkin stated that he performed an analysis similar to that used for Plant In Service and Accumulated Provision for Depreciation, in that he compared the actual CWIP balance for the first nine months of 2008 with the Company's projected balance. (TR 2028) He advised that the Company's projected balance was understated by 1.90 percent, requiring an adjustment to the jurisdictional CWIP balance for 2009. (TR 2028-2029) He recommended a balance of $103,679,000 which is greater then the Company's balance by $2,608,000 on a jurisdictional basis. (TR 2029)

Although OPC's proposed adjustment to CWIP is an increase to jurisdiction rate base, witness Chronister argued that "[witness] Larkin repeats his errors related to variance extrapolation, lack of ECRC removal, and incorrect calculations." (TR 1466)

ANALYSIS

Staff believes both OPC and TECO have taken positions for CWIP that are consistent with their positions in Issue 8, Plant in Service. The application of the same methodology used by witness Larkin to reduce Plant in Service results in an increase in CWIP. (TR 2028-2029) Witness Chronister disagreed with the reduction to Plant in Service recommended by OPC, so for consistency, also disagreed with OPC that the methodology should be applied to CWIP. (TR 1466)

Staff agrees in principle with OPC. However, as discussed in Issue 14, a number of land projects associated with Plant Held for Future Use (PHFU) will be delayed. Staff believes that this will result in a reduction to CWIP from the projected amounts. PHFU is comprised of land costs that eventually are moved to CWIP and then to Plant in Service as construction of the projects is finalized. The land costs will have the same impact on rate base, whether they are included in CWIP or in PHFU. However, over and beyond the land costs included in CWIP are the costs of the plant being constructed on the land. The record is silent as to the amount of CWIP included for those projects. Staff believes that the amount of CWIP should not be adjusted upwards, in recognition of the fact that certain projects will not be completed, as discussed in Issue 14.

CONCLUSION

Thus, based on the record evidence, staff recommends that TECO's requested level of CWIP in the amount of $101,071,000 for the 2009 projected test year is appropriate.

Issue 14: Is TECO's requested level of Property Held for Future Use in the amount of $37,330,000 for the 2009 projected test year appropriate?

Recommendation: Yes. TECO's requested level of Property Held for Future Use (PHFU) in the amount of $37,330,000 for the 2009 projected test year is appropriate. (Marsh)

Position of the Parties

TECO: Yes. TECO has properly forecasted this amount for Property Held for future Use and it is appropriate. The analysis and proposal advanced by OPC is flawed and should be rejected.

OPC: No. The Company's Property Held for Future Use should be decreased by $2,328,354 on a jurisdictional basis to reflect the change the Company made to accurately reflect all plant placed in service in 2009.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. Agree with Public Counsel.

FRF: No. Agree with OPC that PHFFU should be decreased by $2,328,354 on a jurisdictional basis.

Staff Analysis:

PARTIES' ARGUMENTS

TECO witness Chronister explained that the Company made its monthly projections of expenditures for land acquisition in Account 107, CWIP, so that the amounts shown in PHFU in December 2008 and 2009 represent expenditures expected to close from Account 107 to Account 105, PHFU. (TR 1465) He stated that land acquisitions take a period of time as work in progress until the purchase is finalized. (TR 1465)

OPC witness Larkin stated that TECO's projected additions and reductions to PHFU for 2008 and 2009 are inaccurate. He testified that:

> [f]or the year 2008, the Company utilized the ending balance at December 31, 2007 for each month of the 2008 year with exception of December 2008 when the balance was increased by $2,713,000. In the test year 2009, the Company used the December 2008 balance for property held for future use for each month of the test year except December 2009 where the balance was increased by $1,326,000. Therefore, it is obvious that the Company did not project monthly additions. . . . If it had projected monthly, the PHFU balance would not have remained the same for each month except for December of each of the years.

(TR 2026)

Witness Larkin stated that it is not possible for the PHFU to have the same balance in each month of 2008 and 2009 except for December. He showed a list provided by the Company of each property in the account for the historical year ended December 31, 2007. (TR 2026) He provided the data showing three projects with a total cost of $1,534,611 that were acquired prior to 2007 and slated to go into service in 2008. He also provided the projects to go into service in 2009 totaling $25,164,775. He argued that these projects would reduce PHFU substantially. (TR 2027)

Witness Larkin noted that TECO later changed the in-service dates on major PHFU amounts and removed others from the balance. He testified that the Company's explanation was that "[t]hese adjustments do not change the total system rate base since the reduction in [PHFU] would be offset by a corresponding increase in Electric Plant In Service." (TR 2028; EXH 13, pp. 415-417)

Witness Larkin questioned the Company's assertion that its projection of Plant In Service is accurate and reflects the cost of plant to be placed in service. He argued that "[b]oth statements cannot be true." He explained that, since TECO claims to have adjusted Plant In Service to reflect all plant placed in service in 2009, he decreased PHFU by $2,328,354 on a jurisdictional basis to reflect the change which the Company made. (TR 2028)

OPC argued in its brief that if one were to transfer witness Larkin's adjustment from PHFU to plant, as witness Chronister suggested, then the Company's projected balance of plant would be overstated because the Company did not remove all of the plant placed into service in 2008-2009 for PHFU. (OPC BR at 16; TR 2025-2028)

Witness Chronister argued that witness Larkin's proposal to decrease the investment in PHFU by $2,328,354 is incorrect because the adjustments related to PHFU would be offset by a corresponding increase in Electric Plant In Service. (TR 1465) He explained that this is only a balance sheet transfer or reclassification and would result in no change to total system rate base since both PHFU and Electric Plant In Service are components of rate base. He stated that the proposed decrease in PHFU reflects "only the credit side of the two-sided journal entry." (TR 1465-1466)

ANALYSIS

Staff agrees with TECO that the monthly amounts between CWIP or plant in Service and PHFU would offset each other. However, staff does have a concern that additional amounts of projects that will be delayed, as discussed in Issue 13, are reflected in CWIP. Staff notes that PHFU as discussed in this issue is only the land cost. Thus, staff disagrees with TECO that the difference is a wash. It appears to be so only with regard to the land cost portion. If projected construction is delayed, as noted by witness Larkin, there are excess costs contained in the filing.

Because the land costs have the same impact on rate base, whether included in CWIP or in PHFU, staff does not believe the PHFU account needs to be adjusted. Instead, staff believes the project delays should be reflected by recognizing an over-projection of Plant in Service, as discussed in Issue 8. Additionally, as discussed in Issue 13, the CWIP should not be increased as recommended by witness Larkin.

Staff disagrees with witness Larkin that the adjustments made to PHFU are inappropriate because they are made in December. As noted by witness Chronister, land acquisitions take time to complete, but are periodically transferred to PHFU. (TR 1465) Staff believes the manner in which TECO is accounting for the PHFU does not overstate the rate base.

CONCLUSION

Therefore, based on the record evidence, staff recommends that TECO's requested level of PHFU in the amount of $37,330,000 for the 2009 projected test year is appropriate.

<u>Issue 15</u>: Should an adjustment be made to TECO's requested deferred dredging cost?

<u>Recommendation</u>: Yes. As discussed in Issue 56, working capital should be reduced by $1,346,649 (jurisdictional). (Marsh)

<u>Position of the Parties</u>

TECO: No. TECO has properly forecasted deferred dredging cost to be incurred by the company based on current cost estimates and no adjustment is warranted. The analysis and proposal advanced by OPC is flawed and should be rejected.

OPC: Yes. The Company has failed to provide documentation to support that dredging costs will reach $6.9 million. Historical costs have been significantly less. The Company has not supported that any dredging will occur in 2009 test year. Therefore, the deferred dredging cost balance of $2,657,000 (jurisdictional) should be removed.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. Agree with Public Counsel.

FRF: Yes. Agree with OPC that the Company's deferred dredging cost balance of $2,657,000 (jurisdictional) and related dredging operating expense of $1,330,000 should be removed.

<u>Staff Analysis</u>: This issue is related to Issue 56. Issue 56 is the expense portion of dredging costs, while this issue is the working capital portion. Although dredging costs are a necessary cost of doing business, the full amount requested by TECO is not supported by record evidence. The Company should be allowed a total cost of $3,400,272, resulting in a reduction to expense of $650,056 (jurisdictional), and a reduction to working capital of $1,346,649 (jurisdictional).

<u>Issue 16</u>: Should an adjustment be made to TECO's requested storm damage reserve, annual accrual and target level?

<u>Recommendation</u>: Yes. TECO's requested increases in storm damage reserve, annual accrual, and the storm damage target reserve level should be rejected. The accrual for Storm Damage Reserve should remain at its current annual level of $4 million with a $55 million target amount. Removing TECO's requested increase to the storm damage accrual results in a decrease in the Company's jurisdictional O&M expense of $16,000,000 ($16,000,000 system) and a decrease in the jurisdictional working capital of $8,000,000 ($8,000,000 system) for the test year. At this point, it would be premature to require that the storm damage accrual stop when the target level is achieved. Staff believes this issue should be readdressed if and when the target level is actually achieved. (Prestwood)

<u>Position of the Parties</u>

TECO: The Commission should approve TECO's proposed annual accrual and reserve target of $20 million and $120 million. Based on the filed study, current approved accrual and reserve targets are inadequate. The Company's proposed accrual and target level are appropriate based on the value of TECO's system and will serve to normalize the level of storm damage expense over time. The Commission should also approve the ability to charge future storm insurance costs against the reserve.

OPC: Yes. The requested $16 million annual accrual increase should be denied as the current $4 million accrual is sufficient. Working capital should be increased by $8 million and operating expenses reduced by $16 million to remove the effect of increasing the storm accrual. The target level should remain at the current level of $55 million. Current Commission rules and policy are sufficient to handle potential future storm costs.

OAG: Adopts the Post-Hearing Brief positions of the Office of Public Counsel.

AARP: Yes. TECO's annual storm damage accrual should remain at $4 million and not be increased to $20 million, saving $16 million of operating expense. If excess storm damages are experienced, TECO can seek recovery through a surcharge or securitization.

FIPUG: Yes. The Commission should deny the Company's request to increase its annual accrual from $4 million to $20 million and to increase the target level of the reserve from $55 million to $120 million. The Commission has a history of permitting timely recovery of prudently incurred storm expenses and this is sufficient to deal with any future storm cost.

FRF: Yes. TECO's requested 400% increase in annual accrual from $4 million to $20 million per year is unnecessary and unreasonable. TECO's accrual should remain at $4 million per year, and its target level of $55 million should remain unchanged.

Staff Analysis:

PARTIES ARGUMENTS

On March 25, 1994, the Commission authorized TECO to accrue $4 million annually for potential storm damage and required the submittal of a storm damage study.[6] Accordingly, TECO filed its study in September 1994 which the Commission approved in 1995[7] and affirmed the annual accrual of $4 million. The Commission also established a $55 million target amount for the storm damage reserve.[8] The first time the Company had to charge storm expenses against this reserve was after the 2004 storm season. (TR 1209)

During 2004, three storms hit TECO's service territory causing approximately $73.4 million of damage to its system. At that time, the Company's storm damage reserve balance was $42.3 million. (TR 1209) The Commission approved a stipulation which allowed the Company to charge $34.5 million of the storm damage costs to the reserve and the remaining storm costs were charged to utility plant.[8] According to the order, after this charge, the reserve had a balance of $7.9 million.[8] In its order approving the stipulation, the Commission noted:

> Between August 13, 2004, and September 26, 2004, Hurricanes Charley, Frances, and Jeanne struck TECO's service territory causing extensive damage to TECO's distribution and transmission systems. As a result, 631,000 customers were impacted, causing the worst outage situation in the Company's history.[8]

Company witness Carlson testified that, based upon his experience and the results of a detailed storm study conducted by Company witness Harris of ABS Consulting, TECO's annual reserve accrual should increase from $4 million to $20 million, and the target reserve amount should increase from $55 million to $120 million. (TR 1206-1207) This conclusion was based on three fundamental objectives that were considered essential by TECO as it evaluated its needs for a storm damage reserve: 1) achieve an effective balance of rate stability and long-term cost for customers; 2) build a reserve sufficient to cover the majority of loss events in order to mitigate the need for a surcharge to customers immediately after such an event; and, 3) design a reserve to cover the higher probability events and not the low probability high severity events. (TR 1207) Witness Carlson relied heavily on the results of the ABS Consulting study. (TR 1217)

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[6] Order No. PSC-94-0337-FOF-EI, issued March 25, 1994, in Docket No. 930987-EI, In re: Investigation into Currently Authorized Return on Equity Of TAMPA ELECTRIC COMPANY.

[7] Order No. PSC-95-0255-FOF-EI, issued February 23, 1995, in Docket No. 930987-EI, In re: Investigation into Currently Authorized Return on Equity Of TAMPA ELECTRIC COMPANY.

[8] Order No. PSC-05-0675-PAA-EI, issued June 20, 2005, in Docket No. 050225-EI, In re: Joint petition of Office of Public Counsel, Florida Industrial Power Users Group, and Tampa Electric Company for approval of stipulation and settlement as full and complete resolution of any and all matters and issues which might be addressed in connection with matters regarding effects of Hurricanes Charley, Frances, and Jeanne on Tampa Electric Company's Accumulated Provision for Property Insurance, Account No. 228.1.

Company witness Harris presented the results of ABS Consulting's independent analyses of risk of uninsured losses to TECO's transmission and distribution assets and insurance retentions from hurricanes and tropical storms. These studies include Storm Loss Analysis and Reserve Performance Analysis. (TR 1274) Witness Harris did not make a recommendation for TECO's annual level of accrual. (TR 1284)

The Loss Analysis is a probabilistic windstorm analysis that uses proprietary software to develop an estimate of the expected annual amount of uninsured windstorm losses to which TECO is exposed. The Reserve Performance Analysis is a dynamic financial simulation analysis that evaluates the performance of the reserve in terms of the expected balance of the reserve and the likelihood of positive reserve balances over a five-year period, given the potential uninsured losses determined from the Loss Analysis, at various annual accrual levels. (Harris TR 1274-1275) The study estimated the total expected average annual uninsured cost to TECO from all storms to be $17.8 million. (TR 1275)

The current analysis takes into account the hurricane history up to and including the 2004 storm season. (Harris TR 1279) Adding the 2004 season increased the long-term hurricane hazard in the Tampa area by about 60 percent over the prior modeled hazard. (Harris TR 1280) Witness Stewart, on behalf of the AARP, testified that both witness Harris and Carlson's recommendations and analysis were biased by the hurricane season of 2004. Witness Stewart pointed out that the annual storm damage accrual of $4 million, and the current $55 million storm damage reserve target set in 1994 by the Commission, offered sufficient coverage until the abnormal storm season of 2004. (TR 2140)

Both witness Carlson and witness Stewart described the current overall regulatory framework concerning the recovery of storm damage costs in Florida. (TR 2138-2139) The Commission has established a regulatory framework consisting of three major components: 1) an annual storm accrual, adjusted over time as circumstances change; 2) a storm reserve adequate to accommodate most, but not all storm years; and, 3) a provision for utilities to seek recovery of costs that go beyond the storm reserve. (Harris TR 1277)

Witness Stewart testified that Section 366.8260, F.S., arguably greatly reduces the necessity for a reserve and lessens the importance of the target level. Section 366.8260 permits utilities to recover all reasonable and prudent expenses for storm damage. Before the Securitization legislation, utilities collected a Commission-approved storm accrual each year to help pay for storm damage. The accrual was not designed to guarantee recovery of every penny of storm damage costs. In fact, utilities might only recover storm damage expenses that caused them to earn less than a fair rate of return. Under the earlier policy, the utilities had a financial risk and were understandably interested in keeping the reserve level as high as possible. However, Section 366.8260 guarantees the recovery of all reasonable and prudent expenses for storm damage. Therefore, no matter the amount of storm damage, TECO is statutorily guaranteed recovery of its storm expenses as long as they are deemed prudent by the Commission. (Stewart TR 2141)

Witness Stewart further testified that given the passage of Section 366.8260 subsequent to this Commission's orders addressing the level of reserve required or desired, it is not entirely clear that a reserve is essential. However, he believes it is reasonable for the Commission to approve a reserve that meets the historically-stated threshold of covering the costs of most, if not all, storms. (TR 2142)

Witness Stewart recommended that an adequate and appropriate Storm Damage Reserve should be $55 million, and TECO should be allowed to accrue the current level of $4 million a year until it reaches $55 million, after which the accrual should cease and rates should be reduced by the appropriate amount. (TR 2143)

OPC witness Larkin testified that while he agreed that the value of the Company's transmission and distribution system has increased since 1994, it is clear that the reserve was adequate in the year 2004 to cover the higher value of assets damaged by the storms which struck in that year. (TR 2035) He further testified that:

> Historically, Tampa Electric's reserve has functioned exactly as the Commission thought it would and how it was designed to operate. At the end of 2008, the reserve will have reached the level of approximately $24 million. Further, the Company's estimate of possible future storm damage was based on a full cost recovery basis, not the incremental recovery basis required under Rule 25-6.0143, Florida Administrative Code. . . . in the Company's actual 2004 storm costs, more than 50 percent of the costs did not flow through the reserve and instead were accounted for in base rate recovery.

(TR 2035-2036)

ANALYSIS

OPC Witness Larkin and AARP Witness Stewart recommend that the current annual level of accrual of $4 million remain the same because it has proven adequate when a storm has actually hit the TECO system. Also, the Commission should continue with that level of storm accrual and when, and if, a storm occurs which is in excess of the reserve, the Commission should then deal with that through a surcharge on rates if necessary or securitization. (Larkin TR 2038)

CONCLUSION

Staff recommends that TECO's requested increases to its storm damage annual accrual and storm damage target reserve level be rejected because the current annual accrual of $4,000,000 is adequate. Staff recommends that the annual accrual for the storm damage reserve remain at its current annual level of $4 million with a $55 million target amount. This results in a decrease in the Company's jurisdictional O&M expense of $16,000,000 ($16,000,000 system) and a decrease in the jurisdictional working capital of $8,000,000 ($8,000,000 system) for the test year. At this point, staff believes it would be premature to require that the annual storm damage accrual be stopped when and if the target level is achieved. Staff recommends that this issue be readdressed if the target level is achieved.

Issue 17: Should an adjustment be made to prepaid pension expense in TECO's calculation of working capital?

Recommendation: No. Staff believes that TECO has submitted sufficient evidence to demonstrate that its prepaid pension expense included in working capital is reasonable. Staff recommends that no adjustment to the Company's working capital concerning prepaid pension expense is warranted. (Kyle)

Position of the Parties

TECO: No. TECO has properly forecasted prepaid pension expense and no adjustment is warranted.

OPC: Yes, any adjustment should be made in accordance with staff's recommendation.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. Agree with Public Counsel.

FRF: Yes. Agree with OPC.

Staff Analysis: In MFR Schedule B-17, the Company presented an analysis of its projected working capital, including prepayments. In direct testimony, TECO witness Chronister described the Company's process of budgeting and forecasting, and stated that, in his opinion, the budgeted balance sheet fairly and reasonably reflects the account balances expected for the test year. (TR 1425-1428) No party other than the Company presented testimony dealing with prepaid pension expense.

Staff has reviewed the data provided by the Company in its MFRs, exhibits, and through discovery. Staff believes that TECO has submitted sufficient evidence to demonstrate that its prepaid pension expense included in working capital is reasonable. As a result, staff recommends that no adjustment to the Company's working capital concerning prepaid pension expense is warranted.

Issue 18: Should an adjustment be made to working capital related to Account 143 - Other Accounts Receivable?

Recommendation: Yes. Working Capital should be reduced in the amount of $10,959,000 (jurisdictional) to remove Account 143, Other Accounts Receivable. (Marsh)

Position of the Parties

TECO: No. The revenues and costs associated with Account 143 have been properly included in NOI and TECO has properly forecasted the amount in Account 143-Other Accounts Receivable in its proposed working capital balance. If working capital is adjusted, the related revenues and costs should be removed from NOI.

OPC: Yes. The Company has yet to show that all of the accounts receivable in Account 143-Other Accounts Receivable are related to utility services and the cost or revenue associated with these accounts receivable have been included in jurisdictional operating income. The remainder of Other Accounts Receivable in the amount of $10,959,000 on a jurisdictional basis should be removed.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. As recommended by Public Counsel witness Larkin, $10,959,000 should be removed because the company has failed to demonstrate that the revenues and costs related to these accounts are related to utility service.

FRF: Yes. Agree with OPC that $10,959,000 should be removed on a jurisdictional basis.

Staff Analysis: Under the USOA, Account 143 includes utility-related receivables other than amounts due from associated companies or from customers for utility services and merchandising, jobbing and contract work.[9] It does not include non-utility receivables. The Commission has a long-standing policy of excluding non-utility receivables from the working capital allowance.[10]

PARTIES' ARGUMENTS

TECO witness Chronister stated that the balances included in Account 143:

> . . . reflect activities related to utility service for jurisdictional customers. They include receivables for off-system sales, pole attachment revenue, rent revenue from fiber optic, by-product sales, and residual revenues.

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[9] 18 CFR Ch 1 143

[10] See, for example, Order No. PSC-92-0580-FOF-GU, p. 15, issued June 29, 1992, in Docket No. 910778-GU, In re: Petition for a rate increase by West Florida Natural Gas Company.

(TR 1466-1467)

He testified that TECO has properly included the revenues associated with these balances in net operating income. (TR 1467) Witness Chronister defined each of the items:

- Off-system sales—sales to other utilities in the interchange of electricity between utilities.
- Pole attachment revenues—TECO charges other companies rent to attach equipment to TECO's poles.
- Rent revenue from fiberoptic—rentals for extra space on network used for reliability.
- By-product sales/residual revenues—Sales of by-products from generation, such as fly ash, gypsum, sulfuric acid, etc.

(EXH 13, pp. 2027-2028)

Witness Chronister discussed each of the above revenue accounts that were included in the MFRs. (EXH 13, p. 2028; MFR Schedule C-5, pp. 25-26) Those revenues include Account 447, Sales for Resale (Off-System Sales); Account 454, Rent from Electric Property; Account 455, Interdepartmental Rents; and Account 456, which includes Wheeling, SO2 allowance, and Other Electric Revenues. (EXH 13, pp. 2029) He summarized that Account 143 represents receivables for three items, off-system sales, SO2 allowance sales, and the majority of the items contained in other operating revenues, except for miscellaneous service revenues, which are billed through TECO's normal electric billing cycle. (EXH 13, pp. 2020) Witness Chronister testified that Account 143 is only used for receivables associated with those particular 400 accounts. (EXH 13, p. 2030)

OPC witness Larkin proposed an adjustment to the Company's working capital for Account 143, Other Accounts Receivable, in its working capital requirement. He stated that, under the USOA, this account includes amounts due the Company except for amounts due from associated companies and from current customers for utility service. He argued that TECO "should be required to show that all of the amounts in Account 143, Other Accounts Receivable, are related to utility services and that the cost or revenue associated with these accounts receivable have been included in jurisdictional operating income." (TR 2029) He recommended removal of $10,959,000 on a jurisdictional basis from Other Accounts Receivable. He contended that TECO has not shown that the items included in the account are all related to utility service, so he removed the entire account. (TR 2030)

OPC argued in its brief that receivables related to off-systems sales make up approximately $8 million of the requested $10 million cost, but the revenues are not charged to ratepayers and thus related receivables should not be either. (OPC BR at 21; EXH 13, p. 2029; TR 1466). OPC added that TECO excluded 63 percent of Other Electric Revenues as non-jurisdictional, as shown on MFR Schedule C-5. (OPC BR at 21; MFR Schedule C-5, p. 25)

FRF agreed with OPC witness Larkin in its brief, without further discussion. (FRF BR at 16) FIPUG also took a position, but did not discuss the issue. (FIPUG BR at 14)

ANALYSIS

Staff agrees with OPC that large amounts of the requested receivable balances appear to be improperly included. It is particularly telling that $8 million of receivables are included for off-system sales, but all of the revenues in the associated Account 447 were removed from the filing. Several other revenue accounts that witness Chronister named as accounts associated with the Other Accounts Receivable, including Wheeling and SO2 Allowance Sales, were also excluded from the filing, or had no balance to begin with. Further, the remaining major revenue accounts associated with Account 143, some $9,561,000 of the total $15,271,000 in revenues, or 63 percent, are shown as non-jurisdictional. (EXH 13, p. 2029; TR 1466; MFR Schedule C-5, p. 25) Of the remaining revenue accounts discussed by witness Chronister, it is not clear what portion of the receivables may be related to them, if any.

Given the major discrepancies between the revenues included in the filing and the associated receivables, staff believes that TECO has not met its burden of proof that Account 143, Other Accounts Receivable, should be included in working capital. Therefore, staff agrees with OPC that the entire amount of $10,959,000, on a jurisdictional basis, should be removed.

CONCLUSION

Therefore, based on the record evidence, staff recommends that Working Capital be reduced in the amount of $10,959,000 (jurisdictional) to remove Account 143, Other Accounts Receivable.

Issue 19: Should an adjustment be made to working capital related to Account 146 - Accounts Receivable from Associated Companies?

Recommendation: Yes. Account 146 should be reduced by $390,000 (jurisdictional) for nonutility receivables included in the account. (Marsh)

Position of the Parties

TECO: Yes. However, except for $390,000 associated with non-utility intercompany receivables, the balance in Account 146-Accounts Receivable from Associated Companies in the company's proposed working capital balance is utility related (Peoples Gas System) and is properly forecasted. Non-utility intercompany receivables of $390,000 should be removed from the account.

OPC: Yes. The entire balance of Account 146-Accounts Receivable from Associated Companies of $6,309,000 is non-utility related and should be removed from working capital. The associated revenues and expenses if identified should also be excluded. The Company has not met its burden to show that these affiliated transactions are directly related to the provision of utility service or necessary for working capital that ratepayers bear.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. As recommended by Public Counsel witness Larkin $6,309,000 should be excluded as the company has not shown it is directly related to the provision of utility service.

FRF: Yes. Agree with OPC that the entire balance of $6,309,000 in Account 146 should be excluded.

Staff Analysis: Under the Uniform System of Accounts (USOA), Account 146, Accounts Receivable from Associated Companies, should include amounts due from associated companies within one year.[11] TECO has included $6,309,000 in working capital for this account. (MFR Schedule B-6, p. 23)

PARTIES' ARGUMENTS

Witness Chronister stated that the balance in Account 146 includes $5,919,000 for services Tampa Electric provides to its utility affiliate, Peoples Gas System (Peoples Gas), and is directly related to the provision of utility services. (TR 1467) He explained that TECO provides information technology support, facility management services, and payroll and accounts payable services. He noted that associated revenues and expenses are also included in test year projections, along with Peoples Gas' balance for intercompany payables. Witness Chronister testified that the remaining jurisdictional balance of $390,000 ($6,309,000 - $5,919,000) is for non-utility intercompany receivables. (TR1467-1468)

[11] 18 CFR Ch. 1 146.

Witness Chronister explained that the receivables in Account 146 do not have a direct association with a revenue account. Rather, they are primarily the result of reductions to TECO's expenses for amounts that are charged to Peoples Gas. (EXH 13, p. 2031) He provided as an example, Account 920, Office Salaries, which would include salary amounts of a TECO employee working on a project that was subject to a charge out to Peoples Gas. He explained that the amount to be charged to Peoples Gas would be booked to another account, instead of Account 920. He adds that another example would be Account 921, Office Supplies and Expense. (EXH 13, p. 2032)

OPC witness Larkin excluded the entire balance in Account 146, Accounts Receivable from Associated Companies. He argued that TECO should be required to show that the entire amount of $6,309,000 is on the Company's books as a result of providing service to jurisdictional ratepayers. (TR 2030) He continued that the receivables are unrelated to providing service to retail electric ratepayers and should be paid by the companies receiving the services. (TR 2047-2048)

OPC argued in its brief that witness Chronister was unable to provide any direct support for the included transactions. (OPC BR at 23) OPC stated that witness Chronister failed to show that the revenues and the expenses of providing these services to affiliates whether non-regulated, electric or gas companies are not subsidized by the regulated electric ratepayers. OPC stated that witness Chronister admitted that the accounts included in the MFRs are netted for these affiliate transactions but those details would have to be reviewed in the budget detail. (EXH 13, pp. 2076-2077; OPC BR at 23) OPC noted that witness Chronister admitted that it is inappropriate to include the accounts receivable related to other TECO energy affiliate transactions, but does not distinguish why the Peoples Gas affiliated transactions are any different than any other non-utility transactions. (EXH 13, p. 2080; OPC BR at 23)

Moreover, OPC argued that "the Company has not met its burden to show that these affiliate transactions benefit ratepayers, that there is a subsidy on the part of the electric system to provide services for the gas subsidiary, or why other non-affiliate costs should be removed but not the Peoples Gas portion." (OPC BR at 23)

FIPUG took a position but did not discuss the issue. (FIPUG BR at 14)

FRF agreed with OPC witness Larkin in its brief, without further discussion. (FRF BR at 16)

ANALYSIS

TECO included $390,000 (jurisdictional) in receivables from non-utility activities. (TR 1467-1468) Witness Chronister admitted that the $390,000 was inadvertently included in the total. (EXH 13, p. 2080) The Commission's policy is to remove nonutility accounts receivables from the working capital allowance.[12] Thus, working capital should be reduced by $390,000.

Rather than a specific revenue account associated with the receivables, as discussed in the previous issue, the receivables in Account 146 would have a corresponding reduction to various expense accounts, as discussed by witness Chronister. While in the previous issue there were direct reductions in the MFRs to the associated revenue accounts, there were no adjustments to the expenses shown in the MFRs related to the receivables in account 146. Staff believes this is an important distinction between the two issues.

Staff also notes that the Company included intercompany payables, Account 234 in the amount of $7,848,000 (jurisdictional), in working capital. (MFR Schedule B-17, p. 110) This amount more than offsets the intercompany receivables of $6,309,000. The net result is a decrease to working capital. This is to the ratepayers' benefit. While OPC proposes removing the receivables, there is no proposal to remove the intercompany payables. Staff believes it is important to be even-handed in making adjustments. In staff's opinion, it would be inappropriate to remove the receivables without removing the offsetting payables.

Staff believes it is appropriate to include the receivables along with the offsetting payables in this case, except for the non-utility portion noted above.

CONCLUSION

Thus, staff recommends that Account 146 be reduced by $390,000 (jurisdictional) for nonutility receivables included in the account.

[12] Order No. PSC-92-0580-FOF-GU, p. 15, issued June 29, 1992, in Docket No. 910778-GU, In re: Petition for a rate increase by West Florida Natural Gas Company.

<u>Issue 20</u>: Should an adjustment be made to rate base for unfunded Other Post-retirement Employee Benefit (OPEB) liability?

<u>Recommendation</u>: No. TECO has properly forecasted its unfunded Other Post-retirement Employee Benefit liability and included the balance in rate base. (Kyle)

<u>Position of the Parties</u>

TECO: No. TECO has properly forecasted it s unfunded Other Post-retirement Employee Benefit liability and no adjustment is warranted.

OPC: Yes, any adjustment should be made in accordance with staff's recommendation.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. Agree with Public Counsel.

FRF: Yes. Agree with OPC.

<u>Staff Analysis</u>: In MFR Schedule B-17, the Company presented an analysis of its projected working capital, including prepayments. (EXH 118) TECO witness Chronister testified to the Company's process of budgeting and forecasting, and stated that, in his opinion, the budgeted balance sheet fairly and reasonably reflects the account balances expected for the test year. (TR 1425-1428) No party other than the Company presented testimony dealing with unfunded OPEB liability.

Staff has reviewed the data provided by the Company in its MFRs, exhibits, and through discovery. Staff believes that there is sufficient record evidence to demonstrate that TECO's unfunded OPEB liability is reasonable and has been included in rate base.

<u>CONCLUSION</u>

Staff believes that TECO has submitted sufficient evidence to demonstrate that its unfunded OPEB liability is reasonable and has been included in rate base. Staff recommends that no adjustment to the Company's rate base concerning unfunded OPEB liability is warranted.

Issue 21: Should an adjustment be made to TECO's coal inventories?

Recommendation: No. TECO's requested coal inventory amounts for the 2009 projected test year are appropriate. (Matlock)

Position of the Parties

TECO: No. TECO has properly forecasted its coal inventories and no adjustment is warranted. OPC's proposed 10 percent reduction is speculative, arbitrary and capricious and should be rejected.

OPC: Yes. The Company's fuel stock should be reduced by 10%, ($9,492,600 jurisdictional) to reflect current reductions which may have occurred in coal, oil, and gas prices.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. The company's fuel stock should be reduced by 10% to reflect current reductions in the price of coal, oil and other fuel prices that have occurred sine the rate case was filed.

FRF: Yes. The cost value of the Company's fuel stock should be reduced by 10% to reflect reductions in coal, oil, and other fuel prices that have likely occurred since the Company filed its case.

Staff Analysis: This issue addresses the appropriate amount of coal inventory, based on the number of tons in inventory, that number of tons' relation to TECO's burn rate, and per ton price estimates.

PARTIES' ARGUMENTS

TECO's proposed 2009 coal inventory is $83,819,000. (TECO BR at 34) TECO witness Wehle testified that the Company seeks to maintain coal inventories sufficient to meet its burn requirements. Witness Wehle testified that TECO considers that supplies may be disrupted by such things as adverse weather conditions and coal and transportation industry problems and that at times, TECO's generation requirements can be unexpectedly high. (TR 918-920) TECO seeks to maintain a 98-day coal supply, consistent with the order resulting from the Company's last rate case.[13] (TR 917) The inventory proposed by TECO for 2009 represents a 94-day supply. (TR 924) The 98-day supply includes a three-day test-burn supply. (TR 924) TECO will not perform any test burns until it completes the installation of selective catalytic reduction equipment at Big Bend Station. (TR 924) In the past two years, TECO has maintained an average 97-day coal supply. (TR 925) The 2004 and 2005 hurricanes and significant river lock outages in 2006 brought the average inventory amounts down by several days. (TR 925) TECO stores roughly half of its proposed coal inventory off-site and in-transit. (TR 920) The proposed off-site coal inventory stored at transfer facilities or "in-transit, to transfer facilities" does not

[13] Order No. PSC-93-0165-FOF-EI, issued February 2, 1993, in Docket No. 920324-EI, In re: Application for a rate increase by Tampa Electric Company, pp. 45-46

include "transfer facility-to-Tampa" transportation costs in their values. (EXH 66, p. 2852) Coal represents approximately 85 percent of TECO's fuel inventory value, and about 56 percent of TECO's generation. (TR pp. 915, 940) The parties did not challenge TECO's proposed inventory tonnage amounts in this proceeding. (TECO BR at 35)

Witness Wehle noted that, in the 2008 fuel proceedings, TECO revised its 2009 fuel charges by revising its natural gas price forecasts, from June-July 2008 to September 2008. Also, Witness Wehle testified that TECO estimated its inventory values in this proceeding in Spring 2008 and that coal prices increased in Summer 2008 but have not retreated to the March 2008 prices. (EXH 66, pp. 2873, 2843, 2867, 2840). Moreover, witness Wehle stated that TECO based part of its 2009 coal inventory valuation on 2009 contractual coal prices and transportation costs. (EXH 66, p. 2842)

OPC witness Larkin testified that TECO should re-price its fuel inventory to accurately reflect the current price of fuel, noting the decline in fuel prices since 2008. (TR 2030) However, without having the information necessary to estimate the decline in fuel prices, witness Larkin proposed a 10 percent downward adjustment. (TR 2030) In support of OPC Witness Larkin's proposed 10 percent reduction, FRF argued that in the 2008 fuel proceeding, TECO reduced its proposed 2009 fuel charge increase from 22 percent to 12 percent, a change of 10 percent. (FRF BR at 17)

OPC argued that 60 percent to 70 percent of TECO's 2009 coal purchases are to be long-term contract purchases and that, although TECO observes that its coal-price 2009 estimates were lower than January 2009 spot coal prices, the comparison did not use spot coal prices from both periods. (EXH 66, p. 2864, OPC BR at 24)

OAG, AARP, and FIPUG did not brief this issue. OPC and FRF asserted positions on this issue that the dollar value of the inventory should be reduced by 10 percent.

ANALYSIS

Order No. 9273 states in part: "We recognize that the companies' projections will inevitably differ from actual results, and agree that a true-up mechanism, designed to conform the projected estimates to actual figures, is necessary to realize the objective of eliminating overrecoveries and underrecoveries of fuel costs."[14] In its brief, FRF agrees with OPC witness Larkin's proposed 10 percent reduction in fuel inventory, stating "Failure to make this adjustment will likely result in overstated fuel costs being embedded in Tampa Electric's rates until the next rate case." (FRF BR at 17-18) Staff notes the difference in purpose between estimated fuel prices for inclusion in fuel charges and estimated fuel prices for inclusion in base rates. Although accuracy is desired in both types of estimates, fuel-charge fuel price estimates will be trued up, and base rate fuel price estimates will not be.

[14] Order No. 9273, issued March 7, 1980, in Docket No. 94680-CI, In re: General Investigation of Fuel Cost Recovery Clause. Consideration of staff's proposed projected fuel and purchased power cost recovery clause with an incentive factor, p. 7

The fuel clause is established once a year based on estimated fuel prices, and the difference between estimated prices and actual prices becomes the true-up amount for subsequent fuel factors. In contrast, base rates are determined using a point estimate, or test-year estimate, to determine fuel prices supporting the inventory value. Base rate calculations are not subject to a true-up adjustment. Base rates will be in place for several years, during which time fuel inventory may be undervalued or overvalued as market fuel prices change. Therefore, staff believes that witness Wehle's calculation of the fuel inventory value which reflects a midpoint of fuel prices for 2008 is appropriate.

Staff observes, regarding the timing of TECO's fuel-price forecasts and the changes in fuel prices since March 2008, that as fuel prices increased in the Summer of 2008, TECO did not seek to revise its 2009 price forecasts in this proceeding as it did in the fuel docket. Therefore, staff does not believe that the reduction in fuel-charge fuel-price estimates warrants a similar reduction in base-rate fuel-price estimates. Based on the timing and composition of TECO's rate-case fuel-price forecast and its fuel-charge fuel-price forecasts, staff believes that the 10 percent fuel charge reduction and the proposed 10 percent inventory reduction are coincidentally equal.

CONCLUSION

Based on the evidence and arguments presented by the parties in this proceeding, staff recommends that no adjustment is necessary for TECO's coal inventories. Staff believes that TECO's coal inventory should not be adjusted to reflect the decreases in fuel prices between Summer 2008 and September 2008. Although not all of TECO's 2009 coal purchase prices were secured by contractual arrangements in March 2008, staff believes that TECO's price estimates of 2009 non-contract coal purchase prices are representative of the year's market prices and that over all, TECO's coal prices are reasonable.

<u>Issue 22</u>: Should an adjustment be made to TECO's residual oil inventories?

<u>Recommendation</u>: No. TECO's requested residual oil inventory amounts for the 2009 projected test year are appropriate. (Matlock)

<u>Position of the Parties</u>

TECO: No. TECO has properly forecasted its residual oil inventories and no adjustment is warranted. OPC's proposed 10 percent reduction is speculative, arbitrary and capricious and should be rejected.

OPC: Yes. The Company's fuel stock should be reduced by 10% ($9,492,600 jurisdictional) to reflect current reductions which may have occurred in coal, oil, and gas prices.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. The company's fuel stock should be reduced by 10% to reflect current reductions in the price of coal, oil and other fuel prices that have occurred since the rate case was filed.

FRF: Yes. The cost value of the Company's fuel stock should be reduced by 10% to reflect reductions in coal, oil, and other fuel prices that have likely occurred since the Company filed its case.

<u>Staff Analysis</u>: This issue addresses the appropriate amount of residual oil inventory, based on the number of barrels in inventory, that number of barrels' relation to TECO's burn rate, and per barrel price estimates.

<u>PARTIES' ARGUMENTS</u>

TECO's proposed 2009 residual oil inventory is $780,000. (TECO BR at 34) TECO witness Wehle testified that the Company seeks to maintain residual oil inventories to meet small generation requirements, and possible requirements during unexpected coal-fired unit outages, during times of limited gas availability and higher than expected loads. (TR 928-929) TECO's proposed inventory is 9,203 barrels. (TR 929) The 2009 residual oil price represented by TECO's $780,000 request is $85.75 per barrel. Residual oil represents less than one percent of TECO's generation. (TR 915) None of the parties challenged TECO's proposed inventory (barrels) amounts in this proceeding. (TECO BR at 35)

Witness Wehle noted that in the 2008 fuel proceedings, TECO revised its 2009 fuel charges by revising its natural gas price forecasts, from June-July 2008 to September 2008. (EXH 66, p. 2873) For oil and gas, witness Wehle observed dramatic price increases in Summer 2008 and dramatic decreases in late 2008 and early 2009. (EXH 66, pp. 2840-2842) Witness Wehle expressed TECO's unwillingness to revise its 2009 oil and gas price forecasts in this docket because in early 2009, although prices have declined, TECO's proposed prices in this proceeding are roughly at the mid-point of the March 2008 and January 2009 prices. Moreover, these prices reasonably represent the prices anticipated for the December 2008 to December

2009 period. (EXH 66, p. 2842) Witness Wehle expressed TECO's belief that the low January 2009 prices were not representative of prices for all of 2009. (EXH 66, pp. 2840-2841) Witness Wehle also noted that distillate oil and residual oil are extremely volatile commodities. (EXH 55, p. 2841)

OPC witness Larkin testified that TECO should re-price its fuel inventory to accurately reflect the current price of fuel, noting the decline in fuel prices since 2008. (TR 2030) However, without having the information necessary to estimate the decline in fuel prices, witness Larkin proposed a 10 percent downward adjustment. (TR 2030) In support of OPC witness Larkin's proposed 10 percent reduction, FRF noted that in the 2008 fuel proceeding, TECO reduced its proposed 2009 fuel charge increase from 22 percent to 12 percent, a change of 10 percent (FRF BR at 17) OPC submitted that witness Wehle had admitted that residual oil prices were currently below the prices used by TECO to price its 2009 residual oil inventory. (OPC BR at 26)

OAG, AARP, and FIPUG did not brief this issue. OPC and FRF asserted positions on this issue that the dollar value of the inventory should be reduced by 10 percent.

ANALYSIS

Order No. 9273 states in part: "We recognize that the companies' projections will inevitably differ from actual results, and agree that a true-up mechanism, designed to conform the projected estimates to actual figures, is necessary to realize the objective of eliminating overrecoveries and underrecoveries of fuel costs."[15] In its brief, FRF agrees with OPC witness Larkin's proposed 10 percent reduction in fuel inventory, stating "Failure to make this adjustment will likely result in overstated fuel costs being embedded in Tampa Electric's rates until the next rate case." (FRF BR at 17-18) Staff notes the difference in purpose between estimated fuel prices for inclusion in fuel charges and estimated fuel prices for inclusion in base rates. Although accuracy is desired in both types of estimates, fuel-charge fuel price estimates will be trued up, and base rate fuel price estimates will not be.

The fuel clause is established once a year based on estimated fuel prices, and the difference between estimated prices and actual prices becomes the true-up amount for subsequent fuel factors. In contrast, base rates are determined using a point estimate, or test-year estimate, to determine fuel prices supporting the inventory value. Base rate calculations are not subject to a true-up adjustment. Base rates will be in place for several years, during which time fuel inventory may be undervalued or overvalued as market fuel prices change. Therefore, staff believes that witness Wehle's calculation of the fuel inventory value which reflects a midpoint of fuel prices for 2008 is appropriate.

Staff observes, regarding the timing of TECO's fuel-price forecasts and the changes in fuel prices since March 2008, that as fuel prices increased in the Summer of 2008, TECO did not seek to revise its 2009 price forecasts in this proceeding as it did in the fuel docket. Therefore,

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[15] Order No. 9273, issued March 7, 1980, in Docket No. 94680-CI, In re: General Investigation of Fuel Cost Recovery Clause. Consideration of staff's proposed projected fuel and purchased power cost recovery clause with an incentive factor, p. 7

staff does not believe that the reduction in fuel-charge fuel-price estimates warrants a similar reduction in base-rate fuel-price estimates. Based on the timing and composition of TECO's rate-case fuel-price forecast and its fuel-charge fuel-price forecasts, staff believes that the 10 percent fuel charge reduction and the proposed 10 percent inventory reduction are coincidentally equal.

CONCLUSION

Therefore, based on the evidence and arguments presented by the parties in this proceeding, staff recommends that no adjustment is necessary for TECO's residual oil inventories. Staff believes that TECO's residual oil inventory should not be adjusted to reflect the decreases in fuel prices between Summer 2008 and September 2008.

<u>Issue 23</u>: Should an adjustment be made to TECO's distillate oil inventories?

<u>Recommendation</u>: No. TECO's requested distillate oil inventory amounts for the 2009 projected test year are appropriate. (Matlock)

<u>Position of the Parties</u>

TECO: No. TECO has properly forecasted its distillate oil inventories and no adjustment is warranted. OPC's proposed 10 percent reduction is speculative, arbitrary and capricious and should be rejected.

OPC: Yes. The Company's fuel stock should be reduced by 10% ($9,492,600 jurisdictional) to reflect current reductions which may have occurred in coal, oil, and gas prices.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. The company's fuel stock should be reduced by 10% to reflect current reductions in coal, oil, and other fuel prices that have occurred since the company filed its case.

FRF: Yes. The cost value of the Company's fuel stock should be reduced by 10% to reflect reductions in coal, oil, and other fuel prices that have likely occurred since the Company filed its case.

<u>Staff Analysis</u>: This issue addresses the appropriate amount of distillate oil inventory, based on the number of barrels in inventory, that number of barrels' relation to TECO's burn rate, and per barrel price estimates.

<u>PARTIES' ARGUMENTS</u>

TECO's proposed 2009 distillate oil inventory is $9,312,000. (TECO BR at 34) TECO witness Wehle testified that the Company seeks to maintain distillate oil inventories to meet small generation requirements, and for boiler ignition of coal-fired units. (TR 928) In addition, TECO has possible distillate oil generation requirements during unexpected coal-fired unit outages, and during times of limited gas availability and higher than expected loads. (TR 929) TECO's proposed inventory is 77,068 barrels. (TR 929) The 2009 distillate oil price represented by TECO's $9,312,000 request is $120.83 per barrel. Distillate oil represents less than one percent of TECO's generation. (TR 915) None of the parties challenged TECO's proposed inventory (barrels) amounts in this proceeding. (TECO BR at 35)

Witness Wehle noted that in the 2008 fuel proceedings, TECO revised its 2009 fuel charges by revising its natural gas price forecasts, from June-July 2008 to September 2008. (EXH 66, p. 2873) For oil and gas, witness Wehle observed dramatic price increases in Summer 2008 and dramatic decreases in late 2008 and early 2009. (EXH 66, pp. 2840-2842) Witness Wehle expressed TECO's unwillingness to revise its 2009 oil and gas price forecasts in this docket because in early 2009, although prices have declined, TECO's proposed prices in this proceeding are roughly at the mid-point of the March 2008 and January 2009 prices. Moreover, these prices reasonably represent the prices anticipated for the December 2008 to December 2009 period. (EXH 66, p. 2842) Witness Wehle expressed TECO's belief that the low January 2009 prices were not representative of prices for all of 2009. (EXH 66, pp. 2840-2841) Witness Wehle also noted that distillate oil and residual oil are extremely volatile commodities. (EXH 55, p. 2841)

OPC witness Larkin testified that TECO should re-price its fuel inventory to accurately reflect the current price of fuel, noting the decline in fuel prices since 2008. (TR 2030) However, without having the information necessary to estimate the decline in fuel prices, witness Larkin proposed a 10 percent downward adjustment. (TR 2030) In support of OPC witness Larkin's proposed 10 percent reduction, FRF noted that in the 2008 fuel proceeding, TECO reduced its proposed 2009 fuel charge increase from 22 percent to 12 percent, a change of 10 percent. (FRF BR at 17) OPC submitted that witness Wehle had admitted that distillate oil prices were currently below the prices used by TECO to price its 2009 distillate oil inventory. (OPC BR at 25)

OAG, AARP, and FIPUG did not brief this issue. OPC and FRF asserted positions on this issue that the dollar value of the inventory should be reduced by 10 percent.

ANALYSIS

Order No. 9273 states in part: "We recognize that the companies' projections will inevitably differ from actual results, and agree that a true-up mechanism, designed to conform the projected estimates to actual figures, is necessary to realize the objective of eliminating overrecoveries and underrecoveries of fuel costs."[16] In its brief, FRF agrees with OPC witness Larkin's proposed 10 percent reduction in fuel inventory, stating "Failure to make this adjustment will likely result in overstated fuel costs being embedded in Tampa Electric's rates until the next rate case." (FRF BR at 17-18) Staff notes the difference in purpose between estimated fuel prices for inclusion in fuel charges and estimated fuel prices for inclusion in base rates. Although accuracy is desired in both types of estimates, fuel-charge fuel price estimates will be trued up, and base rate fuel price estimates will not be.

The fuel clause is established once a year based on estimated fuel prices, and the difference between estimated prices and actual prices becomes the true-up amount for subsequent fuel factors. In contrast, base rates are determined using a point estimate, or test-year estimate, to determine fuel prices supporting the inventory value. Base rate calculations are not subject to a true-up adjustment. Base rates will be in place for several years, during which time fuel inventory may be undervalued or overvalued as market fuel prices change. Therefore, staff believes that witness Wehle's calculation of the fuel inventory value which reflects a midpoint of fuel prices for 2008 is appropriate.

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[16] Order No. 9273, issued March 7, 1980, in Docket No. 94680-CI, In re: General Investigation of Fuel Cost Recovery Clause. Consideration of staff's proposed projected fuel and purchased power cost recovery clause with an incentive factor, p. 7

Staff observes, regarding the timing of TECO's fuel-price forecasts and the changes in fuel prices since March 2008, that as fuel prices increased in the Summer of 2008, TECO did not seek to revise its 2009 price forecasts in this proceeding as it did in the fuel docket. Therefore, staff does not believe that the reduction in fuel-charge fuel-price estimates warrants a similar reduction in base-rate fuel-price estimates. Based on the timing and composition of TECO's rate-case fuel-price forecast and its fuel-charge fuel-price forecasts, staff believes that the 10 percent fuel charge reduction and the proposed 10 percent inventory reduction are coincidentally equal.

CONCLUSION

Therefore, based on the evidence and arguments presented by the parties in this proceeding, staff recommends that no adjustment is necessary for TECO's distillate oil inventories. Staff believes that TECO's distillate oil inventory should not be adjusted to reflect the decreases in fuel prices between Summer 2008 and September 2008.

Issue 24: Should an adjustment be made to TECO's natural gas and propane inventories?

Recommendation: No. TECO's requested natural gas and propane inventory amounts for the 2009 projected test year are appropriate. (Matlock)

Position of the Parties

TECO: No. TECO has properly forecasted its natural gas and propane inventories and no adjustment is warranted. OPC's proposed 10 percent reduction is speculative, arbitrary and capricious and should be rejected.

OPC: Yes. The Company's fuel stock should be reduced by 10% ($9,492,600 jurisdictional) to reflect current reductions which may have occurred in coal, oil, and gas prices.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Yes. The company's fuel stock should be reduced by 10% to reflect current reductions which have occurred in coal, oil, and gas prices.

FRF: Yes. The cost value of the Company's fuel stock should be reduced by 10% to reflect reductions in coal, oil, and other fuel prices that have likely occurred since the Company filed its case.

Staff Analysis: This issue addresses the appropriate amount of natural gas inventory, based on the number of thousand cubic feet (Mcf) in inventory, that number of Mcfs' relation to TECO's burn rate, and per Mcf price estimates.

PARTIES' ARGUMENTS

TECO's proposed 2009 natural gas inventory is $4,495,000. (TECO BR at 34) TECO witness Wehle testified that the Company seeks to maintain gas inventories to meet generation requirements during times of uncertain supply availability. (TR 927) Witness Wehle gave examples of such times: 1) hurricane season, 2) during times of full major plant outages, and 3) extreme cold periods. (TR 927) TECO has 850,000 million Btus (MMBtus) of storage capacity and will increase its capacity to 1,250,000 MMBtus in Summer 2009. (TR 927) The inventory capacity expansion will provide TECO with about a 6-day supply. (TR 927) TECO's proposed inventory is 545,000 MMBtus. (TR 927-928) Utilities, other users of natural gas, and suppliers measure gas in two types of units, MMBtus and Mcfs. TECO presents its requested 545,000 MMBtu gas inventory as 529,898 Mcf in MFR B-18. The 2009 prices represented by TECO's $4,495,000 request are $8.25 per MMBtu and $8.48 per Mcf. TECO requests no propane gas inventory. Natural gas represents approximately 44 percent of TECO's generation. (TR 915) None of the parties challenged TECO's proposed inventory MMBtu or Mcf amounts in this proceeding. (TECO BR at 35)

Witness Wehle noted that in the 2008 fuel proceedings, TECO revised its 2009 fuel charges by revising its natural gas price forecasts, from June-July 2008 to September 2008.

(EXH 66, p. 2873) When TECO made its 2009 natural gas price forecast in March 2008, the New York Mercantile Exchange (NYMEX) 2009 annual average natural gas price was $10.00 per MMBtu and TECO's forecast was $8.12. (EXH 66, p. 2921) For oil and gas, witness Wehle observed dramatic price increases in Summer 2008 and dramatic decreases in late 2008 and early 2009. (EXH 66, pp. 2840-2842) Witness Wehle expressed TECO's unwillingness to revise its 2009 oil and gas price forecasts in this docket because in early 2009, although prices have declined, TECO's proposed prices in this proceeding are roughly at the mid-point of the March 2008 and January 2009 prices, and that they reasonably represent the prices anticipated for the December 2008 to December 2009 period. (EXH 66, p. 2842) Witness Wehle also expressed TECO's belief that the low January 2009 prices were not representative of prices for all of 2009. (EXH 66, pp. 2840-2842)

OPC witness Larkin testified that TECO should re-price its fuel inventory to accurately reflect the current price of fuel, noting the decline in fuel prices since 2008. (TR 2030) However, without having the information necessary to estimate the decline in fuel prices, witness Larkin proposed a 10 percent downward adjustment. (TR 2030) In support of OPC witness Larkin's proposed 10 percent reduction, FRF noted that in the 2008 fuel proceeding, TECO reduced its proposed 2009 fuel charge increase from 22 percent to 12 percent, a change of 10 percent. (FRF BR at 17) OPC submitted that witness Wehle had admitted that natural gas prices were currently below the prices used by TECO to price its 2009 natural gas inventory. (OPC BR at 26)

OAG, AARP, and FIPUG did not brief this issue. OPC and FRF asserted positions on this issue that the dollar value of the inventory should be reduced by 10 percent.

ANALYSIS

Order No. 9273 states in part: "We recognize that the companies' projections will inevitably differ from actual results, and agree that a true-up mechanism, designed to conform the projected estimates to actual figures, is necessary to realize the objective of eliminating overrecoveries and underrecoveries of fuel costs."[17] In its brief, FRF agrees with OPC witness Larkin's proposed 10 percent reduction in fuel inventory, stating "Failure to make this adjustment will likely result in overstated fuel costs being embedded in Tampa Electric's rates until the next rate case." (FRF BR at 17-18) Staff notes the difference in purpose between estimated fuel prices for inclusion in fuel charges and estimated fuel prices for inclusion in base rates. Although accuracy is desired in both types of estimates, fuel-charge fuel price estimates will be trued up, and base rate fuel price estimates will not be.

The fuel clause is established once a year based on estimated fuel prices, and the difference between estimated prices and actual prices becomes the true-up amount for subsequent fuel factors. In contrast, base rates are determined using a point estimate, or test-year estimate, to determine fuel prices supporting the inventory value. Base rate calculations are not subject to a true-up adjustment. Base rates will be in place for several years, during which time

[17] Order No. 9273, issued March 7, 1980, in Docket No. 94680-CI, In re: General Investigation of Fuel Cost Recovery Clause. Consideration of staff's proposed projected fuel and purchased power cost recovery clause with an incentive factor, p. 7

fuel inventory may be undervalued or overvalued as market fuel prices change. Therefore, staff believes that witness Wehle's calculation of the fuel inventory value which reflects a midpoint of fuel prices for 2008 is appropriate.

Staff observes, regarding the timing of TECO's fuel-price forecasts and the changes in fuel prices since March 2008, that as fuel prices increased in the Summer of 2008, TECO did not seek to revise its 2009 price forecasts in this proceeding as it did in the fuel docket. Therefore, staff does not believe that the reduction in fuel-charge fuel-price estimates warrants a similar reduction in base-rate fuel-price estimates. Based on the timing and composition of TECO's rate-case fuel-price forecast and its fuel-charge fuel-price forecasts, staff believes that the 10 percent fuel charge reduction and the proposed 10 percent inventory reduction are coincidentally equal.

As mentioned above, when TECO made its 2009 natural gas price forecast in March 2008, the NYMEX 2009 annual average natural gas price was $10.00 per MMBtu and TECO's forecast was $8.12. (EXH 66, p. 2921) Staff notes that the exchange price exceeded TECO's forecast. Witness Wehle testified in the 2007 fuel docket, regarding TECO's natural gas hedging activities, that TECO's policy is to reduce price volatility. TECO contended that the plan has been consistently applied to benefit customers by limiting exposure to the volatile nature of the natural gas price swings in the marketplace.[18] To reduce price volatility is to pay more for gas when prices are low and less for gas when prices are higher.

CONCLUSION

Therefore, based on the evidence and arguments presented by the parties in this proceeding, staff recommends that no adjustment is necessary for TECO's natural gas inventories. Staff believes that TECO's natural gas inventory should not be adjusted to reflect the decreases in fuel prices between Summer 2008 and September 2008.

[18] Order No. PSC-08-0030-FOF-EI, issued January 8, 2008, in Docket No. 070001-EI, In re: General Investigation of Fuel Cost Recovery Clause. Consideration of staff's proposed projected fuel and purchased power cost recovery clause with an incentive factor, p. 6

Issue 25: Has TECO properly reflected the net overrecoveries or net underrecoveries of fuel and conservation expenses in its calculation of working capital? (Stipulated)

Approved Stipulation: Yes, TECO has properly reflected net over- and under-recoveries of fuel and conservation expenses in its calculation of working capital.

Issue 26: Should unamortized rate case expense be included in Working Capital?

Recommendation: No. Unamortized rate case expense in the amount of $2,628,000 should be removed from working capital. (Marsh)

Position of the Parties

TECO: Yes. Except for $116,000 associated with forecasted fees for a consultant that the company ultimately never used, the balance of unamortized rate case expense should be included in Working Capital without adjustment.

OPC: No. The amount should reflect the adjustment for rate case expense recommended by OPC in this proceeding and the remaining balance should be reduced by one-half as has been the Commission's policy. This will reflect the fact that the balance will be reduced as the rate case expense is collected in rates.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. Agree with Office of Public Counsel.

FRF: Agree with OPC.

Staff Analysis: TECO included $2,628,000 of unamortized rate case expense in working capital for 2009. (MFR Schedule B-17, p. 111) However, neither TECO nor the other parties filed testimony on this issue.

Staff notes that the Commission has a long-standing policy in electric and gas rate cases of excluding unamortized rate case expense from working capital, as demonstrated in a number of prior cases.[19] The rationale for this position was to adopt a sharing concept whereby the cost of a rate case would be shared between the ratepayer and stockholder; i.e., include the expense in the O&M expenses, but not allow a return on the unamortized portion. This approach recognizes that both the stockholders and the ratepayers benefit from a rate proceeding. It espouses the belief that customers should not be required to pay a return on funds expended to increase their rates.

While this is the approach that has been used in electric and gas cases, water and wastewater cases have included unamortized rate case expense in working capital. The difference stems from a statutory requirement that water and wastewater rates be reduced at the end of the amortization period. (Section 367.0816, F.S.) While unamortized rate case expense is

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[19] Order No. 14030, issued January 25, 1985, in Docket No. 840086-EI, In Re: Application of Gulf Power Company for authority to increase its rates and charges; Order No. 16313, issued July 8, 1986, in Docket No. 850811-GU, In Re: Petition of Peoples Gas System, Inc. for authority to increase its rates and charges in Hillsborough County; Order No. 23573, issued October 3, 1990, in Docket No. 891345-EI, In Re: Application of Gulf Power Company for a rate increase.

not allowed to earn a return in working capital for electric and gas companies, it is offset by the fact that rates are not reduced after the amortization period ends.

In Docket No. 910778-GU, the issue was argued fully and the Commission reaffirmed its long-standing policy of excluding unamortized rate case expense from working capital in electric an gas rate cases.[20] Order No. PSC-92-0580-FOF-GU stated that unamortized rate case expense is excluded from working capital "in an effort to reflect a sharing of rate case expenses between the stockholders and the ratepayers since both benefit from a rate case proceeding." Additionally, in TECO's last rate case, unamortized rate case expense of $1,036,000 in 1993, and $344,000 in 1994 were removed in accordance with Commission policy.[21]

Although there was no testimony by any party on this issue, OPC discussed it in its brief, stating that, consistent with prior Commission practice, any balance of working capital should include one-half of the total amount of rate case expense allowed.[22] (OPC BR at 27) OPC references a recent Florida Public Utilities Company (FPUC) case, in which one-half of the rate case expense was allowed in working capital.[23] In that case, several parties filed testimony on the issue, in contrast to this case where the matter was not discussed by any of the witnesses. Staff notes that inclusion of unamortized rate case expense in working capital in the FPUC case is an exception to the Commission's long-standing policy.

FPUC was initially allowed to include rate case expense in working capital in its 1993 rate proceeding.[24] At that time, the Commission found that the exclusion of the unamortized portion of rate case expense from working capital is a partial disallowance. The Commission concluded that rate case expense is a necessary cost of doing business. The order included a concurring opinion by Commissioner Lauredo, where it was stated that:

> . . . his decision was based solely on the facts and circumstances involved with this case. He emphasized this result should not be standing Commission policy and that no precedential value should be assigned to his concurrence.[25]

Staff agrees with the long-standing policy that the cost of the rate case should be shared. Although this issue was not specifically addressed by the OAG, staff believes the basic position stated in its brief is appropriate here: ". . . the amount of any company's profit must be balanced against the needs of the citizens who depend on their services." (OAG BR at 1)

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[20] Order No. PSC-92-0580-FOF-GU, issued June 29, 1992, in Docket No. 910778-GU, In re: Petition for a rate increase by WEST FLORIDA NATURAL GAS COMPANY p. 15.
[21] Order No. PSC-93-0165-FOF-EI, issued February 2, 1993, in Docket No. 920324-EI, In re: Application for a rate increase by Tampa Electric Company pp. 37-38.
[22] Order No. PSC-08-0327-FOF-EI, issued May 19, 2008, in Dockets Nos. 070300-EI and 070304-EI, In re: Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Public Utilities Company, and In re: Petition for rate increase by Florida Public Utilities Company, p. 33.
[23] Ibid.
[24] Order No. PSC-94-0170-FOF-EI, issued February 10, 1994, in Docket No. 930400-EI, In re: Application for a rate increase for Marianna Electric Operations by Florida Public Utilities Company, p. 10.
[25] Ibid, pp. 10-11.

Staff recommends that unamortized rate case expense in the amount of $2,628,000 should be removed from working capital.

Issue 27: Is TECO's requested level of Working Capital in the amount of ($30,586,000) for the 2009 projected test year appropriate?

Recommendation: No. The appropriate level of Working Capital for the 2009 projected test year is ($130,910,649). (Slemkewicz)

Position of the Parties

TECO: Yes. TECO has properly forecasted this amount for Working Capital and it is appropriate for the 2009 projected test year.

OPC: No. The amount should reflect the adjustments recommended by OPC in this proceeding.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. Agree with Office of Public Counsel.

FRF: No. Working Capital should reflect the adjustments recommended by the Citizens in this proceeding.

Staff Analysis: This is a fallout issue. Based on staff's recommendations, the appropriate 13-month average for working capital for the 2009 projected test year is ($130,910,649). (See Schedule 1)

Issue 28: Is TECO's requested rate base in the amount of $3,656,800,000 for the 2009 projected test year appropriate?

Recommendation: No. The appropriate amount of rate base for the 2009 projected test year is $3,346,610,836. (Slemkewicz)

Position of the Parties

TECO: No. TECO’s requested rate base amount of $3,656,800,000 for the 2009 projected test year should be $3,655,950,000 based upon changes recognized by TECO described within this brief.

OPC: No. The amount should reflect the adjustments recommended by OPC in this proceeding.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. Rate base should include the adjustments recommended by intervenors in this case.

FRF: No. The Company’s rate base should reflect the adjustments recommended by the Citizens in this proceeding.

Staff Analysis: This is a fallout issue. Based on staff’s recommendations, the appropriate 13-month average rate base for the 2009 projected test year is $3,346,610,836. (See Schedule 1)

COST OF CAPITAL

Issue 29: What is the appropriate amount of accumulated deferred taxes to include in the capital structure for the 2009 projected test year?

Recommendation: The appropriate amount of accumulated deferred taxes to include in the capital structure for the 2009 projected test year is $357,400,000, as shown on Schedule 2. (Livingston, Kyle)

Position of the Parties

TECO: The appropriate amount of accumulated deferred taxes to be included in the capital structure for 2009 is $302,744,000 as shown on MFR Schedule D-1a. The methodology used by the company is proper.

OPC: TECO's $1,894,000 reduction to ADITs should be denied as improper. The interpretation of decades-old law and non-binding letter rulings is improper as the test year averaging and projections methodologies comply with the IRS requirements. Any normalization inconsistency in Commission long-standing policy should have surfaced years ago. Prior to any rate setting change, the Commission should require TECO to obtain and submit a private letter ruling that indicates that the current methodology is inconsistent.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Agree with Public Counsel.

FRF: The appropriate amount of deferred taxes is $302,744,000 per the testimony of FRF witness O'Donnell.

Staff Analysis: This issue addresses the appropriate amount of accumulated deferred income taxes (ADITs) to include in TECO's capital structure for the 2009 projected test year.

PARTIES' ARGUMENTS

In its MFRs, TECO recorded a balance of jurisdictional ADITs to include in the Company's capital structure for the test year of $302,744,000. (MFR Schedule D-1a) TECO witness Felsenthal testified that TECO determined its ADIT amount using a methodology consistent with the Company's actual 2007 income tax calculations, the projected test year cost of service, and the specific Internal Revenue Code (IRC) and Income Tax Regulations covering projected test years. (TR 1326-1327) The methodology used by witness Felsenthal to calculate the balance of ADIT for purposes of this case, represents a change from the Company's prior practice. (TR 2104) The witness, however, cites several private letter rulings (PLRs) to support his adjustment to ADIT of $1,894,321 that results from the Company's revised methodology. (TR 1376) In the instant case, a 2009 forecasted test period is used and new rates are expected to be effective in May 2009. (TR 1375-1376) Thus, based on his interpretation of the PLRs and IRC, witness Felsenthal claims the "future" portion of the forecast test period is the period from

May 2009 through December 2009 and the "historic" portion of the future test period is January 2009 through April 2009. (TR 1376) He asserted that the fact the Internal Revenue Service (IRS) has ruled consistently on what is meant by "historic" and "future" portions of forecast test periods in the PLRs makes it highly probable that they will rule in a similar manner in the future. (TR 1376) Witness Felsenthal cited PLR 9202029, which states, "The historical period is that portion of the test period before rates go into effect, while the portion of the test period after the effective date of the rate order is the future period." (TR 1382) Witness Felsenthal stated he was not surprised that, despite repetitive audits, the IRS found no errors with the Company's former ADIT calculation methodology. (TR 1385) He testified that the purpose of an IRS audit is typically to examine the information that's included in the current year's tax return, and this adjustment is not an item included on a tax return. (TR 1392)

OPC argued that TECO's deferred taxes should be increased by $1,894,000, which it contends is consistent with the Commission's long-standing policy. (OPC BR at 31) OPC asserted that prior to any rate setting change, the Commission should require TECO to obtain and submit a PLR that indicates the Company's current methodology is inconsistent. (OPC BR at 28) OPC witness Schultz disagreed with TECO witness Felsenthal's reliance on PLRs in his deferred income tax calculation. (TR 2104) Witness Schultz believes PLRs are only applicable to the company requesting the ruling and should not be used as precedent. (TR 2104) If the Commission chooses to place any reliance on the PLRs, witness Schultz asserted that the facts addressed by each PLR are specific to each company. (TR 2104) He also stated that the Company has used the methodology witness Felsenthal now claims to be incorrect for years, and that the IRS found no errors in the Company's methodology. (TR 2104) He asserts that if witness Felsenthal's position is adopted, the Company has been in violation of normalization requirements since rates were set in February of 1993. (TR 2107) In addition, witness Schultz disagreed with witness Felsenthal's assumption that projected costs for 2009 are partly historic and partly projected. (TR 2104) Until the Company requests a PLR of its own, witness Schultz recommends the Company should be required to calculate the deferred tax balance on a consistent basis with the methodology employed for at least the last sixteen years. (TR 2107)

Per the testimony of witness O'Donnell, FRF agrees with the Company that the appropriate amount of deferred taxes to include in TECO's capital structure for the 2009 projected test year is $302,744,000. (TR 2372; FRF BR at 42)

OAG, AARP, and FIPUG agree with OPC's position on this issue.

ANALYSIS

ADITs represent the income tax component resulting from the application of the income tax rate to temporary differences at each balance sheet date. (TR 1330) Deferred tax expense reflects the period to period change in ADIT. (TR 1330) Because the financial statements reflect accrual accounting, the income tax expense calculation must reflect the liability for income taxes payable in the future as a result of transactions recorded in the current financial statements. (TR 1330-1331) Deferred income taxes are generated when ratepayers pay income tax expenses in rates prior to the Company actually being required to make those payments to the U.S. Treasury. (OPC BR at 28) Deferred income taxes are included in capital structure because these funds are used by the Company in the provision of utility electric service and should be reflected in the utility's regulated capital structure. (TR 2366) The purpose of deferred income tax accounting is to reflect in the financial statements the tax effects (both current and deferred) of assets, liabilities, revenues, and expenses recorded on the financial statements. (TR 1331) In the regulated environment, the process of recording deferred income taxes on temporary differences is often referred to as "normalization". (TR 1331) Recognizing zero cost deferred taxes in the capital structure (normalization) reduces the overall rate of return charged to ratepayers. (OPC BR at 28) In ratemaking, the ADIT balance is a zero cost source of capital in the cost of capital computation thereby giving the benefit of the reduced financing costs to ratepayers. (TR 1334)

The penalty for violating the normalization requirements is the loss of the ability to claim accelerated depreciation for income tax purposes on all assets as of the violation date and on subsequent additions. (TR 1338) Accelerated depreciation is the major component of deferred taxes for capital intensive entities such as TECO. (TR 1334) When Congress changed the IRC to permit the use of accelerated depreciation, it intended that, by being allowed to accelerate depreciation deductions (and thereby reduce current income tax payments), companies would lower the financing costs of their investment in capital assets and would be incented to incur such expenditures. (TR 1332)

Staff believes that TECO has reasonably relied on PLRs which, while not binding on the IRS, are indicative of the IRS's position on this issue. Therefore, staff recommends that the Company's change in methodology is appropriate.

However, in reconciling rate base and capital structure, TECO made a prorata adjustment over all sources of capital. As discussed in Issue 38, the Company should have made this prorata adjustment over investor sources of capital only. Reversing the Company's adjustment resulted in a higher balance of ADITs.

CONCLUSION

Staff recommends that the appropriate amount of accumulated deferred taxes to include in TECO's capital structure for the 2009 projected test year is $357,400,000.

Issue 30: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure for the 2009 projected test year?

Recommendation: The appropriate amount and cost rate of unamortized investment tax credits to include in the capital structure are $10,365,000 and 8.92 percent, respectively, as shown on Schedule 2. (Livingston, Kyle)

Position of the Parties

TECO: The appropriate amount and cost rate of the unamortized investment tax credits to be included in the capital structure for 2009 is $8,780,000 and 9.75 percent, respectively, as shown on MFR Schedule D-1a. The company's proposed ITC amortization adjustment is proper and should be approved.

OPC: No position.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No position.

FRF: The appropriate amount of unamortized investment tax credits is $8,780,000 per the testimony of FRF witness O'Donnell, with a cost rate of 8.27%.

Staff Analysis: This issue addresses the appropriate amount and cost rate of unamortized investment tax credits (ITCs) to include in TECO's capital structure for the 2009 projected test year.

PARTIES' ARGUMENTS

The Company proposes that the balance of ITCs to be included in its capital structure for the test year is $8,780,000, with a cost rate of 9.75 percent. (MFR Schedule D-1a) TECO witness Felsenthal testified that the ITC amortization for the projected 2009 test year has been calculated and presented appropriately in accordance with generally accepted accounting principals (GAAP) and the requirements of the IRC. (TR 1356) The witness asserted that TECO determined its unamortized ITCs using a methodology consistent with the Company's actual 2007 income tax calculations, the projected test year cost of service, and the specific IRC and Income Tax Regulations covering projected test years. (TR 1326-1327) Witness Felsenthal stated that TECO's unamortized ITC is being amortized to tax expense over book life of the related property and that this amortization is "no more rapidly than ratably" in accordance with IRC requirements. (TR 1344) The witness testified that in order to comply with IRC rules, ITC amortization must be based upon the estimated useful life of the asset exclusive of estimates of salvage and removal costs anticipated upon retirement of the asset. (TR 1368) He stated that inclusion of these salvage and removal costs would share ITC with ratepayers more rapidly than the book life and would result in a normalization violation. (TR 1368-1369) The witness also testified it is important to compute annual ITC amortization using only the estimated useful lives included in the depreciation computation and not the combined depreciation rate. (TR 1369) This is because if more than a ratable portion of ITC is used to reduce income tax expense, a violation of the IRC will occur and the taxpayer will be required to refund to the IRS any unamortized ITC. (TR 1369) The witness noted that, under Section 1.46-6(g)(2) of the IRC regulations, “ratable” is to be determined by considering the time actually used in computing depreciation expense for the property giving rise to the ITC. (TR 1370)

Witness Felsenthal testified that there would not be a potential issue with the IRC for the Company’s past practice of using the depreciation rate rather than the depreciation life for a number of years in its amortization of ITC. (TR 1373) He cited private letter rulings (PLRs) 200802025 and 200802026 to support his assertion that because this violation was through an oversight, was unintentional, and the regulator was unaware that the ITC amortization rate included an element for cost of removal when reaching past regulatory decisions regarding the utility, the Company will not be held accountable for a normalization violation. (TR 1373-1374) Witness Felsenthal is not surprised that, despite repetitive audits, the IRS found no errors with the Company’s former ITC amortization methodology. (TR 1385) He testified that the purpose of an IRS audit is typically to examine the information that’s included in the current year’s tax return, and this adjustment is not an item included on a tax return. (TR 1392)

FRF witness O’Donnell testified that the appropriate cost rate for ITCs is 8.28 percent. (TR 2372) This cost rate is a fall-out of his recommended adjustments in Issues 34 and 37. FRF did not take issue with the amount of ITCs included in TECO’s capital structure. (FRF BR 43)

OPC and FIPUG took no position on the issue of unamortized ITCs. OAG and AARP adopted the position of OPC on this issue.

ANALYSIS

ITCs are included in capital structure because these funds are used by the Company in the provision of utility electric service, and should be reflected in the utility’s regulated capital structure. (TR 2366) The ITC lowers income tax expense permanently if certain qualifying investments are made. (TR 1339) The intent of the ITC is to reduce the net cost of acquiring depreciable property, thereby providing taxpayers an incentive to invest in qualifying assets. (TR 1339) The ITC is a direct reduction of income taxes payable in a given year which will not reverse or turn around, similar to a grant or rebate. (TR 1339) The ITC provides an incentive to make capital investments by granting a tax credit (a direct dollar for dollar offset to current taxes payable) based on a percentage applied to investment in tangible property, which includes most generation, transmission, and distribution assets. (TR 1339) To make sure that its objectives are met for investments in qualifying utility property, the IRC prescribes methods of sharing the benefit between the ratepayer and the shareholders. (TR 1339)

For ratemaking purposes, in 1972 utilities were required to elect how they intended to share the ITC between ratepayers and shareholders. (TR 1340) Most utilities, including TECO, elected to share the ITC by including the annual amortization to income tax expense as an above the line reduction which reduced income tax expense. (TR 1340) The unamortized amounts were not used to reduce rate base, benefiting shareholders who were entitled to earn on property, plant, and equipment financed partially by the ITC “grant” or “rebate”. (TR 1340) The ITC was repealed as a result of the Tax Reform Act of 1986. (TR 1340) TECO's current filing reflects unamortized ITC on property, plant, and equipment the Company realized prior to the repeal of ITCs. (TR 1340) The unamortized ITC is being amortized over the lives of the property, plant, and equipment, giving rise to the ITC. (TR 1340-1341)

Staff believes that TECO's methodology for calculating ITCs is appropriate and is in accordance with IRS requirements. However, in reconciling rate base and capital structure, TECO made a prorata adjustment over all sources of capital. As discussed in Issue 38, the Company should have made this prorata adjustment over investor sources of capital only. Reversing the Company's adjustment resulted in a higher balance of ITCs. None of the adjustments recommended by staff in other issues have an impact on the unamortized ITC balance. Staff recalculated the ITC cost rate based on other staff adjustments and staff's recommended return on equity, resulting in an 8.92 percent weighted average cost rate for ITCs.

CONCLUSION

Staff recommends that the appropriate amount and cost rate of unamortized ITCs to include in TECO's capital structure for the 2009 projected test year are $10,365,000 and 8.92 percent, respectively.

Issue 31: What is the appropriate amount and cost rate for short-term debt for the 2009 projected test year?

Recommendation: The appropriate amount and cost rate for short-term debt for the 2009 projected test year are $7,227,005 and 2.75 percent, respectively, as shown on Attachment 2. (Livingston, Springer)

Position of the Parties

TECO: The appropriate amount and cost rate for short-term debt for 2009 are $8,002,000 and 4.63 percent, respectively, as shown on MFR Schedule D-1a. The current LIBOR rates are highly volatile and artificially suppressed by governmental intervention. (Tr. 240, lines 19 – 23). Recent historical LIBOR average rates are superior to current gyrations in the short term debt markets. The adjustment proposed by OPC is flawed and should be rejected.

OPC: Based on the three-month LIBOR rate (2.15%) plus the financing program fee of 18 basis points (0.18%), a short-term debt cost rate of 2.33% as of November 13, 2008 is appropriate.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Agree with Public Counsel.

FRF: The appropriate amount of short-term debt is $8,002,000 per the testimony of FRF witness O'Donnell, with a cost rate of 4.63%.

Staff Analysis: This issue addresses the appropriate amount and cost rate for short-term debt to include in TECO's capital structure for the 2009 projected test year.

PARTIES' ARGUMENTS

TECO proposes a short-term debt cost rate of 4.63 percent. (TR 447-448; MFR Schedule D-1a) As TECO witness Gillette explains, the Company utilized average historical London Interbank Offered Rate (LIBOR) rates in developing its proposed short-term interest rate of 4.63 percent. (TR 447-448) For the period 2006 through 2008 the three-month LIBOR rate was 4.5 percent on average. (TR 447) This was the number on which TECO based its proposed short-term debt cost rate. (TR 447-448) The witness asserts that OPC witness Woolridge's use of the November 13, 2008 LIBOR rate of 2.15 percent is not appropriate due to witness Gillette's assertion that this is near the absolute lowest LIBOR rate seen in the last 4 years. (TR 240) Witness Gillette feels current LIBOR rates have been driven down by the billions of dollars of liquidity the Federal Reserve, Treasury Department, and U.S. Government have flooded into the market to entice banks to lend to each other. (TR 240) Witness Gillette testified that due to the volatility in LIBOR rates evidenced by a significant spike in September of 2008 to 4.75 percent, it is prudent to use a historical average LIBOR rate as proposed by the Company rather than a rate at a particular point in time as recommended by OPC witness Woolridge. (TR 240-241)

OPC witness Woolridge recommends a short-term debt cost rate of 2.33 percent. (TR 1868) This is based on the three-month LIBOR rate as of November 15, 2008, 2.15 percent, plus a financing program fee of 18 basis points. (TR 1868) Witness Woolridge disagrees with the Company's use of historic LIBOR rates from 1991-2008 in its calculation of the appropriate short-term debt cost rate. (TR 1867) The witness feels historic rates do not reflect current rates. (TR 1960)

OPC witness Larkin supports the recommendation made by OPC witness Woolridge, as shown in Exhibit 50, Schedule D. (TR 2042-2043; EXH 50, Schedule D)

Per the testimony of witness O'Donnell, FRF proposes that the appropriate amount of short-term debt is $8,002,000 with a cost rate of 4.63 percent. (TR 2372; FRF BR at 43)

OAG, AARP, and FIPUG agree with OPC's position on this issue.

ANALYSIS

Short-term debt is debt that matures in less than one year and represents liabilities on the Company's books that must be repaid prior to any common stockholders or preferred stockholders receiving a return on their investment. (TR 2365)

In December of 2008, TECO renewed a LIBOR-based credit facility. (TR 438) This credit facility includes a fixed commitment fee of 125 basis points as well as a fee for use of the facility of 50 basis points. (TR 438) These fees are in addition to the three-month LIBOR rate at the time funds are borrowed. (TR 438-439) Therefore, the effective cost of this credit facility is the current three-month LIBOR rate plus 175 basis points. (TR 439) The three-month LIBOR rate recently closed at 1 percent. (TR 377, 440) Accordingly, if the Company were to draw on its credit facility, its rate would be 2.75 percent, which is the 1 percent three-month LIBOR rate plus 175 basis points. (TR 441)

The three-month LIBOR rate was over 5 percent one year ago. (TR 447) At this time the Company was paying approximately 5.34 percent on the credit facility that it now pays roughly 2.75 percent on. (TR 448)

If short-term debt rates increase subsequent to the test year it will not have an adverse effect on ratepayers until the Company's next rate case. (TR 497) In turn, if the Company is able to refinance its short-term debt at a lower cost rate, it will initially benefit the Company's shareholders, and could potentially benefit ratepayers if the Company comes in for a rate case during the time when its cost of debt is low. (TR 492)

Staff feels that a cost rate of 2.75 percent is appropriate for short-term debt. This cost rate is based on the three-month LIBOR rate at the close of the record plus 175 basis points to account for financing fees. Staff recalculated the amount of short-term debt to include in the Company's capital structure based on other staff adjustments, resulting in an amount of $7,227,005.

CONCLUSION

Staff recommends that the appropriate amount and cost rate for short-term debt for the 2009 projected test year are $7,227,005 and 2.75 percent, respectively.

Issue 32: Should TECO's requested pro forma adjustment to equity to offset off-balance sheet purchased power obligations be approved?

Recommendation: No. The $77 million in question should be removed from the capital structure through a specific adjustment to common equity and the same amount should be removed from rate base through an adjustment to working capital. (Maurey)

Position of the Parties

TECO: Yes. The proposed adjustment, including the use of a 25 percent risk factor, is consistent with how S&P imputes debt for purchased power agreements. The pro forma adjustment of $77 million to equity to offset off-balance sheet purchased power obligations in consistent with past Commission decisions, appropriate and should be approved.

OPC: No. The Company's proposed equity infusions related to the purchase power obligations are improper. Given the recovery mechanism for PPA payments, the financial condition of the Company is not impaired by entering these contracts. Thus, providing incremental revenues through a higher equity ratio and overall rate of return are unnecessary and would result in an unwarranted revenue benefit to the utility.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: No. This is an unwarranted adjustment and should be rejected. TECO bears no risk regarding PPAs as the costs of PPAs are automatically recovered through the Commission's recovery clauses. Approval of this request would simply result in a higher rate of return for TECO.

FRF: No. The Company's imputed debt adjustment for power purchase agreements is speculative, is not based on any realistic risk, and is not supported by any witness who testified to the methodology or its alleged reasonableness. The Commission should reject it and reduce the Company's revenues by $5 million per year.

Staff Analysis: TECO has included a $77 million adjustment to equity in its 2009 projected capital structure for purposes of setting rates in this proceeding. (MFR Schedule D-1a) TECO witness Gillette testified that, since the rating agencies consider portions of long-term fixed payments associated with purchased power agreements (PPAs) as debt and analyze company credit profiles with an adjustment to its credit parameters, the Company's proposed capital structure reflects an adjustment for this imputation of additional debt. (TR 203) By recognizing a pro forma adjustment of $77 million of additional equity, he testified the Company will have the same common equity ratio before and after the rating agencies' imputation of debt to account for PPAs. (TR 205) Finally, witness Gillette testified that the Commission has recognized the effect of off-balance sheet obligations like PPAs on a company's capital structure and weighted average cost of capital in both Florida Power & Light Company's (FPL) and Progress Energy Florida, Inc.'s (PEF) recent settlements.[26] (TR 204)

OPC witness Woolridge testified that, given the Commission's specific clause recovery mechanism for PPA capacity payments, the financial condition of an electric utility is not impaired by entering into these contracts. (TR 1910) He based this opinion on the following passage from a recent Moody's Investors Service (Moody's) report:

> If a utility enters into a PPA for the purpose of providing an assured supply and there is reasonable assurance that regulators will allow the costs to be recovered in regulated rates, Moody's may view the PPA as being most akin to an operating cost. In this circumstance, there most likely will be no imputed adjustment to the obligations of the utility.

(TR 1911)

In addition, witness Woolridge testified that the proposed adjustment is not consistent with GAAP accounting and will not show up in the financial statements the Company files with the Securities and Exchange Commission (SEC). (TR 1911; EXH 13, p. 2276) For these reasons, witness Woolridge believes providing incremental revenues through a higher equity ratio and overall rate of return "are unnecessary and would result in an unwarranted revenue benefit to the utility." (TR 1910)

The pro forma adjustment to equity proposed by TECO is not an actual equity investment in the utility. (EXH 13, p. 3) If this adjustment is approved for purposes of setting rates in this proceeding, the Company would essentially be allowed to earn a risk-adjusted equity return on a non-equity investment. The revenue requirement impact of recognizing this pro forma adjustment to equity in the capital structure is approximately $5 million per year. (TR 275–276)

Companies with PPAs are not required by the rating agencies to make the pro forma adjustment in question. (EXH 13, p 2276) As the following passage explains, the Standard & Poors' (S&P) practice with respect to PPAs described in witness Gillette's testimony is strictly for the rating agency's own analytical purposes:

> We adjust utilities' financial metrics, incorporating PPA fixed obligations, so that we can compare companies that finance and build generation capacity and those that purchase capacity to satisfy customer needs. The analytical goal of our financial adjustments for PPAs is to reflect fixed obligations in a way that depicts the credit exposure that is added by PPAs. That said, PPAs also benefit utilities that enter into contracts with suppliers because PPAs will typically shift various risks to the suppliers, such as construction risk and most of the operating risk. PPAs can also provide utilities with asset diversity that might not have been

[26] Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company.; and Order No. PSC-95-0945-S-EI, issued September 28, 2005, in Docket No. 050078-EI, In re: Petition for rate increase by Progress Energy Florida, Inc.

> achievable through self-build. The principal risk borne by a utility that relies on PPAs is the recovery of the financial obligation in rates.

(EXH 80)

With this proposed adjustment, staff believes the Company is attempting to take a portion of S&P's consolidated credit assessment methodology and use it for a purpose it was never intended.

Finally, while it is true the Commission has some familiarity with the issue of the rating agencies' evaluation of the effect of off-balance sheet obligations like PPAs on a company's financial flexibility, the Company's position that the Commission has recognized such an adjustment for purposes of setting rates is overstated. The capital structure and resulting rate of return authorized in FPL's 2005 settlement do not include an imputed equity adjustment. While the capital structure and resulting rate of return authorized in PEF's 2005 settlement do include an imputed equity adjustment, staff does not believe a decision rendered through a stipulation reached between the parties in a past proceeding constitutes a binding precedent on a future Commission decision rendered through an evidentiary hearing in an unrelated proceeding. (TR 379)

Therefore, based on the record evidence and the reasons discussed above, staff recommends TECO's requested pro forma adjustment to equity be denied for purposes of setting rates in this proceeding. In addition to removing the $77 million from the capital structure through a specific adjustment to equity, staff recommends the same amount be removed from rate base through an adjustment to working capital.

<u>Issue 33</u>: What is the appropriate amount and cost rate for long-term debt for the 2009 projected test year?

<u>Recommendation</u>: The appropriate amount and cost rate for long-term debt are $1,308,427,206 and 6.80 percent, respectively, as shown on Schedule 2. (Springer, Livingston)

<u>Position of the Parties</u>

TECO: The appropriate amount and cost rate for long-term debt for 2009 are $1,397,565,000 and 6.80 percent, respectively, as shown on MFR Schedule D-1a.

OPC: As of November 26, 2008, the appropriate long-term debt cost is 6.80%.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Agree with FRF.

FRF: Based on the Company's proposed rate base, the appropriate amount of Long-Term Debt would be $1,624,563,000, and the appropriate cost rate is 6.81%. However, this amount should be reduced to reflect Witness O'Donnell's capital structure and the lower rate base supported by OPC's witnesses and discussed elsewhere herein.

<u>Staff Analysis</u>: OPC witness Woolridge and TECO witness Gillette agree that the appropriate cost rate for long-term debt is 6.80 percent. (TR 1868, 193) However, FIPUG agreed with FRF witness O'Donnell that the appropriate cost rate for long-term debt should be 6.81 percent. (TR 2372) Neither FRF nor FIPUG provided any documentation to support why TECO's proposed cost rate of 6.80 percent was incorrect. Staff believes that the one basis point difference between the two cost rates is immaterial in this instance. (TR 1868, 193, 2372) Consistent with OPC and the Company, the appropriate cost rate for long-term debt is 6.80 percent. (TR 1868, 193)

As discussed in Issue 34, staff recommends certain adjustments to TECO's proposed capital structure. Schedule 2 shows the components, amounts, cost rates and weighted average cost of capital associated with the projected test year. Per the adjustments made in Issue 34, the appropriate amount of long-term debt should be $1,308,427,206.

Issue 34: What is the appropriate capital structure for the 2009 projected test year?

Recommendation: The appropriate capital structure for purposes of setting rates in this proceeding is based on the Company's 2009 projected capital structure with certain adjustments to more accurately reflect the level of equity investment in the utility on a going-forward basis. This capital structure reflects a projected equity ratio of approximately 54 percent as a percentage of investor-supplied capital. The appropriate capital structure for the 2009 test year is shown on Schedule 2. (Maurey)

Position of the Parties

TECO: The appropriate capital structure for 2009 is the company's proposed capital structure as shown on MFR Schedule D-1a. The adjustment proposed by OPC is flawed and should be rejected.

OPC: The appropriate common equity ratio is 48.89% that accurately reflects the Company's past financing, the capitalization of electric utility companies, and removes the improper equity infusions for the PPAs. The appropriate capitalization ratios for the weighted average cost of capital on a regulatory structure basis are as follows: long-term debt at 43.80%; short-term debt at 0.60%; customer deposits at 2.82%; common equity at 42.48%; tax credits-weighted cost at 0.33%; and deferred income taxes at 9.97%.

OAG: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

AARP: Adopts the Post-Hearing Brief position of the Office of Public Counsel.

FIPUG: Agree with FRF as adjusted to account for Mr. Herndon's recommended ROE of 7.5%.

FRF: The appropriate structure for the 2009 test year is 44.43% Long-Term Debt, 44.00% Common Equity, 8.28% Deferred Income Taxes, 0.22% Short-Term Debt, 2.84% Customer Deposits, and 0.24% Tax Credits, as indicated in Mr. Kevin O'Donnell's testimony and exhibits.

Staff Analysis: The projected 2009 capital structure TECO proposed for purposes of setting rates in this proceeding reflects an equity ratio as a percentage of investor supplied capital of 56.6 percent. (MFR Schedule D-1a) Excluding the $77 million of imputed equity, the capital structure reflects an equity ratio of 55.3 percent. (TR 200) Staff's recommendation regarding whether TECO's proposed pro forma adjustment to equity should be approved is discussed in Issue 32. The equity ratio at year-end 2008 was 52.6 percent. (TR 361)

COMPANY POSITION

TECO witness Gillette testified that TECO needs to have strong investment grade ratings in order to ensure that it will have access to the debt capital markets as needed to fund its construction program. (TR 227) TECO is currently rated in the BBB/Baa range by the three major rating agencies. (TR 195) Witness Gillette testified that the Company is targeting ratings in the A range. (TR 196)

Witness Gillette testified that having ratings in the A range will provide a ratings "safety net" in the event of a catastrophe such as a hurricane. (TR 196) Since ratings in the A range are above the BBB range, there would be sufficient cushion if an unanticipated event occurs for the ratings to slip before becoming non-investment grade. (TR 197)

In addition, witness Gillette testified that the cost rate and access to the capital markets are better for companies with an A rating compared to companies with ratings in the BBB range. (TR 227–229) TECO is proposing a significant construction program for the period 2009–2013. (TR 197–198) Witness Gillette testified access to the capital markets is essential so TECO can adequately fund this program. (TR 227, 247)

TECO witness Abbott also testified regarding TECO's need for credit quality sufficient to ensure access to capital under all market conditions. (TR 573) Witness Abbott testified that "regulation must support the financial integrity of the company to a degree that provides the basis for a strong investment grade rating." (TR 573–574) She further stated "such a rating will not only benefit investors, but will provide capital to the company at more attractive rates, and continued access to the markets that will enable the company to pursue its capital investments for the benefit of its customers." (TR 574) For TECO to achieve a better rating to carry it through its construction program, during which financial stress may degrade its metrics, witness Abbott testified the Company should have stronger financial metrics than it presently has. (TR 575) She concluded by stating "with a heavy capital program and persistent need to access the capital markets, Tampa Electric requires healthier financial metrics to ensure capital market access on a sustainable basis." (TR 576)

Witness Gillette challenges the reasonableness of the intervenors' witnesses recommendations regarding the appropriate capital structure for TECO. (TR 225) Witness Gillette testified that OPC witness Woolridge and FRF witness O'Donnell both failed to "provide any evidence to suggest that a rating lower than single A would provide adequate financial integrity and appropriate and consistent access to the capital markets." (TR 229–230) Moreover, witness Gillette testified that "if the Commission were to accept the capital structure recommendations of the intervenors' witnesses in this case, I am very concerned that the rating agencies could downgrade Tampa Electric." (TR 231)

INTERVENOR POSITIONS

OPC witness Woolridge testified that TECO's recommended capital structure is not appropriate for ratemaking purposes in this proceeding. (TR 1909) He testified that TECO's recommended capital structure is not reflective of the recent capitalization of the Company. (TR 1909) Witness Woolridge also testified that, due to a number of inappropriate adjustments that result in an inflated equity ratio, the Company's proposed capital structure is "equity rich" and has a much higher equity ratio than that employed by other electric companies. (TR 1909)

Witness Woolridge testified TECO's "proposed capital structure ratios do not reflect the actual capitalization of Tampa Electric." (TR 1865–1866) He testified that TECO's average equity ratio over the past three years has been 49.0 percent. (TR 1866) Witness Woolridge testified TECO's proposed equity ratio is not reflective of the capitalization of other electric companies. (TR 1866) The average equity ratio for the companies in witness Woolridge's proxy group for the first 11 months of 2008 was 45.7 percent. (TR 1866)

Witness Woolridge also testified that the equity ratio in TECO's proposed capital structure is inflated due to questionable adjustments and uncertain equity infusions. (TR 1867, 1909) As noted above, TECO's proposed capital structure includes $77 million of imputed equity. (TR 205) Staff's recommendation regarding the proposed adjustment related to imputed equity is discussed in Issue 32. TECO Energy invested approximately $300 million of the $350 million equity infusion projected for 2008. (TR 437) The Company's proposed capital structure also reflects an additional equity infusion of $285 million in 2009. (TR 205)

For purposes of setting rates in this proceeding, witness Woolridge recommends a capital structure that reflects an equity ratio of 48.9 percent. (TR 1867) This ratio represents the average of TECO's actual equity ratios in 2007 and 2008. (TR 1866) Witness Woolridge testified that his recommended capital structure more accurately reflects how the Company has been financed in the past, more closely reflects the capitalization of other electric companies, and does not include any of the questionable adjustments and uncertain equity infusions present in the TECO's proposed capital structure. (TR 1867)

FRF witness O'Donnell testified that "allowing Tampa Electric's rates to be set using this capital structure would cause customers to over-pay for Tampa Electric's true cost of capital by forcing captive customers to pay for a hypothetical, non-existent capital structure that does not, in my opinion, accurately reflect the way the Company finances its rate base investment." (TR 2367) He further stated that, due to the parent/subsidiary relationship between TECO Energy and TECO, there are no market forces that influence TECO's capital structure. (TR 2368) Witness O'Donnell testified that "TECO Energy can issue long-term debt on its balance sheet and then invest the funds into Tampa Electric and call it common equity." (TR 2368) He concluded that, through this process, "TECO Energy can effectively create whatever capital structure it desires for Tampa Electric and its other subsidiaries." (TR 2368)

For purposes of setting rates in this proceeding, witness O'Donnell recommends a capital structure that reflects an equity ratio of 49.6 percent. (TR 233) He recommends the Commission adjust the Company's projected capital structure "to account for a proportionate amount of long-term debt in the parent company capital structure that should be accounted for as long-term debt and not common equity in the Tampa Electric capital structure." (TR 2372; EXH 78)

ANALYSIS

Witness Gillette testified the Company's proposed equity ratio is necessary to generate