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PLEASE REPLY TO:  
TALLAHASSEE

September 25, 1989

Mr. Steve Tribble, Director  
Division of Records and Reporting  
Florida Public Service Commission  
Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399

Re: Docket No. 890148-EI, Petition of the Florida  
Industrial Power Users Group to Discontinue Florida  
Power and Light Company's Oil Backout Cost Recovery  
Factor.

Dear Mr. Tribble:

Enclosed for distribution are the original and 15 copies of  
FIPUG's Request for Official Notice of Order No. 18340.

Also enclosed is an extra copy of this letter. Please  
indicate on the copy that you have received the original and  
return the copy to me.

Yours truly,

*Victor Gordon Kaufman for*  
Joseph A. McGlothlin

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          OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE  
09618 SEP 25 1989  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of the Florida  
Industrial Power Users Group to  
Discontinue Florida Power and Light  
Company's Oil Backout Cost Recovery  
Factor.

DOCKET NO. 890148-EI

Submitted for Filing:  
September 25, 1989

**FIPUG'S REQUEST FOR OFFICIAL NOTICE OF ORDER NO. 18340**

The Florida Industrial Power Users Group ("FIPUG"), through its undersigned counsel, requests the Florida Public Service Commission ("Commission") to take official notice of Order No. 18340 (attached). As grounds therefor, FIPUG states:

1. On August 18, 1989, Florida Power and Light Company ("FPL") filed a Motion to Take Official Notice. This motion requested the Commission to take official notice of numerous rules and orders of the Commission and transcript excerpts from certain Commission proceedings. The Commission granted FPL's motion at the hearing held in this docket on August 22, 1989. Hearing Transcript, p. 18.

2. Among the documents of which the Commission took official notice was Order No. 20659 (Tab 0 to FPL's motion). Order No. 20659 references the authorized return on equity which FPL was permitted to use in calculating its 1987 tax savings refund.

3. FPL did not include the Commission's order which accepted 13.6% ROE for certain described purposes for calendar year 1988. Order No. 18340, for which FIPUG seeks official

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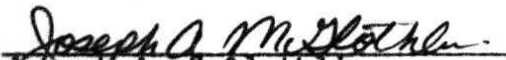
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FPL-RECORDS/REPORTING

notice, sets out the Commission's ruling on the return on equity FPL is to apply to calculate the appropriate tax savings refund for 1988. In order to have all of the orders pertinent to FPL's oil backout ROE and its tax savings refunds before the Commission, FIPUG requests the Commission to officially notice Order No. 18340 in addition to Order No. 20659.

4. Official notice of this order is needed to include the pertinent decisions which are relevant to the issues which the parties will brief. Issues 6, 13 and 16 identified in the Prehearing Order, Order No. 21755, relate to the return on equity which FPL has earned on the oil backout project. FIPUG's position is that FPL has had no valid basis upon which to remove the oil backout investment and revenues from the tax savings dockets; or, alternatively, its use of the oil backout mechanism to avoid regulatory overview of ROE is one consideration in the decision to retain or terminate the factor. Order No. 18340 is relevant to these issues, as well as to the ROE-based adjustment which Staff is pursuing in this docket and Docket No. 890001-EU.

WHEREFORE, FIPUG requests that the Commission take official notice of Order No. 18340.

  
Joseph A. McGlothlin  
Lawson, McWhirter, Grandoff  
& Reeves  
522 E. Park Avenue, Suite 200  
Tallahassee, Florida 32301  
902/222-2525

Attorney for the Florida  
Industrial Power Users Group

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of FIPUG's Request for Official Notice of Order No. 18340 has been furnished by U.S. Mail or by hand delivery\* to the following parties of record, this 25th day of September, 1989.

Charles Guyton\*  
Steel, Hector & Davis  
First Florida Bank Building  
Suite 601  
215 S. Monroe Street  
Tallahassee, Florida 32301

Marsha Rule\*  
Division of Legal Services  
Florida Public Service Commission  
101 E. Gaines Street  
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Associate Public Counsel  
Office of the Public Counsel  
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111 W. Madison Street  
Tallahassee, FL 32399

Gail P. Fels  
Assistant County Attorney  
Metro-Dade Center  
111 N.W. First Street  
Suite 2810  
Miami, FL 33128-1993

  
Joseph A. McGlothlin

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposal of Florida Power and Light Company, Gulf Power Company and Tampa Electric Company for Determination of Midpoint of Equity for 1988.	)	DOCKET NO. 870890-EI
	)	ORDER NO. 18346
	)	ISSUED: 10-26-87

The following Commissioners participated in the disposition of this matter:

BATTE NICHOLS, Chairman  
 THOMAS M. BEARD  
 GERALD L. GUNTER  
 JOHN F. HERRISON  
 MICHAEL McK. WILSON

ORDER ACCEPTING REDUCED EQUITY RETURN "MIDPOINTS"  
 FOR APPLICATION IN "TAX SAVINGS RULE"  
 AND FOR OTHER PURPOSES

## BY THE COMMISSION:

By their joint petition filed in this docket on August 14, 1987, Florida Power and Light Company (FPL), Gulf Power Company (Gulf) and Tampa Electric Company (Teco) offered to utilize revised return on equity numbers of 13.80% for FPL and Teco and 13.95% for Gulf in connection with the application of Rule 25-14.003, Florida Administrative Code (as currently worded) for the calendar year 1988. Additionally, these utilities offered the use of the same return on equity numbers for the calculation of their respective AFUDC rates to be effective January 1, 1988.

As with many other utilities, the currently authorized rates of these three electric utilities reflect federal income tax expense at the 46% rate rather than at the 34% rate effective since July 1, 1987. Rule 25-14.003, Florida Administrative Code (the tax savings rule) allows utilities to keep "tax savings" resulting from reduced corporate income tax rates so long as their retention does not cause a utility's earned rate of return to exceed the "midpoint" of the overall rate of return approved by the Commission in that utility's last rate case. While the tax savings rule provides for the midpoint of the overall rate of return to be adjusted for the cost of debt issued subsequent to the last rate case, it has no provision for adjusting equity returns to reflect current conditions. Recognizing that the currently authorized equity returns for FPL and Gulf of 15.6% and 14.5% for Teco were higher than warranted by current conditions, the Commission Staff, Office of Public Counsel, and the Florida Industrial Power Users Group (FIPUG) attempted to negotiate the use of lower equity returns for FPL, Gulf and Teco. While these negotiations resulted in an impasse, FPL, Gulf and Teco ultimately offered equity rates lower than those currently authorized, for the purposes of the tax savings rule and for the calculation of AFUDC rates for calendar year 1988. As reported in Order No. 17126, these three utilities offered, and we accepted, the use of an equity midpoint of 13.6% for application of the tax savings rule in calendar year 1987.

We considered the utilities' current offer at our October 6, 1987 Agenda Conference and accepted a modified version of that offer. As modified, the utilities' proposal provides:

Total Cost  
\$/kw-mo

5.60

5.90

6.22

6.56

6.91

7.29

11.89

12.58

13.21

13.93

14.62

15.47

16.31

17.19

18.12

19.09

Total Cost  
\$/w-mo

5.60  
5.90  
6.22  
6.56  
6.91  
7.29  
11.89  
12.94  
13.21  
13.93  
16.68  
15.67  
16.31  
17.19  
18.12  
19.09

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposal of Florida Power )  
and Light Company, Gulf Power )  
Company and Tampa Electric Company )  
for Determination of Midpoint of )  
Equity for 1988. )  
DOCKET NO. 87680-81  
ORDER NO. 18340  
ISSUED: 10-26-87

The following Commissioners participated in the disposition of this matter:

EATIE NICHOLS, Chairman  
THOMAS H. SEARD  
GERALD L. GORTER  
JOHN T. HENSON  
MICHAEL MCK. WILSON

ORDER ACCEPTING DEFERRED EQUITY RETURN "MIDPOINTS"  
FOR APPLICATION IN TAX SAVINGS CASE  
FOR OTHER PURPOSES

BY THE COMMISSION:

By their joint petition filed in this docket on August 14, 1987, Florida Power and Light Company (FPL), Gulf Power Company (Gulf) and Tampa Electric Company (TECO) offered to utilize revised returns on equity numbers of 13.89% for FPL and TECO and 13.95% for Gulf in connection with the application of Rule 25-14.903, Florida Administrative Code (as currently worded) for the calendar year 1988. Additionally, these utilities offered the use of the same returns on equity numbers for the calculation of their respective AYDC rates to be effective January 1, 1988.

As with many other utilities, the currently authorized rates of these three electric utilities reflect federal income tax expense at the 48% rate rather than at the 34% rate effective since July 1, 1987. Rule 25-14.903, Florida Administrative Code (the tax savings rule) allows utilities to keep "tax savings" resulting from reduced corporate income tax rates so long as their retention does not cause a utility's earned rate of return to exceed the "midpoint" of the overall rate of return approved by the Commission in that utility's last rate case. While the tax savings rule provides for the midpoint of the overall rate of return to be adjusted for the cost of debt issued subsequent to the last rate case, it has no provision for adjusting equity returns to reflect current conditions. Recognizing that the currently authorized equity returns for FPL and Gulf of 13.6% and 14.5% for TECO were higher than warranted by current conditions, the Commission staff, Office of Public Counsel, and the Florida Industrial Power Users Group (FIPUG) attempted to negotiate the use of lower equity returns for FPL, Gulf and TECO. While these negotiations resulted in an impasse, FPL, Gulf and TECO ultimately offered equity rates lower than those currently authorized, for the purpose of the tax savings rule and for the calculation of AYDC rates for calendar year 1988. As reported in Order No. 17136, these three utilities offered, and we accepted, the use of an equity midpoint of 13.6% for application of the tax savings rule in calendar year 1987.

We considered the utilities' current offer at our October 6, 1987 Agenda Conference and accepted a modified version of that offer. As modified, the utilities' proposal provides:

1. FPL and Teco agree to the utilization of an equity midpoint of 13.6% in the calculation of an overall rate of return, pursuant to Rule 25-14.003, Florida Administrative Code (as currently worded), for calendar year 1988;
2. Gulf, which has a lower bond rating than FPL and Teco, agrees to the utilization of an equity midpoint of 13.75% in the calculation of an overall rate of return, pursuant to Rule 25-14.003, Florida Administrative Code;
3. FPL and Teco agree to the use of an equity component of 13.6%, and Gulf to 13.75%, in the calculation of their respective Allowance for Funds Used During Construction (AFUDC) rates for calendar 1988;
4. FPL and Teco agree to the use of an equity figure of 13.6%, and Gulf to 13.75%, as surveillance report ceilings. They agree that earnings above these respective numbers during 1988 could serve as a basis for the Commission to institute show cause proceedings, and, further, that if such proceedings were instituted, earnings above 13.6% and 13.75%, for the respective companies, could be held subject to refund on a prospective basis; and
5. The three utilities agreed that they would not file for either interim or permanent base rate increases designed to become effective prior to January 1, 1989. This provision does not affect (1) individual tariff filings or contract rates that may be proposed; (2) Fuel adjustment, conservation cost recovery or oil backout charges; or (3) Teco's 1988 subsequent year base rate increase approved in previous orders of this Commission in Docket No. 850050-EI

We accept and approve the utilities' proposal as modified. As we noted in Order No. 17126, the three utilities are voluntarily giving up their entitlement to utilize their existing authorized equity returns of 15.6% and 14.5% for the purposes of the tax savings rule. Whether or not we would find current equity returns lower than those offered by the utilities after considering a proper evidentiary record, the volunteered rates are an improvement over the status quo and, therefore, should be accepted. Importantly, their acceptance in no way prejudices the right of any affected person or the Commission to seek revised equity returns for these three electric utilities for any purpose.

The utilities' offer to utilize lower equity rates in the calculation of their AFUDC rates for 1988 is also an improvement over the status quo, inasmuch as they are currently allowed by rule (Rule 25-6.0141, Florida Administrative Code) to incorporate the "midpoint of the last allowed return on common equity." As mentioned earlier, these rates are 15.6% for FPL and Gulf and 14.5% for Teco.



1. FPL and Teco agree to the utilization of an equity midpoint of 13.6% in the calculation of an overall rate of return, pursuant to Rule 25-14.003, Florida Administrative Code (as currently worded), for calendar year 1988;
2. Gulf, which has a lower bond rating than FPL and Teco, agrees to the utilization of an equity midpoint of 13.75% in the calculation of an overall rate of return, pursuant to Rule 25-14.003, Florida Administrative Code;
3. FPL and Teco agree to the use of an equity component of 13.6%, and Gulf to 13.75%, in the calculation of their respective Allowance for Funds Used During Construction (AFUDC) rates for calendar 1988;
4. FPL and Teco agree to the use of an equity figure of 13.6%, and Gulf to 13.75%, as surveillance report ceilings. They agree that earnings above these respective numbers during 1988 could serve as a basis for the Commission to institute show cause proceedings, and, further, that if such proceedings were instituted, earnings above 13.6% and 13.75%, for the respective companies, could be held subject to refund on a prospective basis; and
5. The three utilities agreed that they would not file for either interim or permanent base rate increases designed to become effective prior to January 1, 1989. This provision does not affect (1) individual tariff filings or contract rates that may be proposed; (2) Fuel adjustment, conservation cost recovery or oil backout charges; or (3) Teco's 1988 subsequent year base rate increase approved in previous orders of this Commission in Docket No. 850050-EI

We accept and approve the utilities' proposal as modified. As we noted in Order No. 17126, the three utilities are voluntarily giving up their entitlement to utilize their existing authorized equity returns of 13.6% and 14.5% for the purposes of the tax savings rule. Whether or not we would find current equity returns lower than those offered by the utilities after considering a proper evidentiary record, the volunteered rates are an improvement over the status quo and, therefore, should be accepted. Importantly, their acceptance in no way prejudices the right of any affected person or the Commission to seek revised equity returns for these three electric utilities for any purpose.

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The utilities' stipulation that revenues subject to refund during any 1988 show cause proceeding may be calculated using the 13.6% and 13.75% equity rates is more advantageous to the customers than the interim rate statute (Section 366.071(5), F.S.), which the utilities might rely upon and which provides that revenues collected under bond and held subject to refund shall be calculated using "the maximum of the range of the last authorized rate of return on equity established in the most recent rate case of the public utility." Based upon their currently authorized equity returns, Teco would be entitled to claim a 15.5% return for purposes of calculating an interim decrease, while FPL and Gulf could claim 16.6%.

Lastly, the advantages associated with these three utilities' not seeking either interim or permanent base rate increases to be effective in 1988 should be self-evident.

In view of the above, it is

ORDERED by the Florida Public Service Commission that the proposal of Florida Power and Light Company, Tampa Electric Company, and Gulf Power Company, as described in the body of this Order, is approved. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission, this 24th day of October, 1987.

**STEVE TRISSELL, Director**  
Division of Records and Reporting

( S E A L )

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by Kay Ferguson  
Chief, Bureau of Records

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Lastly, the advantages associated with these three utilities' not seeking either interim or permanent base rate increases to be effective in 1988 should be self-evident.

In view of the above, it is

ORDERED by the Florida Public Service Commission that the proposal of Florida Power and Light Company, Tampa Electric Company, and Gulf Power Company, as described in the body of this Order, is approved. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission, this 26th day of October, 1987.

**STEVE TRISSEL, Director**  
Division of Records and Reporting

( S E A L )

MBT

by Kay Ferguson  
Chief, Bureau of Records