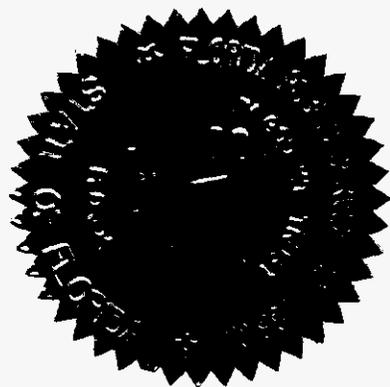


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the matter of: : DOCKET NO. 950379-EI  
Investigation into earnings :  
for 1995 and 1996 of Tampa :  
Electric Company :  
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VOLUME 1  
Pages 1 through 146

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN JULIA L. JOHNSON  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER SUSAN F. CLARK  
COMMISSIONER JOE GARCIA  
COMMISSIONER E. LEON JACOBS, JR.

DATE: Monday, December 7, 1998

TIME: Commenced at 9:25 a.m.

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

REPORTED BY: MARY ALLEN NEEL, RPR

DOCUMENT NUMBER-DATE

14431 DEC 22 88

STATE RECORDS REPORTING

## APPEARANCES:

LEE L. WILLIS and KENNETH R. HART, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32303, on behalf of Tampa Electric Company.

VICKI GORDON KAUFMAN, McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen, 117 South Gadsden Street, Tallahassee, Florida 32301, on behalf of Florida Industrial Power Users Group.

JOHN ROGER HOWE, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399, on behalf of the Citizens of the State of Florida.

WILLIAM COCHRAN KEATING IV and ROBERT V. ELIAS, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, on behalf of the Commission Staff.

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## P R O C E E D I N G S

1  
2 CHAIRMAN JOHNSON: We're going to go on the  
3 record. Counsel, could you please read the notice.

4 MR. KEATING: Pursuant to notice issued  
5 October 28, 1998, this time and place have been set  
6 for a hearing in Docket No. 950379-EI, investigation  
7 into earnings for 1995 and 1996 of Tampa Electric  
8 Company.

9 CHAIRMAN JOHNSON: Take appearances.

10 MR. WILLIS: I'm Lee L. Willis, appearing  
11 together with Kenneth R. Hart of Ausley & McMullen,  
12 P.O. Box 391, Tallahassee, Florida 32302, appearing  
13 on behalf of Tampa Electric Company.

14 MS. KAUFMAN: Vicki Gordon Kaufman of the  
15 McWhirter Reeves law firm, 117 South Gadsden Street,  
16 Tallahassee, 32301. I'm appearing on behalf of the  
17 Florida Industrial Power Users Group.

18 MR. HOWE: Commissioners, I'm Roger Howe  
19 with the Public Counsel's Office, appearing on behalf  
20 of the Citizens of the State of Florida. The address  
21 is as shown in the Prehearing Order.

22 MR. HOWE: Cochran Keating and Bob Elias  
23 appearing on behalf of the Commission Staff.

24 CHAIRMAN JOHNSON: Are there any  
25 preliminary matters?

1 MR. KEATING: There is one. On Issue 3, I  
2 believe we can stipulate that issue. Staff has  
3 prepared an exhibit, and I believe the parties --

4 CHAIRMAN JOHNSON: For some reason I can't  
5 hear you very well. You may just need to get close to  
6 the microphone.

7 MR. KEATING: Is this picking up?

8 COMMISSIONER GARCIA: No. Try again.

9 MR. KEATING: Is this picking up any better?

10 COMMISSIONER GARCIA: Are you picking him  
11 up?

12 CHAIRMAN JOHNSON: She is, but we aren't.

13 COMMISSIONER GARCIA: Just speak louder.

14 CHAIRMAN JOHNSON: You're going to have to  
15 just scream. And, Bob, maybe turn on both and then  
16 turn them towards him.

17 COMMISSIONER GARCIA: You know what it is,  
18 Madam Chairman? I just don't think it's broadcasting,  
19 but she's picking it up. She's hearing everything  
20 we're seeing.

21 CHAIRMAN JOHNSON: Go ahead.

22 MR. KEATING: Okay. On Issue 3, I believe  
23 we can show that issue stipulated. Staff has prepared  
24 an exhibit that's being handed out right now. The  
25 parties have agreed to stipulate this exhibit into the

1 record, and these numbers on the exhibit address the  
2 issue that's being stipulated.

3 CHAIRMAN JOHNSON: This document, does it  
4 need to be identified?

5 MR. KEATING: Yes, it does. I'm sorry.

6 CHAIRMAN JOHNSON: Okay. We'll identify it  
7 as Exhibit 1. What's a good short title for it?

8 MR. KEATING: Impact of separation factors  
9 on adjustments and on components of rate base and NOI.

10 CHAIRMAN JOHNSON: It will be identified as  
11 stated.

12 (Exhibit 1 was marked for identification.)

13 MR. KEATING: Staff would also -- now it's  
14 on.

15 CHAIRMAN JOHNSON: It wasn't on. Okay.  
16 Thank you.

17 MR. KEATING: Staff would also like to add  
18 -- we believe that the calculation of future deferred  
19 revenues should include the impact of these  
20 adjustments as of December 1, 1996, if that's  
21 acceptable to the parties.

22 CHAIRMAN JOHNSON: Is that acceptable to  
23 the parties?

24 MS. KAUFMAN: Madam Chairman, we do not  
25 have an objection to the exhibit, and we are prepared

1 to accept Staff's calculation. But when I checked  
2 with my expert, we did not have the work papers in  
3 order to check the calculation in detail. It looks  
4 like it's going in the right direction, and we don't  
5 object.

6 However, we would just like the record to  
7 reflect that this calculation will not be precedential  
8 for future proceedings involving overearnings.

9 CHAIRMAN JOHNSON: Any other comments?

10 Mr. Willis?

11 MR. WILLIS: Well, the calculation is  
12 whatever it is. We have done it correctly for this  
13 proceeding, I think, based on this exhibit, and it  
14 will have whatever effect it has.

15 MR. HOWE: Chairman Johnson, I would  
16 support Ms. Kaufman's comments. I would point out to  
17 you, for 1996, this separation only affects I believe  
18 the last two weeks of the year. For 1997, the FMPA  
19 and Lakeland sales will be in there perhaps for a full  
20 year, and I think that's why we're a little bit  
21 concerned. But as it reflects 1996 data, we accept  
22 this document.

23 CHAIRMAN JOHNSON: Okay. And could you  
24 again tell me what language are you looking for?

25 MS. KAUFMAN: Chairman Johnson, in the

1 Prehearing Statement, under Issue 3, FIPUG has  
2 submitted language that would be acceptable to us.  
3 And it simply says that our position will not be  
4 viewed as precedent in this issue, and it's without  
5 prejudice for any party to take any position in a  
6 future proceeding regarding the separation issue.

7 CHAIRMAN JOHNSON: Okay. And do you object  
8 to that language?

9 MR. WILLIS: Well, I think that can be her  
10 position going forward, and we all can take whatever  
11 position we take in the future. But this exhibit  
12 settles this matter for this hearing.

13 CHAIRMAN JOHNSON: Well, I understand, and  
14 maybe I'm overreading what you're saying, but I  
15 understand that in order for this to be a stipulated  
16 kind of exhibit, she needed that comfort language.  
17 Otherwise, it's not going to be stipulated to.

18 MS. KAUFMAN: Right. We agree with  
19 Mr. Willis. For purposes of 1995, we are prepared to  
20 accept this calculation. However -- I mean 1996.  
21 Excuse me. However, as Mr. Howe pointed out, this  
22 will be a much more significant issue in years going  
23 forward, and we want our position to be without  
24 prejudice to take any position on the future  
25 calculation.

1                   COMMISSIONER CLARK: I don't see what's  
2 wrong with that.

3                   CHAIRMAN JOHNSON: I don't either. Do you  
4 have a problem with that? And the only reason I'm  
5 hesitating is, this is supposed to be something you  
6 all are stipulating, and I need to have some  
7 agreement.

8                   MR. WILLIS: We have no objection.

9                   CHAIRMAN JOHNSON: Thank you. Anything  
10 else?

11                   MS. KAUFMAN: Chairman Johnson, just one  
12 more thing. We would like the order to so reflect.  
13 Would that be all right?

14                   CHAIRMAN JOHNSON: And I think that's  
15 understood.

16                   MR. HART: Madam Chairman, we have one  
17 more preliminary matter.

18                   CHAIRMAN JOHNSON: Yes, sir.

19                   MR. HART: There's a package of orders that  
20 the Prehearing Officer has ruled are to be officially  
21 noticed for purposes of this proceeding, and we would  
22 like those marked as an exhibit.

23                   CHAIRMAN JOHNSON: Okay. We'll mark them  
24 as Composite Exhibit 2, and it will be short titled  
25 TECO's orders to be officially -- or orders that TECO

1 has requested official recognition.

2 MR. HART: Yes.

3 (Exhibit 2 was marked for identification.)

4 CHAIRMAN JOHNSON: Okay.

5 MR. KEATING: I'm not aware of any other  
6 preliminary matters.

7 CHAIRMAN JOHNSON: Now, do we need to then  
8 -- do we need to go to Issue 3, and would the  
9 Commissioners vote at this time on Issue 3?

10 MR. KEATING: I don't think that that's  
11 necessary.

12 CHAIRMAN JOHNSON: Okay.

13 COMMISSIONER DEASON: Let me ask a question  
14 about Exhibit No. 1. Contrast -- someone explain to  
15 me what the information at the top of the page is in  
16 relation to the information at the bottom of the  
17 page. It's both rate base and income statement  
18 information, but obviously it pertains to two  
19 different matters, and I'm trying to understand what's  
20 what.

21 MS. MERTA: Yes, Commissioner. When the  
22 separation factors change, two things are impacted.  
23 One of them is -- and if you can picture the earnings  
24 surveillance report, the first thing that's impacted  
25 is the -- actually is at the bottom of the page, the

1 components of rate base and NOI, and that happens  
2 between the system number and the retail number. So  
3 that affects every component of rate base.

4 Then the second thing that's affected by  
5 the separation factor is the amount to be --

6 COMMISSIONER DEASON: Slow down for a  
7 second. Where is the system numbers, and where is the  
8 retail number?

9 MS. MERTA: On the earnings surveillance  
10 report?

11 COMMISSIONER DEASON: No. I'm trying to  
12 understand your -- the title of these columns have  
13 something to do with the data request, and adjustments  
14 were made subsequent, and there's a difference.

15 MS. MERTA: Oh, I see.

16 COMMISSIONER DEASON: What is just the  
17 basis of this exhibit? What does it purport to  
18 represent?

19 MS. MERTA: This is just the incremental  
20 adjustment to rate base and NOI of the 15 additional  
21 days in December. Data Request No. 15 was the prior  
22 response from the Company that gave us the figures for  
23 the prior months. And the Company in that calculation  
24 only gave us 15 days of December, and they --  
25 subsequently in testimony the Company agreed that

1 there should be a full month of December separated  
2 instead of just the 15 days.

3 So the second column reflects the  
4 additional 15 days impact of the separations. So we  
5 compare the 15 additional days with the original  
6 response, and then we get the incremental adjustment  
7 to NOI and rate base.

8 COMMISSIONER DEASON: For the additional 15  
9 days?

10 MS. MERTA: Pardon me?

11 COMMISSIONER DEASON: For the additional 15  
12 days?

13 MS. MERTA: Yes, sir.

14 COMMISSIONER DEASON: Okay. Now, what do  
15 you do with that after you have that?

16 MS. MERTA: Well, we make an adjustment to  
17 -- we'll make an adjustment to our calculation for  
18 deferred revenues in '96.

19 COMMISSIONER DEASON: Okay. Now, what is  
20 the difference between the information at the top of  
21 the page and the information at the bottom of the  
22 page?

23 MS. MERTA: The information at the top of  
24 the page is the impact on the adjustments to rate base  
25 and NOI that the Company made in the earnings

1 surveillance report. That's just the adjustments that  
2 they made. The bottom of the page reflects the  
3 difference in the components of rate base. In other  
4 words, the separation factors, when they change, they  
5 affect every component of rate base and NOI, and  
6 that's what the bottom part of the page calculates.

7 COMMISSIONER DEASON: Thank you.

8 CHAIRMAN JOHNSON: Any other questions,  
9 Commissioners?

10 COMMISSIONER JACOBS: So we're looking at  
11 an overall reduction in rate base; correct?

12 MS. MERTA: Actually, Commissioner, in the  
13 separation factors that affect the adjustments, we're  
14 going to have an increase to rate base of 16,777.  
15 Then the impact of the components of rate base, we do  
16 have a decrease of 812,797.

17 COMMISSIONER JACOBS: Okay. Will there be  
18 impacts to retail rates from that, or is that so low  
19 that it wouldn't have a meaningful impact?

20 MS. MERTA: I'm sorry. I didn't hear you.

21 COMMISSIONER JACOBS: Is that amount large  
22 enough to have any legible impact to retail rates?

23 MS. MERTA: It won't affect rates. It will  
24 affect the amount of the deferred revenues.

25 COMMISSIONER JACOBS: Oh, that's right.

1 Okay.

2 CHAIRMAN JOHNSON: Is that it? Does Staff  
3 have any other preliminaries?

4 MR. KEATING: Not that I'm aware of.

5 CHAIRMAN JOHNSON: Then I guess we're  
6 prepared to swear in the witnesses.

7 (Witnesses collectively sworn.)

8 CHAIRMAN JOHNSON: Thank you. You may both  
9 be seated.

10 TECO?

11 MR. WILLIS: We call Ms. Bacon.

12 COMMISSIONER CLARK: Has any testimony been  
13 stipulated into the record? Where is Mr. Pollock?

14 MS. KAUFMAN: Mr. Pollock hopefully is  
15 en route, Commissioner Clark.

16 - - - - -

17 DELAINE M. BACON

18 assumed the stand as a witness on behalf of Tampa  
19 Electric Company and, having been previously sworn,  
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. HART:

23 Q Ms. Bacon, would you please state your  
24 name, your business address, and your position with  
25 Tampa Electric?

1           A     Yes. My name is Delaine M. Bacon. My  
2 business is Tampa Electric Company. The address is  
3 702 North Franklin Street, and I'm Director of Utility  
4 Financial Analysis.

5           Q     Did you prepare a document entitled "Direct  
6 Testimony of Delaine M. Bacon" and cause it to be  
7 filed in this proceeding?

8           A     Yes, I did.

9           Q     Do you have any corrections to your  
10 testimony?

11          A     No, I do not.

12          Q     Ms. Bacon, if I were to ask you the  
13 questions in your prepared testimony, would your  
14 answers be the same?

15          A     Yes, they would.

16                MR. HART: I would ask that Ms. Bacon's  
17 testimony be inserted into the record as though read.

18                CHAIRMAN JOHNSON: It will be so inserted.

19

20

21

22

23

24

25

TAMPA ELECTRIC COMPANY  
DOCKET NO. 950379-EI  
SUBMITTED FOR FILING 09/28/98

1                   BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2                                   DIRECT TESTIMONY

3   OF

4                                   DELAINE M. BACON

5

6 Q.    Please state your name, business address and position with  
7        Tampa Electric Company.

8

9 A.    My name is Delaine M. Bacon. My business address is 702 North  
10       Franklin Street, Tampa, Florida, 33602. I joined Tampa  
11       Electric Company ("Tampa Electric" or "company") in October  
12       1984 and have held various positions within the Regulatory  
13       Affairs department. Currently, I am the Director of Utility  
14       Financial Analysis - Regulatory Affairs for TECO Energy, Tampa  
15       Electric Company's parent. I am responsible for financial-  
16       related regulatory issues before the Florida Public Service  
17       Commission ("Commission") for Tampa Electric, as well as  
18       developing the company's long-term financial forecasts.

19

20 Q.    Please state your educational background and qualifications.

21

22 A.    I have a Bachelor of Science in Accounting from St. Leo  
23       College and a Masters of Business Administration from the  
24       University of Tampa. I am a Certified Public Accountant and

1 a member of the Florida Institute of Certified Public  
2 Accountants.

3

4 Q. What is the subject of your direct testimony?

5

6 A. I address the Commission's orders which determined the  
7 interest rate to be applied to deferred revenues in Tampa  
8 Electric's regulatory capital structure for 1996, and relevant  
9 Commission precedent for this treatment. I also address the  
10 appropriate regulatory accounting separation in 1996 for Tampa  
11 Electric's City of Lakeland ("Lakeland") and Florida Municipal  
12 Power Agency ("FMPA") wholesale sales contracts.

13

14 **Interest on Deferred Revenues**

15

16 Q. Please identify the Commission orders that are applicable to  
17 this proceeding.

18

19 A. In the Stipulation Agreements between the Office of Public  
20 Counsel ("OPC"), the Florida Industrial Power Users Group  
21 ("FIPUG") and Tampa Electric, the parties agreed to an  
22 interest rate equal to the 30-day commercial paper rate on the  
23 balance of revenues deferred from 1995 and 1996. In the  
24 company's 1995 earnings review (Order No. PSC-97-0436-FOF-EI),  
25 the Commission included the deferred revenue balance as a

1 specific item in the company's regulatory capital structure,  
2 concluding that these deferred revenues were a source of funds  
3 for Tampa Electric.

4 Because the parties had stipulated that the deferred  
5 revenues balance should accrue interest at the 30-day  
6 commercial paper rate, the Commission also made a decision in  
7 Order No. PSC-97-0436-FOF-EI to apply a 30-day commercial  
8 paper rate to this source of funds in the capital structure.  
9 The Commission explained in its decision that this treatment  
10 was consistent with prior Commission decisions.

11 In Tampa Electric's 1996 earnings review (Order No. PSC-  
12 98-0802-FOF-EI), the Commission again determined that the 30-  
13 day commercial paper rate should be applied to the deferred  
14 revenues specifically identified in the capital structure. In  
15 June of this year, the OPC and FIPUG protested the  
16 Commission's decision contending that a zero cost rate should  
17 be applied to the deferred revenues in the capital structure.

18

19 Q. Please provide the background and purpose of the deferred  
20 revenues.

21

22 A. Tampa Electric made substantial reductions in its level of  
23 operating expenses beginning in 1994 in order to offset the  
24 anticipated increase in revenue requirements associated with  
25 the company's Polk Power Station ("Polk"), which was to be

1 placed into service in late 1996. In 1995 and 1996, the  
2 Commission approved a regulatory accounting treatment in which  
3 Tampa Electric would defer earnings in excess of its allowed  
4 return on equity in 1995 and 1996 to be included as a part of  
5 Tampa Electric's earnings in 1997 and 1998 to offset the  
6 additional revenue requirements of Polk.

7 This regulatory accounting treatment was agreed upon in  
8 settlements between the OPC, the FIPUG and Tampa Electric.  
9 Rather than have Tampa Electric refund overearnings and file  
10 a petition for a rate increase at the same time, the parties  
11 agreed that rate stability for customers was important, and  
12 they agreed to a regulatory treatment (the Stipulations) that  
13 would defer revenues into years where the return on equity  
14 would be adversely affected by the new unit.

15 In addition to the agreement to defer revenues into 1997  
16 and 1998 to offset Polk revenue requirements, the company  
17 agreed to refund or return \$50 million to customers over the  
18 October 1996 to December 1998 time period. This equates to  
19 over half of the revenues deferred from 1995 and 1996, and is  
20 equivalent to a 2.5 percent reduction in the average  
21 residential base rate over a 27-month period. The company  
22 also agreed to freeze base rates through 1999, absorb  
23 \$12 million of new annual base rate revenue requirements  
24 previously recovered through the Oil Backout Clause, share  
25 equity returns on a 60/40 basis with customers even as the

1        company earned within its allowed return on equity range, and  
2        potentially refund additional earnings to customers in 1999  
3        and 2000.

4

5    Q.    Please summarize the Commission's decision in Order No. PSC-  
6        97-0436-FOF-EI related to the treatment of deferred revenues  
7        in the capital structure and the Commission's stated reasons  
8        in that decision.

9

10   A.    In the 1995 earnings surveillance report, deferred revenues  
11        were included in the capital structure on a pro-rata basis  
12        across all sources of capital, consistent with the treatment  
13        in the company's tax savings docket. As explained earlier,  
14        the Commission made a decision in Order No. PSC-97-0436-FOF-EI  
15        to treat deferred revenues in the capital structure as a  
16        separate item, and applied a cost rate at the 30-day  
17        commercial paper rate as specified in Rule 25-6.109, F.A.C.

18        The transcript of the March 18, 1997 agenda conference  
19        for the 1995 earnings review, which resulted in Order No. PSC-  
20        97-0436-FOF-EI, shows that the following factors were  
21        considered when the Commission made its decision: it was  
22        patently fair to include the same rate in the capital  
23        structure as utilized for refund purposes; the Commission's  
24        rule called for a commercial paper rate to be applied for  
25        refund purposes, and therefore the commercial paper rate was

1 the cost of capital and should be utilized in the capital  
2 structure; the Stipulation was silent on the proper treatment,  
3 and therefore the Commission was free to utilize what it  
4 concluded was appropriate accounting; and, the Commission  
5 should not apply one cost for capital structure purposes and  
6 another cost for refund purposes.

7

8 Q. What precedent did the Commission reference in Order No. PSC-  
9 97-0436-FOF-EI in making its decision to include deferred  
10 revenues in the capital structure at the 30-day commercial  
11 paper rate?

12

13 A. Page 5 of Order No. PSC-97-0436-FOF-EI states that the  
14 Commission's method for applying interest to the deferred  
15 revenues is consistent with prior cases involving Quincy  
16 Telephone, Order No. 22367 (Docket No. 890292 & 891237),  
17 Southern Bell, Order No. 94-0172-FOF-TL (Docket No. 920260)  
18 and Florida Public Utilities Company - Fernandina (FPUC -  
19 Fernandina), Order No. 97-0135-FOF-EI (Docket No. 961542-EI).

20

21 Q. Please provide more detail of these orders referenced by the  
22 Commission.

23

24 A. In the Quincy Telephone docket, the Commission ordered the  
25 company to set aside surplus revenues from 1987, 1988, 1989

1 and the first six months of 1990. This revenue of \$504,000  
2 was to accrue interest at the 30-day commercial paper rate and  
3 then be returned to the company beginning January 1, 1991.  
4 The annual credit was \$200,000 until the full amount was  
5 exhausted. The Commission stated in its Order No. 97-0436-  
6 FOF-EI that these deferred revenues "were included in the  
7 capital structure and allowed to accrue interest at the  
8 thirty-day commercial paper rate." This scenario is  
9 comparable to Tampa Electric's deferred revenue agreement.

10 In the Southern Bell case (Docket No. 920260), revenues  
11 from 1994, 1995 and 1996 were deferred for eventual refund to  
12 customers. These deferred revenues were included in the  
13 capital structure as a specific adjustment to short-term debt  
14 and allowed to accrue interest at the 30-day commercial paper  
15 rate. This case, likewise, is relevant precedent to Tampa  
16 Electric's case.

17 FPUC - Fernandina earned above its allowed return on  
18 equity in 1995. The Commission made a decision in Order No.  
19 97-0135-FOF-EI to defer these overearnings into 1996 to be  
20 booked to FPUC - Fernandina's storm damage reserve. For its  
21 1995 surveillance report, the overearnings were specifically  
22 included as short-term debt in the capital structure with an  
23 effective interest rate of 5.97 percent. The short-term or  
24 30-day commercial paper rate was correspondingly used in  
25 calculating the interest to be added to the 1995 excess

1 earnings. This capital structure treatment is identical to  
2 what the Commission ordered in Tampa Electric's 1995 and 1996  
3 earnings reviews.

4

5 Q. Please explain the effect of using a zero cost in the capital  
6 structure for deferred revenues as proposed by OPC and FIPUG.

7

8 A. Using a zero cost rate for deferred revenues in the capital  
9 structure goes against financial and regulatory theory and  
10 against Commission precedent. It has the effect of treating  
11 the interest expense being accrued by the company as though it  
12 is not a legitimate cost of providing service and, therefore,  
13 leaves the cost to be absorbed by the utility's shareholders  
14 "below the line." The company would not be afforded an  
15 opportunity to achieve the return on equity disclosed in its  
16 surveillance report because the interest expense being  
17 incurred would effectively be disallowed.

18 Since the company is obligated to accrue this interest  
19 pursuant to Commission order, it is clearly reasonable to  
20 include it in the determination of regulatory earnings. It  
21 should not be treated in a manner that, in effect, represents  
22 a disallowance of an expense ordered by the Commission.

23

24 Q. The protest from the FIPUG states that the Stipulations called  
25 for interest to come from "below the line," not "above the

1 line." Did the Stipulations discuss or state that interest on  
2 the deferred revenues was to come from "below the line?"

3

4 A. No. There is no discussion in the Stipulations calling for  
5 interest expense to be paid by shareholders. The reference to  
6 interest on deferred revenues in Paragraph 9 of Order No. PSC-  
7 96-0670-S-EI states:

8 "The revenues held subject to refund and the  
9 deferred revenues provided for herein shall  
10 accrue interest at the 30-day commercial paper  
11 rate as specified in Rule 25-6.109, Florida  
12 Administrative Code."

13 The reference to interest on deferred revenues in Paragraph 6  
14 of Order No. PSC-96-1300-S-EI states:

15 "The revenues held subject to refund shall  
16 accrue interest calculated at the thirty-day  
17 commercial paper rate as specified in Rule 25-  
18 6.109, Florida Administrative Code."

19 These statements in no way indicate that the company's  
20 shareholders should pay for the interest to be applied to  
21 deferred revenues. There also was no indication by the  
22 parties during negotiations that these costs, that are  
23 required by the Stipulations, would be disallowed in the  
24 calculation of the company's returns on equity. Absent any  
25 language in the Stipulations to the contrary, the Commission

1           should treat the interest on deferred revenues as a legitimate  
2           cost of providing service.

3

4   Q.    In its protest of Order No. PSC-98-0802-FOF-EI, the OPC  
5           alleges that Tampa Electric's customers are harmed by the  
6           Commission's decision in Order No. PSC-98-0802-FOF-EI not to  
7           assign a zero cost to deferred revenues in Tampa Electric's  
8           capital structure for purposes of calculating the company's  
9           allowed rate of return for 1996. Please address this concern.

10

11   A.   Customers are not harmed by this order because it does not  
12           treat them unfairly. In 1996, the company applied an interest  
13           rate to deferred revenues in the capital structure that  
14           corresponded to the rate being applied to the deferred revenue  
15           balance. The alternative proposed by the OPC and FIPUG to use  
16           a zero cost rate for deferred revenues in the capital  
17           structure could only be considered fair to customers and the  
18           company if interest was not being accrued on the deferred  
19           revenue balance.

20                 In addition, as explained earlier, Commission precedent  
21           clearly establishes the principle that when the cost rate is  
22           applied consistently to the deferred revenue balance and to  
23           the deferred revenues in the capital structure, customers as  
24           well as the company are treated properly.

25

1 Q. Are there any situations similar to deferred revenue interest  
2 in which the expense is included in the calculation of  
3 earnings?

4

5 A. Yes. Interest accrued on customer deposits is similar to  
6 interest for deferred revenues. In both cases, the Commission  
7 has approved an accounting method for funds collected from  
8 customers in which the ultimate disposition of those funds is  
9 not certain.

10 In the case of customer deposits, amounts are collected  
11 as security on the customer's account and interest is accrued  
12 on these amounts. Later, the deposit plus accrued interest is  
13 returned to the customer or the company retains the amount  
14 plus any accrued and unpaid interest for application to unpaid  
15 bills.

16 The deferred revenues situation is similar. Interest is  
17 accrued on deferred revenues because such revenues are  
18 initially deemed to represent overearnings, with customers  
19 entitled to the benefit of interest on any such amounts. The  
20 deferred amounts plus the accrued interest are designed for  
21 return to customers in the form of refunds, subject to a prior  
22 claim by the company, as is the case of customer deposits. In  
23 the customer deposits case, the claim is based on a failure by  
24 the customer to pay for services, while in the deferred  
25 revenues case, the claim is based on the company's failure to

1           achieve the return on equity previously determined by the  
2           Commission to be proper.

3

4   Q.    Is the treatment of deferred revenues and customer deposits  
5           unusual?

6

7   A.    No.  It is consistent with the manner in which other sources  
8           of funds are treated in Tampa Electric and other utilities'  
9           capital structures for purposes of determining base rates.

10

11                   **Separation of the Lakeland and FMPA Sales in 1996**

12

13   Q.    Please describe the FPSC decision regarding the treatment of  
14           the FMPA and Lakeland contracts in Order No. PSC-97-1273-FOF-  
15           EI.

16

17   A.    The Commission ordered Tampa Electric to separate capital and  
18           O&M costs associated with the wholesale sales made to FMPA and  
19           Lakeland in accordance with the procedure approved in the  
20           company's last rate case.

21                    "We find that the Stipulation approved pursuant to  
22                    Order No. PSC-96-1300-S-EI requires TECO to  
23                    separate capital, and operation and maintenance  
24                    (O&M) costs associated with the FMPA and Lakeland  
25                    wholesale sales.

1                   Specifically, 5F of the order states, "The  
2                   separation procedure to be used to separate capital  
3                   and O&M which was approved in the Company's last  
4                   rate case, Docket No. 920324-EI, shall continue to  
5                   be used to separate any current and future  
6                   wholesale sales from the retail jurisdiction."

7

8 Q.   Please describe the separation methodology approved in the  
9       company's last rate case, Docket No. 920324-EI.

10

11 A.   The approved method of separation in the company's last rate  
12       case was based upon the 12 coincident peak methodology. This  
13       methodology calls for a separation of costs to the wholesale  
14       jurisdiction that is based on the actual amount of resources  
15       used to serve the wholesale customer at the time of the  
16       company's monthly coincident peak.

17

18 Q.   Please describe the calculation used by the company to comply  
19       with the FPSC order to separate FMPA and Lakeland in 1996.

20

21 A.   The process used by the company to separate the FMPA and  
22       Lakeland contracts in 1996 is consistent with the methodology  
23       used by the company since the last rate case. In that  
24       process, separation factors are adjusted in its surveillance

1 report based on any new wholesale sales being served from  
2 Tampa Electric's resources.

3 For the FMPA and Lakeland contracts, the separation  
4 factors were adjusted for the load served out of the resources  
5 used in the month of December 1996. Because the sale to FMPA  
6 did not begin until December 16, the separation for FMPA was  
7 adjusted only to reflect the time during the month the  
8 contract was in effect.

9 In retrospect, the company realizes that the proration of  
10 a month is not explicit in the 12 month coincident peak method  
11 and agrees to separate the full amount for December 1996. The  
12 company will make an accounting entry in 1998 to reflect this  
13 change which should increase the deferred revenue balance.

14

15 Q. Does this conclude your testimony?

16

17 A. Yes, it does.

18

19

20

21

22

23

24

25

1 BY MR. HART:

2 Q Ms. Bacon, would you please summarize your  
3 testimony?

4 A Yes, sir.

5 Good morning, Commissioners. We are here  
6 today as a result of protests by OPC and FIPUG of your  
7 order approving Tampa Electric's earnings for 1996.  
8 In this order, you specifically identified deferred  
9 revenues in Tampa Electric's capital structure for  
10 1996 and assigned a cost rate equal to the 30-day  
11 commercial paper rate, which is also being used to  
12 calculate the interest accrual applied to the deferred  
13 revenue balance. This is the same treatment that you  
14 approved in several other dockets before this  
15 Commission and in your order approving Tampa  
16 Electric's earnings for 1995.

17 Commissioners, OPC and FIPUG argue that  
18 this cost rate for deferred revenues in the capital  
19 structure should be zero. However, the deferred  
20 revenues were the source of funds used during 1996 to  
21 fund the Company's operations, and therefore, any cost  
22 associated with these funds should be recoverable as a  
23 prudent and reasonable cost of providing service to  
24 its customers. For this expense to bear a zero rate  
25 in the capital structure can only mean that the

1 Company has been disallowed a prudent cost.

2           When this Commission disallows a cost, it  
3 is because the cost is unrelated to regulated utility  
4 service or was imprudently incurred. The interest on  
5 the deferred revenues does not meet this criteria.  
6 The interest accrual is required by the stipulations,  
7 it was adopted by the parties and the Commission, and  
8 the interest expense associated with this accrual is  
9 being properly booked.

10           Commissioners, we believe that the  
11 accounting treatment that you affirmed in your PAA  
12 order for the interest on deferred revenues is  
13 appropriate for both ratepayers and the Company. When  
14 the Company included a replacement source of funds in  
15 its 1995 deferred revenue filing equal to the overall  
16 cost of capital, you decided that the cost rate to  
17 apply to the deferred revenues in the capital  
18 structure should be equal to the rate utilized to  
19 accrue the interest on the deferred revenues. Your  
20 currently approved symmetrical treatment of deferred  
21 revenue interest is the proper method.

22           In addition, this Commission's precedent on  
23 this topic is very clear on the proper capital  
24 structure treatment and has been cited in your orders  
25 for Tampa Electric's '95 and 1996 earnings reviews.

1 The Quincy Telephone, Florida Public Utilities, and  
2 Southern Bell cases fully represent this appropriate  
3 capital structure treatment of deferred customer  
4 supplied dollars.

5 Finally, Commissioners, Tampa Electric  
6 would not have agreed to a disallowance without it  
7 being very clearly defined and stated in the  
8 stipulations. The language in the stipulations  
9 certainly does not specify that the interest would be  
10 absorbed by the shareholders. The language is clear  
11 that all reasonable and prudent expenses should be  
12 included in the calculation of deferred revenues.  
13 Your current treatment corresponds with the  
14 requirement of the stipulation in regards to both the  
15 interest provision and recovering prudent costs. Any  
16 other interpretation is inappropriate and inconsistent  
17 with the stipulations and current Commission practice.

18 Thank you.

19 Q Ms. Bacon, does that conclude your summary?

20 A Yes, it does.

21 MR. HART: We would tender the witness for  
22 cross examination.

23 CROSS EXAMINATION

24 BY MR. HOWE:

25 Q Good morning, Ms. Bacon.

1           A     Good morning.

2           Q     I have found for my own purposes to  
3 understand the issues in this, it's best for me to  
4 kind of follow through chronologically from 1995 into  
5 1996. And I believe you stated, did you not, that the  
6 Commission's treatment of the deferred revenues for  
7 1996 was consistent with its treatment for 1995?

8           A     Yes, it is.

9           Q     Could you please refer to Order No.  
10 PSC-95-0580? Commissioners, that's in one of the  
11 tabbed orders.

12          A     Okay.

13          Q     Ms. Bacon, are you familiar with this  
14 order?

15          A     Yes, I am.

16          Q     And would you agree that this order defines  
17 the manner in which deferred revenues are to be  
18 calculated and treated for 1995?

19          A     Yes, it does.

20          Q     Would you refer to the last page of that  
21 order, please. This attachment is Tampa Electric  
22 Company's proposal which was accepted by the  
23 Commission in Order No. 95-0580, is it not?

24          A     Yes, hold on just a second. I don't know  
25 what page you're referring to. I don't happen to see

1 it in this particular --

2 Q Do you have the compilation of orders that  
3 the Company distributed?

4 A No, I do not.

5 Now I do.

6 Okay. Now, you're referring to the last  
7 page of the written portion of the order?

8 Q The last page of the order itself, which is  
9 an attachment. It's page 5.

10 A I don't see this.

11 MR. WILLIS: Could you give us the order  
12 number again?

13 MR. HOWE: Order No. PSC-95-0580.

14 WITNESS BACON: 95.

15 MR. HOWE: Dash 0580. It's dated May 10,  
16 1995.

17 WITNESS BACON: Okay. Now I have it.

18 BY MR. HOWE:

19 Q All right. Maybe we need to revisit those  
20 earlier questions.

21 A I see the last page. It is Tampa  
22 Electric's proposal.

23 Q All right. Now, in the second paragraph of  
24 the proposal, Tampa Electric agreed to defer a revenue  
25 amount of \$15 million, did it not?

1           A     Yes, it did.

2           Q     And that \$15 million was not tied to any  
3 earnings level, was it?

4           A     That's correct.

5           Q     Did Tampa Electric actually make that  
6 deferral?

7           A     Yes, it did.

8           Q     All right. And would you agree that  
9 pursuant to Paragraph 3, that if Tampa Electric had  
10 earnings or revenues above 11.75% return on equity  
11 after accounting for the \$15 million, that they would  
12 then go into the sharing arrangement in Paragraph 3?

13          A     That's correct.

14          Q     And in Paragraph 3, it provides that the  
15 sharing arrangement will be based on Tampa Electric's  
16 December 1995 earnings surveillance report; is that  
17 correct?

18          A     Yes, sir.

19          Q     And it would be based on a surveillance  
20 report consistent with surveillance reports generally  
21 filed, right, with adjustments consistent with the  
22 Company's last rate case?

23          A     That's correct.

24          Q     Did the Company's last rate case have any  
25 adjustments in its surveillance report for deferred

1 revenues?

2 A No, it did not, but that's because the  
3 deferred revenues did not exist during the Company's  
4 last rate case.

5 But I do believe, though, Mr. Howe, that in  
6 the Company's last rate case, there were adjustments  
7 that were very much consistent with the adjustments  
8 that were made for deferred revenues, in that  
9 typically liabilities that have other return provided  
10 are removed from rate base and treated differently.  
11 And to the extent that deferred revenues do have a  
12 separate interest cost associated with them, we book  
13 the adjustments in the surveillance report consistent  
14 with that.

15 Q I see. So in your December surveillance  
16 report then for 1995, did the Company make those  
17 adjustments actually made in the last rate case as  
18 well as adjustments for deferred revenues?

19 A That's correct.

20 Q Now, if you look at Paragraph 4, it states  
21 that the 1995 revenues will be deferred until 1997.  
22 Do you see that?

23 A Yes, sir.

24 Q Would you agree it states that the revenues  
25 will be deferred until 1997, but nowhere in the

1 Company's proposal does it state that those revenues  
2 will be included in the capital structure or will be  
3 used to fund the Commission's operations during 1995?

4 A I think what causes the Company to utilize  
5 those sources of funds does not exactly need to be  
6 described here. I think that's a natural outcome of  
7 the Company having those funds available to it and  
8 utilizing those funds as a source of capital.

9 Q Well --

10 A I think the adjustments that the Company  
11 has made to recognize that or to reflect that are  
12 consistent with prior Commission practices.

13 Q With prior Commission practices; is that  
14 correct?

15 A Yes.

16 Q Then did the Company just assume that the  
17 funds that were deferred should be recognized as a  
18 source of funds to support operations in 1995?

19 A I'm sorry. Can you repeat that again?

20 Q I'll try. Did Tampa Electric assume that  
21 the revenues deferred in 1995 would be available to  
22 the Company as a source of funds to support operations  
23 in 1995?

24 A Yes, we did make adjustments to reflect  
25 that they were a source of funds.

1           Q     And if that was the adjustment the Company  
2 made, then in what sense were these same revenues from  
3 1995 available for booking in 1997 as revenues?

4           A     Well, if I understand your question, I  
5 believe that the fact that we recognize that they were  
6 a source of funds in 1995 should not have any impact  
7 on the fact that they were available to 1997.

8                     As we're all aware, eventually we ended up  
9 signing additional stipulations that were -- that, you  
10 know, took the deferred revenues and added to those in  
11 1996 and then took those deferred revenues into 1997  
12 and 1998. And I believe that those funds have been  
13 out there for all of those years as a source of funds.

14           Q     Do you mean as a source of funds that  
15 supported the Company's operations in 1995 and later  
16 in 1996?

17           A     Yes.

18           Q     My question remains then, in what sense  
19 were those funds -- if you have committed them to  
20 support operations in 1995 and 1996, in what sense  
21 were those funds available to be recorded as revenues  
22 in 1997 pursuant to Paragraph 4?

23           A     All right. I think I understand what your  
24 question is better now.

25                     I think that it's a difference between

1 whether the cash is available as a source of funds as  
2 opposed to whether or not the earnings are available  
3 to reverse as revenues to the Company in the future.  
4 In 1995 and 1996, we did have these funds, and they  
5 were cash to the Company, and we used those funds to  
6 offset the cost of other funds or sources of other  
7 funds. To the extent that those revenues were set  
8 aside as earnings, we were able to reverse those  
9 earnings back to the Company in the future for 1997 to  
10 offset cost of service. I don't believe those are  
11 contradictory. I believe that you can accomplish both  
12 of those under, you know, regular accounting practice.

13 Q I am not an accountant, so my questions are  
14 not as precise perhaps as they should be. But I guess  
15 what I'm really trying to find out is, if the Company  
16 committed revenues that were deferred in 1995 to  
17 support operations of the Company in '95 and '96 --

18 A The cash.

19 Q The cash. Then in 1997, if the cash, the  
20 revenue, for example, is reversed and reflected as  
21 revenue in 1997, what is the source of that revenue?  
22 Where is the cash coming from? Did the Company have  
23 to go out and raise capital to support the revenue  
24 that was recognized in 1997 which originated in 1995?

25 A To the extent that the Company had the cash

1 coming from 1995 and 1996, I believe that the -- in  
2 1997, the Company still had the use of that cash to  
3 the extent we had not given it back as refunds as  
4 yet. But to the extent that the Company was  
5 recognizing the revenues on its income statement,  
6 those were noncash revenues. So to the extent that we  
7 had to go out and find additional funds if we needed  
8 to in 1997 and 1998, yes, we did have to do that.

9 Q Could the Company have satisfied the  
10 provisions in Paragraph 4 on page 5 of Order No.  
11 95-0580 by just setting the deferred revenues aside  
12 for use in 1997?

13 A Well, we did do that for the revenue side.  
14 Again, I think we are confusing revenues  
15 versus cash. The revenues were set aside in a  
16 liability account and will be reversed to the Company  
17 as revenues to offset cost of service in 1997 and  
18 1998. But to the extent that the Company had the cash  
19 associated with those revenues, we utilized that cash  
20 to offset the other sources of capital that the  
21 Company would have had to have gone out and gotten had  
22 it not been for the deferred revenues.

23 But I don't think that just because we  
24 utilized the deferred revenues or the cash associated  
25 with that to offset the funds, I don't believe that

1 that meant that the dollars still were not available  
2 to reverse as earnings to the Company in '97 and '98.

3 MR. HOWE: Chairman Johnson, if I could  
4 have an exhibit number, Mr. Larkin is distributing a  
5 copy of Tampa Electric's December 1995 surveillance  
6 report. Would that be Exhibit 3?

7 CHAIRMAN JOHNSON: Show it marked as 3,  
8 please. What's a short title?

9 MR. HOWE: Tampa Electric's December 1995  
10 surveillance report.

11 CHAIRMAN JOHNSON: It will be identified as  
12 stated.

13 (Exhibit 3 was marked for identification.)

14 BY MR. HOWE:

15 Q Ms. Bacon, do you recognize this document  
16 as Tampa Electric's 1995 surveillance report?

17 A Yes, I do.

18 Q Are you generally familiar with the  
19 Company's surveillance reports?

20 A Yes, I am.

21 Q Do you participate in their preparation?

22 A I review them. They're actually prepared  
23 by the accounting department. I work in the  
24 regulatory department, but I do review them on a  
25 monthly basis.

1 Q Now, if you would refer, please, to the  
2 cover sheet, the first page, that shows, does it not,  
3 that the Company originally estimated that the  
4 deferred revenues for 1995 would be \$50.8 million?

5 A That is how much we accrued during the year  
6 of 1995.

7 Q And that was consistent with your original  
8 estimates on a month-to-month basis, was it not, of  
9 what the appropriate amount was?

10 A If I understand your question, yes, it is.

11 Q And then at the end of the year when you  
12 trued things up, still looking at that first page, in  
13 the Company's estimation, deferred revenues for 1995  
14 should in fact have been 48,832,000; is that correct?

15 A That's correct.

16 Q And you made an appropriate adjustment to  
17 reflect that; is that true?

18 A Yes, we did. Not in 1995, however.

19 Q And when did you make that adjustment?

20 A I would imagine in 1996 after the deferred  
21 revenue amounts were approved.

22 Q All right. And if you would, just turn the  
23 page. Let's see. I want to go to the third page in  
24 Exhibit 3, the 1995 surveillance report. It's  
25 Attachment 2. Do you see that?

1           A     Yes.

2           Q     Now, this is titled as a deferred revenue  
3 interest calculation. Are you familiar with this  
4 document?

5           A     Yes.

6           Q     And could you tell me what is shown here?

7           A     This is the calculation of the deferred  
8 revenue interest that the Company must accrue  
9 according to the stipulations. It takes the total  
10 accrual for the year, the 48,832,000, and assumes that  
11 those deferred revenue amounts were booked evenly  
12 throughout the year, which is also a provision within  
13 the stipulation that requires us to do that, and then  
14 carries those numbers across times the commercial  
15 paper rate to calculate the monthly interest amounts.

16          Q     Is this approach used only for the  
17 calculation of interest?

18          A     Yes.

19          Q     Now, am I correct that in 1995, the Company  
20 did not actually accrue deferred revenues and interest  
21 in this fashion on its books and records?

22          A     The interest was accrued exactly in this  
23 fashion. The accrual of the deferred revenues  
24 themselves we book according to a different procedure  
25 that recognizes the liability according to GAAP. In

1 other words, for like financial reporting purposes, we  
2 have to recognize the liability as we incur it, so  
3 we're not allowed to spread it evenly over the 12  
4 months, because obviously, the Company's earnings are  
5 not generated as such. But for interest purposes, the  
6 stipulation required us to assume that the deferred  
7 revenues would be evenly over the year.

8 Q If I might ask you, please, to backtrack a  
9 moment to Order No. 95-0580, and the second page.

10 A That's the same order that we were on  
11 before?

12 Q Yes, ma'am.

13 A Okay.

14 Q On the second page. And do you see that  
15 paragraph with the heading underlined, "Treatment of  
16 Deferred Revenues"?

17 A Yes.

18 Q Could you read that, please?

19 A It says, "For regulatory purposes, such as  
20 determining earnings and calculating interest, any  
21 revenue deferred until 1997 will be treated as if it  
22 were earned evenly throughout 1995, or one-twelfth per  
23 month."

24 Q So for purposes of calculating the  
25 Company's earnings in 1995, not the interest

1 calculation, but the earnings in 1995, did Tampa  
2 Electric assume that those deferred revenues occurred  
3 equally at the rate of one-twelfth per month?

4 A Well, when the Company originally filed its  
5 surveillance report, which is this particular filing  
6 right here, the deferred revenues had been removed  
7 from rate base on a total amount. So anything the  
8 Company had accrued according to its GAAP method had  
9 been totally removed from rate base. Then the  
10 adjustment to the capital structure was across all  
11 sources on a pro rata basis to reflect that as a  
12 source of capital.

13 I think that the Company indicated to the  
14 Staff later on what the amounts were that it had  
15 booked, and it was actually Staff who later on set the  
16 deferred revenues up in the capital structure equal to  
17 that accrual. So the answer to your question, I  
18 guess, is, I think the Company utilized the numbers  
19 that were on its books and records to do its  
20 calculations.

21 Q Why did it use that? And I would point out  
22 that the order is dated May 10, 1995, and your  
23 December surveillance report is dated February 14,  
24 1996. Why did the Company not calculate its earnings  
25 for 1995 on the assumption that deferred revenues had

1       been received equally throughout the year?

2               A       I think the Company has to file its  
3       original surveillance report as if it were -- as if we  
4       booked it. I mean, we have to, you know, put what's  
5       on the Company's records in the surveillance report.

6               To the extent that down road when the Staff  
7       does its calculations, that interest amount or that  
8       deferred revenue amount could have been trued up to  
9       the amount that would have been evenly over the year.  
10      But I would imagine, Mr. Howe, that you would probably  
11      not like the answer to that, because what would happen  
12      is, the deferred revenue amount in the capital  
13      structure would have actually been a lower number, and  
14      the deferred revenues would have been lower than what  
15      they would have otherwise.

16              Q       The statement on the second page of the  
17      Order No. 95-0580 that this assumed even treatment,  
18      one-twelfth per month throughout the year, should be  
19      for regulatory purposes, Tampa Electric did not  
20      perceive that that applied to its surveillance  
21      reports; is that correct?

22              A       That was a provision that was included in  
23      the '95 agreement that was suggested by Staff. I'm  
24      not exactly even sure the Commission had a full  
25      understanding at the time as to exactly what

1 determining earnings exactly meant. I think that we  
2 did -- all of our conversations that we had with Staff  
3 regarding this issue really surrounded the calculation  
4 of the interest, and it was very clear that that's the  
5 way we calculated our interest throughout the year.  
6 I'm not exactly even sure if when I read that original  
7 provision that the Company even understood that, you  
8 know, we were to do something differently with the  
9 accrual in the surveillance report filings.

10 Q Would the provision in the order that it  
11 would be done evenly throughout the year at the rate  
12 of one-twelfth per month suggest that the Commission's  
13 intent was that it would be an after-the-fact  
14 calculation, calculate the earnings at the end of the  
15 year, the earnings above 11.75, and then go back and  
16 restate the Company's books and records to show that  
17 they were assumed to accrue evenly?

18 A Again, I'm not exactly sure that you would  
19 like that particular answer of that calculation,  
20 because I think it would only tend to decrease the  
21 amount of deferred revenues that the Company booked.  
22 I mean, it can work both ways, I think is what we've  
23 seen so far. In 1995, I think that you would have  
24 ended up perhaps maybe having a slightly higher amount  
25 of deferred revenues, but in 1996, you would probably

1 have a slightly -- an amount of lower deferred  
2 revenues. So I think it can work in both directions.

3 I think the Staff approved and the  
4 Commission finally approved that using the actual  
5 accrual on the Company's books was the appropriate  
6 method for the capital structure.

7 Q Now, if we could kind of jump -- I said I  
8 was going to go chronologically. I find the way the  
9 questions and answers are going, I'm going to need to  
10 jump a little bit ahead to April 17, 1997. Do you  
11 have a copy before you of Order No. PSC-97-0436?

12 A Yes, I do.

13 Q And if you would turn, please, to the  
14 ordering paragraphs. Let's see, the first, second,  
15 third, the fourth ordering paragraph. Would you agree  
16 that in this order, the Commission found that the  
17 appropriate amount of deferred revenues for 1995 was  
18 \$50,517,063 plus interest?

19 A Yes, I would.

20 Q Now, how much interest is to be added to  
21 that?

22 A I think again, according to the  
23 stipulations -- I mean, I don't know the exact  
24 number. I would imagine that you would take the 50  
25 million and divide it by 12 evenly over the year and

1 then calculate the interest on that amount.

2 Q Well, wouldn't you need to have already  
3 done that, because that would be your starting point  
4 at the end of '95 to start 1996, so the amount that is  
5 already accrued from 1995 would be increased by  
6 interest, and then it would earn interest again,  
7 additional interest in 1996? Necessarily, wouldn't  
8 that calculation already have been done?

9 A The Company trues up these amounts in its  
10 books and records as the Commission makes the  
11 decisions on the levels of the deferred revenues. So  
12 any impact on this particular amount would have  
13 already been reflected in the Company's books.

14 Q Ms. Bacon, my question is, to begin 1996,  
15 wouldn't the Company begin accruing interest on 1995's  
16 deferred revenues, plus interest for 1995?

17 A And the effect of that I think has already  
18 been trued up.

19 MR. HOWE: All right. Commissioners --

20 COMMISSIONER CLARK: Ms. Bacon, I still  
21 don't know if that's a yes or no.

22 WITNESS BACON: Oh, I'm sorry. I think it  
23 is a yes, that the Company has already reflected the  
24 impact on the 1996 amounts related to any changes in  
25 1995.

1           What we do is, when the Commission makes a  
2 decision on one year, we flow that effect and true it  
3 up on our books for all of the years, to the extent  
4 that it affects the interest that would roll into '96  
5 and roll into '97. So any effects on the amounts --  
6 subsequent interest amounts would be included in that  
7 true-up. It might not have been in the original  
8 filing that the Company made, because at that point in  
9 time we did not have the '96, or we did not have the  
10 decision for the 1995. But once we received this  
11 order, we went back and corrected all of our books.  
12 And I believe Staff has looked at those calculations,  
13 and they have approved of our methodology of truing up  
14 the deferred revenue amounts.

15           COMMISSIONER CLARK: Okay.

16           MR. HOWE: Chairman Johnson, could I have  
17 an exhibit number for an exhibit that has just been  
18 distributed? It's entitled "Tampa Electric's Answer  
19 to Informal Data Request No. 21."

20           CHAIRMAN JOHNSON: It will be marked 4 and  
21 identified as you just stated.

22           (Exhibit 4 was marked for identification.)

23 BY MR. HOWE:

24           Q     Ms. Bacon, are you familiar with this  
25 document?

1           A     Yes, I am.

2           Q     Now, I'll need for you to refer to a couple  
3 of different things at the same time. First off,  
4 looking at the third page of Exhibit No. 4, which is  
5 -- it's marked as page 2 of 2 of the actual response  
6 to the data request.

7           A     Okay.

8           Q     Now, if you'll look in the far lower  
9 right-hand corner, you see that amount, the 13-month  
10 average amount of \$77,670,075?

11          A     Yes.

12          Q     Now, if I could ask you also now to refer  
13 to the order that we protested, the order in which the  
14 Commission first issued its proposed agency action  
15 approving Tampa Electric's deferred revenue  
16 calculation for 1996, and that's Order No.  
17 PSC-98-0802.

18          A     Okay.

19          Q     And then if you would go to the back of  
20 that order, the third page from the end, which would  
21 be Attachment B.

22          A     Yes, I have that.

23          Q     Now, what the Commission included in the  
24 capital structure on an average test year basis for  
25 deferred revenue is exactly this amount, is it not,

1 \$77,670,075?

2 A Yes, it is.

3 Q All right. Now, I'll refer you back,  
4 please, to what has been marked as Exhibit 4, the  
5 Response to the Informal Data Request No. 21.

6 This spreadsheet, I'll call it, provides  
7 the basis upon which the Company calculated the \$77  
8 million figure, does it not?

9 A Yes, it represents the original accrual on  
10 the Company's books of the deferred revenues.

11 Q The original accrual?

12 A The accrual, the only accrual.

13 Q So, for example, for 1995, the Company  
14 accrued \$50,800,000 of deferred revenues, is that  
15 correct, in 1995?

16 A Correct.

17 Q Did the Company go back and restate the  
18 deferrals for 1995 to match the Commission order  
19 approving the deferral for 1995, which was that  
20 \$50,500,000 figure plus interest reflected in that  
21 other order we referred to?

22 A Like I said before, all of the adjustments  
23 were trued up. All of the liabilities and the  
24 associated expense was trued up eventually for the  
25 1995 decisions.

1           Q     But it was not trued up in the calculation  
2 of the amount of deferred revenues that's going to be  
3 carried forward and shown in the capital structure for  
4 '96; is that correct?

5           A     That's correct.

6           Q     So for 1995, if we might focus on that  
7 first -- and here I'm looking at page 2 of Exhibit  
8 No. 4. The Company did not accrue any interest in the  
9 months of January, February, or March of 1995; is that  
10 correct?

11          A     Where are you looking at?

12          Q     I'm looking at Exhibit 4, which is Tampa  
13 Electric Company's Answer to Informal Data Request No.  
14 21.

15          A     Yes, that's correct, because that was  
16 before the '95 agreement was signed. The Company  
17 already started recognizing an amount over 12.75 on  
18 our books in 1995 even before the 1995 deferred  
19 revenue agreement was signed. Once it was signed,  
20 then the interest provision was present, and we began  
21 accruing the interest.

22          Q     So you did not accrue interest in the  
23 months of January, February, and March; is that  
24 correct?

25          A     Again, we would have went back and trued it

1 up as if we had. In other words, the total balance  
2 still will represent the correct amount of interest at  
3 the end of the year. We just did not have the  
4 interest provision at the time in January, February,  
5 and March when we closed the books.

6 Q I guess my question is, in your capital  
7 structure the Commission approved for 1996, which  
8 apparently is the \$77 million supported by this  
9 schedule in Exhibit No. 4, you don't have those  
10 true-ups in that calculation, do you?

11 A Well, I think you would for that one,  
12 particularly because any of the true-ups would have  
13 been booked in 1995, and the 77,670,000 reflects a  
14 13-month average number for 1996. So any true-ups  
15 that were booked in 1995 would be reflected in that  
16 number.

17 Q Well, where would they be reflected? This  
18 spreadsheet in Exhibit 4 shows the 1995 deferred  
19 revenue, how it was treated in '95 and how it was  
20 treated in '96, and then it shows the deferred revenue  
21 for '96, and the addition of those two is what gets  
22 you the 77 million on a 13-month average basis at the  
23 end of '96.

24 A Well, the 77 million just simply represents  
25 the 13-month average of the outstanding balance that

1 was out there for 1996. So to the extent that the  
2 December 1995 balance had been restated to be correct,  
3 automatically the 13-month balances that are out there  
4 for 1996 will include that correction.

5 Q Where would that have been restated on  
6 here?

7 A It would have been restated during the  
8 months of April through December of 1995, such that  
9 that 52,329,000 number that's out there for December  
10 of 1995 million reflects the correct amount of  
11 interest and deferral. And that just automatically  
12 flows into 1996, and so therefore the 77 million  
13 includes all of the impacts of the correction.

14 Q My question is, the Commission order  
15 approving the deferred revenues for 1995 did not use  
16 the \$50,800,000 figure. It used a different number.

17 A That's a different issue, I believe,  
18 Mr. Howe, than the one I think you were asking me  
19 about. You were asking me about the true-up of the  
20 interest amounts that were -- you know, the fact that  
21 we did not accrue any interest originally for January  
22 through March and the effects of that on the  
23 77,670,000.

24 Q All right. Let me see if I can  
25 understand.

1           A     It's rather complex.

2           Q     Does this spreadsheet, I'll call it, on  
3 page 2 of 2 of Exhibit No. 4, does this show the --  
4 and I'll refer to the question that was asked in the  
5 informal data request. Does this show the actual  
6 monthly data as booked concerning the amount of  
7 revenue deferred and associated interest segregated  
8 between 1995 and 1996 revenues?

9           A     Yes, it does.

10          Q     And this is what's actually on the books of  
11 the Company; is that correct?

12          A     Yes, it is, for those years.

13          Q     Would you agree that the Company's books,  
14 for example, for 1995 don't match exactly with what  
15 the Commission approved for 1995?

16          A     To the extent that subsequent adjustments  
17 were made by the Commission as they approved the '95  
18 deferred revenues, there would be additional amounts  
19 on top of these, yes.

20          Q     And where would those additional amounts be  
21 shown? Are they shown on this schedule?

22          A     They are not shown on this schedule.

23          Q     All right. So the additional adjustments  
24 ordered by the Commission would effect the \$77  
25 million, would it not, that the Company has included

1 in its capital structure and that the Commission used  
2 in the order approving the 1996 deferred revenues?

3 A I think the Commission precedent on other  
4 cases where I've seen where they had subsequent years  
5 deferred revenue agreements that were back to back,  
6 they did not go back and try to adjust subsequent  
7 adjustments back into those years. So I don't believe  
8 that that's something the Commission has ever done for  
9 any of the other, you know, subsequent year  
10 adjustments or deferred revenue years for different  
11 companies.

12 Q If I might ask, again returning to the  
13 question of the interest accrual for January,  
14 February, and March of 1995, which is not shown on  
15 this spreadsheet of Exhibit 4, could I ask you to  
16 please return to Exhibit 3, which is the calculation  
17 of interest for 1995, which you show on Attachment 2?

18 A Yes.

19 Q Now, in that calculation you show interest  
20 for every month in 1995, do you not?

21 A Yes.

22 Q Where is the calculation on Attachment 2 of  
23 Exhibit 3 ever used by the Company?

24 A We use it every single month when we go to  
25 accrue the interest amount. See, what you're seeing

1 here, this original page 2 of 2 exhibit that has the  
2 zeros for the interest amounts for January, February,  
3 and March is how much the Company actually recorded  
4 for the interest amounts for every single month in  
5 1995. And to the extent that the deferred revenue  
6 agreement had not been assigned and approved by the  
7 Commission until after March and the interest  
8 provision did not even exist, the Company had not  
9 physically recorded any interest on its books for  
10 those three months.

11 Subsequent to that, though, the interest  
12 provision was approved, and the interest provision  
13 provided that the accrual should be spread evenly  
14 throughout the 12 months. At that point in time, the  
15 Company would have taken whatever accrual that it  
16 estimated and went back and assumed that it would have  
17 been spread evenly, which is what Attachment No. 2  
18 does, and then trued up any interest amounts on its  
19 books to be reflective of that provision of the  
20 stipulations. So even though you see zeros for  
21 January, February, and March, the total interest  
22 amount for the year reflects the provision in the  
23 stipulation that requires us to spread it evenly over  
24 the 12 months.

25 Q But those trued-up numbers were not then

1 used to derive the \$77 million figure that was  
2 included by the Commission in the capital structure;  
3 is that correct?

4 A For the particular case of us not accruing  
5 January, February, and March, yes, they are. The  
6 changes are in there, because we booked them in 1995.

7 Again, there are two separate issues here.  
8 One, I think you're asking about the January,  
9 February, and March issue, the fact that the Company  
10 did not initially accrue interest for those three  
11 months. That was trued up in 1995 as soon as we  
12 received the provision that told us to do the  
13 calculation a certain way.

14 Now, the other issue regarding subsequent  
15 decisions by the Commission after the '95 and '96  
16 books had been closed, I would agree, they would not  
17 be reflected in the 77 million.

18 Q When you say things are trued up, does that  
19 change the books and records of the Company?

20 A Not for 1995 and 1996. Once the Company  
21 closes its books and records, these are the amounts  
22 that were recorded.

23 Q All right. And please realize you're  
24 dealing with a non-accountant here.

25 For example, we look at Attachment 2 of

1 Exhibit 3. You show a monthly accrual. Let's just  
2 look at January of 1995, a monthly accrual of  
3 \$4,069,333. Do you see that?

4 A Yes.

5 Q And you show an interest calculation for  
6 that same month. Is it \$10,275?

7 A Yes.

8 Q Are these numbers on the Company's books  
9 and records anywhere?

10 A Not -- this is a worksheet that we utilize  
11 to true up the interest amount, such that -- the  
12 provision says that regardless of how you accrue the  
13 deferred revenues on the books, you have to assume as  
14 if the deferred revenues were spread evenly over the  
15 12 months. That's what this particular work paper  
16 does. So it should not have the actual amounts that  
17 were really accrued, because the stipulation tells us  
18 to do differently. Then we take the total amount of  
19 the interest, and we go back to the books and we true  
20 up the interest amount such that we will accrue that.

21 Q All right. So then --

22 A It might not look exactly like this. In  
23 other words, you won't be able to go to January and  
24 see 10,275 or so forth. But the effects of the total  
25 interest have been included in the 1995 books.

1           Q     When you say included in the books, do you  
2 mean on the books for 1995 that were closed by the  
3 Company?

4           A     Yes.

5           Q     All right. Now, I must then return. You  
6 said it was for the interest calculation. But in  
7 Order 0580 for 1995 which established the approach, it  
8 was supposed to be done evenly for both earnings and  
9 interest, was it not?

10          A     That's correct.

11          Q     Now, again referring to Exhibit No. 4, page  
12 2 of 2, the last page, this shows the Company starting  
13 1996 with deferred revenues from 1995 of \$50,800,000,  
14 does it not?

15          A     Yes, it does.

16          Q     Why does it not start with deferred  
17 revenues plus interest from 1995, which will then  
18 accrue interest in 1996?

19          A     I believe -- well, I know that the interest  
20 is included in the calculation for purposes of  
21 calculating interest in 1996. I'm not exactly sure if  
22 I can point to you on this particular page how that  
23 works. But any interest that was accrued in 1996,  
24 that 1,773,563 that's in January, it should be  
25 including interest on top of the interest that was in

1 1995.

2 Q Well, if you would note, for example,  
3 December of 1995 interest was \$343,220; is that  
4 correct?

5 A Say that number again.

6 Q \$343,220 for December of 1995.

7 A Yes.

8 Q And then that's carried over and showed as  
9 an accumulated balance of \$1,529,186; is that correct?

10 A Correct.

11 Q Now, the total amount there for December,  
12 the total accumulated balance of \$52,329,186, that is  
13 the total amount of deferred revenue plus interest  
14 that the Company started with in January of 1996, is  
15 it not?

16 A That's correct.

17 Q And is it your testimony that that is  
18 reflected on this schedule?

19 A Absolutely. The interest that's calculated  
20 in 1996 is reflective of both the original 50,800,000,  
21 plus the additional interest that was booked in 1995  
22 of 1,529,186. The interest is compounded on top of  
23 the interest, is the way the calculation works.

24 Q Then is there a column missing for 1996  
25 then such that we need to see the deferred revenue

1 balance and interest on that, then the interest  
2 carried forward from 1995, and the interest in 1996 on  
3 that interest? I mean, are we missing a column of  
4 data here?

5 A Actually, the interest accrual amounts,  
6 once you get out into 1996 and '97, are somewhat more  
7 complicated than the pages that we have here before  
8 us. There is another page similar to Attachment 2  
9 that they continue to take the 50,800,000 and the  
10 associated interest for '95 deferred revenue and  
11 continue to calculate the interest out through time  
12 for that, and then they have another separate  
13 calculation of the interest for '96. And even when  
14 you got into the '97 deferred revenue amount, there  
15 would be even a separate page.

16 So I think that there are several pages  
17 here that we don't have before us. But I can tell you  
18 that that's the way I understand it works, is that the  
19 interest is compounded.

20 MR. HOWE: Could you keep -- we're  
21 distributing a document right now, Chairman Johnson.  
22 And Ms. Bacon and Commissioners and others, I would  
23 ask that you keep Exhibit 4 open to that schedule on  
24 page 2 of 2.

25 Chairman Johnson, we're distributing a copy

1 of Tampa Electric's 1996 surveillance report. Could I  
2 have that marked for identification?

3 CHAIRMAN JOHNSON: It will be marked as 5  
4 and identified as you stated.

5 (Exhibit 5 was marked for identification.)

6 BY MR. HOWE:

7 Q Ms. Bacon, do you recognize this document  
8 as Tampa Electric's 1996 surveillance report?

9 A Yes.

10 Q And are you familiar with this document?

11 A Yes, I am.

12 Q Now, Ms. Bacon, if you would, turn, please,  
13 to the very last page, which is Attachment 4 of the  
14 1996 surveillance report. Now, this shows the  
15 calculation of interest on deferred revenues in a  
16 manner consistent with the calculation that was done  
17 in the 1995 surveillance report, does it not?

18 A Correct.

19 Q And would it be correct to state that the  
20 Company calculated total interest for 1996 of 668,475?

21 A Yes, but that is not the amount that was  
22 actually booked during 1996, I think it's important to  
23 point out.

24 Q Is this the amount that the customers would  
25 eventually receive under the stipulation if the

1 Company did not have to use the funds to support  
2 operations in 1997 and 1998?

3 A If the Commission had --

4 COMMISSIONER GARCIA: Could you repeat that  
5 question?

6 MR. HOWE: Yes.

7 BY MR. HOWE:

8 Q My question is, is this the amount of  
9 interest the customers would actually receive for  
10 deferred revenues associated with 1996 if the Company  
11 did not use them to support operations for '97 and  
12 '98?

13 A It would have been the amount for the 1996  
14 accrual itself, just for the '96 deferral. So it does  
15 not include any interest on the 50 million that was  
16 coming from 1995. And it also would have only been  
17 the amount to the extent that the 31,507,000 was  
18 subsequently approved by the Commission, because this  
19 was what the Company had filed. To the extent the  
20 Commission did any additional adjustments, then all of  
21 this gets trued up by the Company.

22 Q Now, if I could ask you to return, if you  
23 would, to Exhibit No. 4, the last page.

24 A Yes.

25 Q And in that middle set of data for 1996,

1 does that show that the Company actually accrued  
2 \$924,337 of interest in 1996 for 1996 operations?

3 A Yes, it does, I believe.

4 Q Would it be correct then to state that the  
5 way the Company has calculated its capital structure  
6 and derived this \$77 million figure, that the Company  
7 is using -- assuming the customers should bear the  
8 cost of \$924,000 of interest, but that they would be  
9 expected to receive something on the order of \$668,000  
10 of interest?

11 A No, that is not how these schedules work,  
12 Mr. Howe. The original accrual that the Company  
13 placed on its books for the deferred revenue amount  
14 for 1996 was \$34,200,000.

15 Q Where does that number -- okay. That's  
16 what you originally accrued for 1996 based on your  
17 estimates; is that correct?

18 A Correct. And this over here was -- once we  
19 closed the books and we went back to look, it said  
20 that we only should have accrued 31,507,000. So what  
21 the Company filed the 668,475 amount for was if the  
22 Company -- regardless of what the Company accrued as  
23 an estimate, if you went back and calculated what the  
24 Company ended up with, what would the amount have  
25 been. And we were saying it should have been

1 31,507,000, plus associated interest of 668,000. Now,  
2 what the Company accrued was 34,200,000, plus interest  
3 of 924,000.

4 But neither one of these amounts really  
5 matter in the end, because what will matter in the end  
6 was the final Commission approved amount, and then we  
7 would go back and update all our numbers to reflect  
8 the Commission approved amount of deferred revenues  
9 and associated interest.

10 Q Well, I think in part I agree with you,  
11 because the Commission approved amount would be the  
12 most important. But the way the Company has  
13 calculated or has used deferred revenues plus interest  
14 in its capital structure calculation, hasn't the  
15 Company included \$924,337 worth of interest for 1996  
16 upon which it asks the customers to then support that  
17 interest at the 30-day commercial paper rate in the  
18 capital structure number of 77 million?

19 A Well, to the extent that the interest is  
20 included in the calculation of the capital structure,  
21 I think that is the issue that we're here today  
22 about. And on that note, I think it's important to  
23 point out that I believe that that's appropriate,  
24 considering that these deferred revenues were a source  
25 of funds for the Company during that year. But as to

1 the amount of the interest that was included in the  
2 capital structure, again, once the Commission  
3 reapproved or approved a different number, I believe  
4 Staff in their work papers would update all of those  
5 numbers, including the associated interest in the  
6 capital structure, to reflect that new amount.

7 Q Would you agree, though, that as the  
8 Commission issued its order approving the Company's  
9 1996 deferred revenues, it included in the Company's  
10 capital structure 77,670,075 at the 30-day commercial  
11 paper rate?

12 A What was that number again?

13 Q \$77,670,075.

14 A Yes, that's correct.

15 Q And so the way the Commission approved the  
16 capital structure for Tampa Electric for 1996 in this  
17 case, the customers are being asked to support and pay  
18 the 30-day commercial paper rate on the principal as  
19 shown in the third from last column on page 2 of 2 of  
20 Exhibit 4, the \$74,383,303, as well as \$3,286,772 of  
21 interest; is that correct?

22 A The total amount that's included in the  
23 capital structure is the 77,670,000, because that  
24 represents the total amount that was deferred from the  
25 Company. But earlier on, you pointed out about the

1 requirement to represent the number evenly throughout  
2 the year, and I think I pointed out that if you trued  
3 up to that, you might not exactly like the answer that  
4 it would give you.

5           If we put that number in the capital  
6 structure as if it was earned evenly throughout the  
7 year, the amount would have been 69 million, so the  
8 effect of that would have been to increase other  
9 sources of capital within the capital structure, and I  
10 believe that would result in a lower deferred revenue  
11 amount. So I believe what the Company put into the  
12 capital structure was a fair amount. Or actually  
13 Staff included the 77 million in their calculations.

14           Q     And would you agree that the Commission's  
15 approach in its proposed agency action order and the  
16 Company's data as filed would require the customers to  
17 pay interest on \$74.3 million of principal for  
18 deferred revenue on a 13-month average basis, and on  
19 \$3.3 million of interest on a 13-month average basis?

20           A     I think that's appropriate to the extent  
21 that the interest is compounded. I mean, the interest  
22 goes into the deferred revenue balance and generates  
23 additional interest amount. So the only proper way to  
24 include the total effect of the interest in the  
25 capital structure is to put both the original accrual

1 of the deferred revenues in the capital structure plus  
2 the amount of the interest on top of that. So I  
3 believe that the total interest accrual should be the  
4 effects of both of those.

5 Q And the effect of both of those then  
6 reduces the amount of revenues deferred for 1996 for  
7 the customers' benefit, does it not?

8 A I believe that by including those two  
9 amounts in the capital structure, it reflects the  
10 actual cost of providing service in 1996. Tampa  
11 Electric could not have provided service in 1996  
12 without that \$77 million worth of funds. And to the  
13 extent that that was a source of funds for the Company  
14 and it offset other sources of funds for the Company,  
15 I believe that it's proper to include that cost in the  
16 capital structure.

17 Probably the best way to evidence that it  
18 is not a double counting of the interest, as  
19 Mr. Larkin pointed out in his testimony, is to  
20 consider the Company's cash balances in 1996. In 1996  
21 Tampa Electric had less than \$5 million of total cash  
22 on a 13-month average basis. And if you look in 1995  
23 and 1997, you will also see very small amounts, and  
24 that's cash and cash equivalents. And by looking at  
25 those, it's very evident that Tampa Electric does not

1 retain additional sources of cash or excess cash on  
2 its books. It used the sources of the cash from the  
3 deferred revenues and paid down those other sources of  
4 capital, and those savings are reflected back in the  
5 capital structure already. So to include this  
6 interest is appropriate, in that this does represent  
7 the actual source of funds that was used by the  
8 Company.

9 Q If I might pose a hypothetical, let's  
10 address 1996 in isolation, and if we might, ignore  
11 1995. In other words, just assume that we're dealing  
12 with deferred revenues for 1996 in isolation without  
13 consideration of whether there's any deferred revenues  
14 for 1995.

15 Now, am I correct that the Company's  
16 approach is that any earnings that the Company has  
17 above 11.75 are a source of funds at the 30-day  
18 commercial paper rate which customers must support?

19 A Any revenues above what number?

20 Q 11.75, given that that's the trigger point  
21 for the sharing.

22 A I think it's 60% of those dollars above  
23 11.75.

24 Q Now, let's assume if we can for purposes of  
25 this hypothetical that the Company's revenues are

1 sufficient in 1996 to allow it to earn exactly 11.75.  
2 All right? Let's take that as a starting point.  
3 Would you agree that if we take that as a starting  
4 point that there are no deferred revenues in the  
5 Company's capital structure for 1996?

6 A I would agree with that argument, or  
7 understanding.

8 Q Now, if the Company has additional revenues  
9 such that they cause the Company's earnings to go  
10 above 11.75, does that trigger the inclusion of  
11 deferred revenues in the Company's capital structure?

12 A Yes, it does.

13 Q Now, if I might ask you to compare those  
14 two scenarios, the Company earns exactly 11.75, and  
15 the Company earns above 11.756. Under the second  
16 scenario, does it take more revenues to achieve a  
17 return of 11.75 than it does under the first scenario?

18 A Under the second scenario, does it --

19 Q Yes, ma'am.

20 A I don't believe so.

21 Q Well, if I might address it, the first  
22 scenario is the Company's earnings are exactly 11.75.  
23 The second scenario is that the Company is earning  
24 above 11.75, which triggers the inclusion of deferred  
25 revenues in the capital structure. Correct?

1           A     Correct.

2           Q     The capital structure is larger under the  
3 second scenario, is it not?

4           A     I don't believe so, no.

5           Q     In total dollars it would have to be,  
6 wouldn't it, because you're using deferred revenues as  
7 a source of funds to support operations?

8           A     The rate base and the capital structure  
9 must balance out, just similar to the balance sheet,  
10 where assets and liabilities balance out. So I don't  
11 believe overall the Company is going to have any more  
12 or less total assets and/or funds to earn on. It's  
13 just that there will be an additional amount that will  
14 be supported by the deferred revenues and will be  
15 recognized as being supported by the deferred  
16 revenues, and that would tend to offset other sources  
17 of capital which would already be reflected in our  
18 capital structure.

19          Q     But under the Company's approach and the  
20 Commission's approach, the Company's capital structure  
21 is larger by \$77 million, is it not, to recognize the  
22 13-month average of deferred revenues?

23          A     No, I would disagree with that. I think to  
24 the extent that that 77 million has already offset  
25 other sources of capital, I would think that it's the

1 same as it would have been.

2 Q Is it your testimony then that if the  
3 Company has deferred revenues in a particular year,  
4 that those deferred revenues do not both increase the  
5 Company's rate base and capital structure?

6 A I think that if the Company recognizes  
7 deferred revenues -- I think I can answer yes to  
8 that. That is my testimony.

9 Q Yes. And it increases --

10 A If I understand the way you put it. If you  
11 accrue -- you're taking a situation where you have  
12 deferred revenues and where you do not have deferred  
13 revenues?

14 Q Yes.

15 A And to the extent that you recognize this  
16 liability on the Company's books with the deferred  
17 revenues, then all you're doing is taking that out of  
18 rate base, and you're going to put the rate base back  
19 to where it was prior to the recognition of the  
20 deferred revenues. And the same thing with the  
21 capital structure: To the extent that you would have  
22 had to have supported those assets with other sources  
23 of capital, all you're doing is replacing the deferred  
24 revenues as the source of capital. So I believe the  
25 net effect to the rate base and the capital structure

1 would be the same both with and without the deferred  
2 revenues.

3 Q Well, now, if -- let's assume that the  
4 Company collects deferred revenues, and let's say they  
5 keep it as cash. It would increase the rate base, if  
6 only in the working capital calculation, would it not,  
7 for assets --

8 A We do not keep the cash.

9 Q Well, I understand, but I'm just saying as  
10 a first step, a simplified step, if it's in cash,  
11 you've got a larger rate base. If you take the cash  
12 and you invest it in plant, you've still got a larger  
13 rate base. The rate base increases because of the  
14 deferred revenues, does it not?

15 A Well, the rate base -- the plant increases  
16 has nothing to do with the level of deferred revenues  
17 that we have on the Company. The plant increases  
18 based upon the level of construction needs that the  
19 Company has to recognize.

20 Q Yes, ma'am. I guess I'm asking in very  
21 simple terms, as a first step, you get additional  
22 revenue and you treat it as deferred revenue. If  
23 you're going to use it as a source of funds to support  
24 the operations, it's going to be -- at least it can  
25 be, in a simplified step, in cash, can it not, in

1 working capital?

2 A No, it cannot, because the Company does not  
3 keep additional sources of cash on our books. As a  
4 matter of fact, this Commission has provided utilities  
5 incentives to avoid large amounts of temporary cash  
6 investments. I do not believe our company has ever  
7 kept large amounts of cash on its books.

8 Q I'm not questioning your cash retention  
9 policy. I'm just saying in simplified first step --

10 A I'm just saying that that simplified first  
11 step I don't believe would occur, given the policy of  
12 Tampa Electric.

13 Q How does the Company -- what asset and  
14 liability accounts are affected by deferred revenues  
15 when you first book them, you know, in a month or for  
16 the year?

17 A Well, to the extent the revenues come in,  
18 you know, we would record them as revenues, and then  
19 we would have a debit to the cash act. And to the  
20 extent that the Company ran through its internally  
21 generated funds and its cash requirements, it would  
22 take that cash and then pay down probably short-term  
23 debt or some other source of capital.

24 Q All right. That's what I'm trying to  
25 address, just that first step, because I'm trying to

1 be simple for my own edification. But that first step  
2 of cash, what you find is, if you did a working  
3 capital calculation right then, you would find working  
4 capital had increased by that cash; correct? And  
5 since working capital is a component of rate base,  
6 rate base would increase by the amount of the deferred  
7 revenue, would it not?

8 A Well, the deferred revenues also will be  
9 recognized as a liability on the books and would only  
10 tend to just reduce the working capital right back  
11 down.

12 Q And where would it be recorded as a  
13 liability? As a short-term liability?

14 A In the liability section of the balance  
15 sheet.

16 Q A short-term liability carrying its own  
17 cost rate; am I correct?

18 A Yes.

19 Q Would it be included in working capital?

20 A It would be removed from working capital.

21 Q So the net effect would be, your rate base  
22 would increase by the cash in working capital; is that  
23 not true?

24 A No, that's not true. The cash would then  
25 be taken and used to pay down short-term debt.

1           Q     All right. So we can't address it, in  
2 your view, in that first step, the effect on cash in  
3 working capital?

4           A     That's true.

5           Q     All right. Would you agree that what the  
6 Company is doing is, the Company's approach is to use  
7 deferred revenue and include it in the capital  
8 structure and assign a cost rate; is that correct?

9           A     I think that that has been the Commission's  
10 precedent for many years in regards to this type of  
11 calculation as well.

12          Q     I see. So getting back to my earlier  
13 scenario one, scenario two -- I hate to make this so  
14 difficult, but if now the Company has deferred revenue  
15 in scenario two which it did not have in scenario one,  
16 it's now going to take more revenue to get up to 11.75  
17 than it was before you had the deferred revenue, is it  
18 not?

19          A     I would say just the opposite. I would say  
20 it would probably take less, because what you're doing  
21 is recognizing the fact that the deferred revenues are  
22 a cheaper -- probably a cheaper source of capital than  
23 what would have been out there before you recognized  
24 it. The deferred revenues have a commercial paper  
25 rate which is probably about 6%. To the extent that

1 the other sources of capital that it displaced had any  
2 costs that were greater than 6%, I would think it  
3 would take additional revenues to get to 11.75 in your  
4 first scenario.

5 Q Okay. I think I understand your answer.  
6 So your point is -- or is your point that the deferred  
7 revenues provide a source of funds to support the  
8 Company's operations?

9 A Yes.

10 Q If the Commission instead of deferring  
11 revenues had said, "Lower rates for '95, lower rates  
12 for '96, and if you need a rate increase in '97, we'll  
13 give it to you," would the Company need -- would the  
14 Company need additional capital in its capital  
15 structure in an amount equal to the revenues from the  
16 rate reduction?

17 A Yes, I believe so.

18 Q So Basically, if the Company has money  
19 available to it and uses it to support operations, no  
20 matter what its level, in your view, that's money it  
21 needs; is that correct?

22 A The Company needs what it needs to fund its  
23 operations, if I understand your question.

24 Q I see. So the Company's capital structure  
25 would not have been any smaller if the Commission

1 instead of deferring revenues had just reduced rates?  
2 Is that your testimony?

3 A I think I agree with that.

4 Q Now, you've made quite a frequent reference  
5 to Commission precedent, and you also referred to the  
6 fact that in 1996 you used a similar -- interest  
7 should be calculated evenly throughout the -- based on  
8 the assumption that deferred revenues were collected  
9 evenly throughout the year. Where is that in the  
10 stipulation for 1996? Can you tell me?

11 A Yes, I believe I can.

12 This is in Docket PSC-96-1300-S-I.  
13 Actually, that's the order number. It's Docket No.  
14 960409-EI. And I'm looking at the attached  
15 stipulation itself under Attachment 1, and I think  
16 it's page 6 of the stipulation itself.

17 I'm sorry. It's actually page 8 of the  
18 stipulation itself. Under general provisions,  
19 Paragraph 6, it says, "The revenues held subject to  
20 refund shall accrue interest calculated at the 30-day  
21 commercial paper rate. For purposes of the  
22 calculation, these revenues shall be treated as if  
23 collected evenly throughout the year."

24 Q I'm sorry. Which stipulation are you  
25 referring to? The second one?

1           A       This should be the one that was approved  
2       October 24, 1996.

3                    Actually, I'm sorry. That was the Polk  
4       stipulation.

5           Q       That was the Polk stipulation, was it not?

6           A       Let me back up. I can give you the same  
7       reference on the second stipulation, I believe.

8           Q       Would you agree that 1996 is controlled by  
9       the first stipulation?

10          A       Yes, I would agree with that.

11          Q       And for that, I assume you would be  
12       referring to Order No. PSC-96-0670?

13          A       Correct, and that's in Docket 950379.

14          Q       Yes, ma'am.

15          A       And again I'm looking at the stipulation  
16       that's attached. There's not a page. It's page 14 of  
17       the entire order number. It's under General  
18       Provisions, Paragraph 9. It says, "The revenues held  
19       subject to refund and the deferred revenues provided  
20       for herein shall accrue interest at the 30-day  
21       commercial paper rate. These revenues shall be  
22       treated as if collected evenly throughout the year."

23          Q       Yes. Now, in this stipulation, it refers  
24       to revenues. It does not refer to interest, does it?

25          A       But it's -- I think it's referring to the

1 fact that the revenues should be treated as if  
2 collected evenly throughout the year when calculating  
3 the interest.

4 Q So are you reading those words into it,  
5 when calculating the interest?

6 A Absolutely. It's all within one  
7 paragraph. I think that's exactly the intent of that  
8 line, that sentence.

9 Q I see. But in the 199 -- in the Polk  
10 stipulation, it actually says for purposes of  
11 calculating interest, it shall be assumed that they're  
12 collected evenly -- the revenues were collected evenly  
13 throughout the year.

14 A To the extent that the wording might have  
15 changed slightly, that is probably because I think  
16 Staff did not have quite as much of a hand in this  
17 stipulation. Probably the exact wording might have  
18 gotten shortened a little by the Company when we  
19 included this part in the stipulation. I think we  
20 understood that the Staff would probably not support  
21 the stipulation to the extent that we did not have  
22 this provision in the stipulation.

23 Q But --

24 COMMISSIONER CLARK: Let me ask a question.  
25 Why else would you treat the revenues as accumulated

1 evenly throughout? For what other purpose would you  
2 do it?

3 WITNESS BACON: Again, I'm not exactly sure  
4 what was mean by for earnings purposes, but that would  
5 be the only other reason why I would -- I would know  
6 of.

7 BY MR. HOWE:

8 Q And you could assume it to be collected  
9 evenly throughout the year for purposes of the  
10 earnings calculation, could you not?

11 A But the fact that it's included in the same  
12 paragraph that refers to the calculation of the  
13 interest, I think it was -- it was our understanding,  
14 the Company's understanding that it was in here for  
15 the purposes of calculating the interest.

16 Q All right. And how much interest did you  
17 defer for 1996? How much interest did you add to  
18 the deferred revenues for 1996 pursuant to this  
19 stipulation?

20 A I can calculate that for you. I don't know  
21 if I have the exact number.

22 Q I'm just curious. What did you put on the  
23 books?

24 A I believe that the amount is 3 million --  
25 oh, yeah, I do have this number. I just remembered

1 that I had calculated it. \$3,837,000.

2 Q That's the 13-month average, is it not?

3 A No. The 13-month average was 3,286,000.

4 Q What are you referring to for that number,  
5 if I might ask?

6 A If you look on that same Informal Data  
7 Request No. 21 -- I think it's Exhibit 4.

8 Q Yes, ma'am.

9 A Page 2 of 2. If you look over on the far  
10 right side under the interest column, and if you take  
11 the total balance that was out there as of December  
12 1996 of 5,366,718 --

13 Q Yes, ma'am.

14 A -- and subtract the balance that was out  
15 there at the end of 1995 of 1,529,186 that's shown  
16 right above that.

17 Q I'm sorry. You lost me on that --

18 A December of 1995's balance of 1,529,186.

19 Q Yes, ma'am.

20 A If you net those two amounts together, I  
21 believe you should get about 3,837,000, and that's how  
22 much the Company recognized during 1996 for the total  
23 deferred revenue pot, just not the amount for '96, but  
24 the amount that was coming from 1995 as well.

25 Q And how much did you recognize for 1996

1 then?

2 A Out of that amount, it would be the  
3 924,337.

4 Q And the amount that the customers would  
5 receive, would it be calculated pursuant to this  
6 assumed equal amortization or 668,000?

7 A Again, that amount only would have been  
8 trued up to by the Company for 1996 alone, to the  
9 extent that the Commission subsequently or ultimately  
10 approved the Company's proposed \$31,500,000 of  
11 deferred revenue. To the extent that the Commission  
12 decided on a different amount from that, that's what  
13 the Company would have ultimately trued up to.

14 Q If I might refer you to the stipulation  
15 itself, which is -- as you mentioned, it's appended to  
16 Order No. 96-0670.

17 A Which one was that again?

18 Q It's the first stipulation, or the  
19 stipulation that affects '96.

20 A Correct.

21 Q Now, if you would look at the second page  
22 of the stipulation at the very top of the page, it  
23 says Tampa Electric will refund \$25 million plus  
24 interest.

25 A What page are you on?

1 Q I'm on the second page of the stipulation  
2 that is appended to Order No. 96-0670.

3 A Okay.

4 Q All right. Did Tampa Electric refund \$25  
5 million plus interest?

6 A Yes, we did.

7 Q And pursuant to the stipulation, the actual  
8 refund came from two sources, did it not?

9 A Yes, it did.

10 Q And what were those two sources?

11 A I want to make sure I don't get them  
12 backwards. I believe out of 19 -- I can check on  
13 this, but subject to check, I think it was \$10 million  
14 out of 1995 and \$15 million out of the 1996 deferred  
15 revenue balance.

16 Q All right. For 1996, did the Company  
17 actually refund \$15 million plus interest?

18 A Yes, it did.

19 Q Was the \$15 million reduced by the Company  
20 for the interest the customers received?

21 A Was the \$15 million reduced by the Company?

22 Q My question basically is, did the customers  
23 of Tampa Electric receive pursuant to this stipulation  
24 \$15 million plus interest on \$15 million calculated at  
25 the 30-day commercial paper rate?

1           A     Absolutely.

2           Q     So the interest that the Company was  
3 obligated to pay for that \$15 million refund was not  
4 used to reduce the amount of refund, was it?

5           A     Could you repeat that? I'm trying to  
6 follow --

7           Q     The simple question, Ms. Bacon, is, the  
8 customers were not responsible for their own interest  
9 on that \$15 million, were they?

10          A     To the extent that the Company had use of  
11 the deferred revenues and/or the \$25 million that had  
12 yet to be refunded to customers, and that deferred  
13 revenue amount represented a source of funds to the  
14 Company, we included that deferred revenue amount in  
15 the capital structure with the associated interest as  
16 a cost of funds for Tampa Electric.

17          Q     I don't believe that was the answer to my  
18 question. My question is, on the \$15 million, did the  
19 customers receive the full \$15 million plus interest  
20 at the 30-day commercial paper rate?

21          A     Yes, they did.

22          Q     And if you'll refer to page 3 of the  
23 stipulation, it provides that that 30-day commercial  
24 paper rate would be as specified in Rule 25-6.109,  
25 does it not?

1           A     Yes, it does.

2           Q     But in the case of \$15 million refund for  
3 1996, the Company paid that total amount to the  
4 customers, and that amount is not in deferred  
5 revenues, is it?

6           A     I can only tell you what I believe the  
7 Company did. I'm still having a hard time following  
8 your question along these lines. But what the Company  
9 did was, to the extent the \$15 million was set aside  
10 and was being refunded to customers ultimately, the  
11 Company continued to accrue the interest on the \$15  
12 million. Those dollars were given back to customers  
13 in the form of cash. And to the extent that those  
14 funds were still on the Company's books, they were  
15 also included in the capital structure with the  
16 associated interest on those dollars.

17          Q     Would the effect of that have been then, on  
18 the one hand, to give the customer \$15 million plus  
19 accrued interest, but on the other hand, to reduce the  
20 amount of deferred revenues for 1996 because of the  
21 interest they were receiving?

22          A     I think to the extent that those dollars  
23 represented a source of funds -- I don't think it  
24 changes the distinction here just because the Company  
25 was holding those dollars in order to refund them to

1 customers than if they were going to be reversed as  
2 earnings to the Company in the future. Either way,  
3 while they were being held by the Company, they  
4 represented the source of funds. So I think the  
5 correct amount of overearnings or deferral for 1996  
6 was including the cost of providing service. And to  
7 the extent that those funds were available before they  
8 were refunded, if they had a cost, they should be  
9 included in the capital structure.

10 Q Why didn't the Company reduce the \$15  
11 million by the interest, given that, because otherwise  
12 the Company was the source of the interest on the 15  
13 million, were they not?

14 A Who was?

15 Q The Company.

16 A Was the source of the interest?

17 Q Yes, ma'am.

18 A I think that the -- again, the interest was  
19 included in the calculation of the deferred revenues  
20 for 1996, and it was a part of our cost of doing  
21 business, just as if any other particular cost was out  
22 there, you know, interest on long-term debt, or  
23 interest on short-term debt, or depreciation expense.  
24 To the extent that that interest was on our books, it  
25 represented a cost that was included in the

1 calculation of the deferred revenues.

2 Q Could you refer back again, please, to  
3 Exhibit No. 4, the last page, page 2 of 2? That's the  
4 response to the Informal Data Request.

5 A Yes.

6 Q Now, if I understand this math correctly,  
7 what you show is that refunds are coming out of both  
8 '95 and '96 beginning in October. Do you see that,  
9 Ms. Bacon?

10 A Yes.

11 Q And if I'm eyeballing this correctly, what  
12 the Company probably did was, they prorated \$10  
13 million over 12 months for 1995 and prorated 15  
14 million over 12 months for '96, in other words, so  
15 that each month's -- the refund in October was made up  
16 of basically two-fifths out of '95 and three-fifths  
17 out of '96; is that correct? In other words, I'm  
18 looking at this refund amount for October. You show  
19 853,240.

20 A Right. I would believe that those amounts,  
21 the way that they are calculated is, if the Company  
22 originally took \$25 million and estimated a dollar per  
23 megawatt-hour that should be credited on the  
24 customers' bills, and then to the extent that whatever  
25 the sales were for that particular month, multiplied

1 that times that credit, then this would represent the  
2 effect of that. Now, how they split it between '95  
3 and 1996 I'm not exactly sure, but I would imagine it  
4 was according to the \$10 million/\$15 million  
5 relationship.

6 Q And for example, for 1995, the refund of  
7 \$853,240, and for 1996, the 1,279,861, the customers  
8 actually received through this proration the full 25  
9 million plus the full interest on the 25 million; is  
10 that correct?

11 A That's correct.

12 Q Now, you've at various times in answering  
13 questions, Ms. Bacon, you've referred to the  
14 Commission precedent and so forth. Could you point me  
15 to anywhere in the stipulation where the parties  
16 agreed to incorporate any past Commission precedent?

17 A I think that the stipulations do not  
18 contain specific language that refers to any past  
19 precedence, but I believe that the intent of the  
20 stipulations in regards to the treatment of the  
21 interest on deferred revenues can be found in two  
22 separate provisions in the stipulation, the first one,  
23 obviously, that the interest on deferred revenues --  
24 or the interest should be accrued on the deferred  
25 revenues equal to the 30-day commercial paper rate.

1 The other provision that I think implies the intent of  
2 the stipulations in regards to this issue is the  
3 portion that refers to all prudent and reasonable  
4 costs should be included in the calculation of the  
5 deferred revenues.

6 And again, it's the Company's position that  
7 to the extent this represents the source of funds that  
8 were used during the provision of electric service,  
9 that that interest should be included in the prudent  
10 costs.

11 I think that the stipulations do not go in  
12 and detail out what all are reasonable costs. I mean,  
13 there are many, many reasonable costs, depreciation,  
14 interest on long-term debt, O&M costs. That's where I  
15 think it comes back to prior Commission precedent and  
16 Commission procedures and their reasoning to determine  
17 what is reasonable and prudent and what is not.

18 Q Then is it the Company's position, as  
19 you're testifying, that the stipulation necessarily  
20 includes prior precedent, that the parties could not  
21 have chosen to exclude that prior precedent from  
22 consideration, and instead chosen to be controlled  
23 from the date of the stipulation forward strictly by  
24 the terms of the stipulation?

25 A I believe that even though prior precedent

1 was not directly specified in here, I believe that in  
2 determining -- I know that the Company's understanding  
3 of what would be used would be current Commission  
4 practice, which was to always recognize, always  
5 recognize that there was a source of funds included in  
6 the capital structure that represented the deferred  
7 revenues. And so that was -- that was our  
8 understanding when we signed the stipulations, that we  
9 would be allowed recovery of those costs.

10 Q With or without explicit wording to that  
11 effect?

12 A Absolutely. I think it's important,  
13 Mr. Howe, that the stipulations -- to point out that  
14 the stipulations do not have any explicit language  
15 that says that the deferred revenues, interest on the  
16 deferred revenues will be absorbed by shareholders  
17 below the line. So I think absent explicit statements  
18 of that nature, I think that it's only reasonable to  
19 assume that prior Commission precedent and practice  
20 would rule in this area.

21 Q Would it be reasonable for the Commission  
22 to view the stipulation and the effect of deferred  
23 revenues that the customer should be in the same  
24 position as if the customers were allowed to hold that  
25 revenue, basically have a rate reduction and invest it

1 themselves at the 30-day commercial paper rate, so at  
2 the end of the year, 1995 or 1996, the customers'  
3 benefit would be either the rate reduction or the  
4 deferred revenues, but increased by interest at the  
5 30-day commercial paper rate?

6 A I think if that were to occur, if we had  
7 actually given the money back to customers during  
8 those years, the obvious thing that would have  
9 happened for Tampa Electric is, we would have had to  
10 have replaced those source of funds, and there would  
11 have been probably even a higher cost on our books  
12 that would have been included in the calculation of  
13 its earnings.

14 Q I would like to go into another matter.  
15 I'm looking at page 11 of your prefiled direct  
16 testimony, and I'm looking at the answer that begins  
17 on line 5. You refer to interest on customer deposits  
18 as being similar to interest on deferred revenues, do  
19 you not?

20 A What page are you on? I'm sorry.

21 Q Page 11 of your prefiled direct testimony,  
22 line 5.

23 A Yes.

24 Q Now, would this analogy hold, for example,  
25 if Tampa Electric stipulated to increase the interest

1 on customer deposits? Would your statement hold true  
2 that interest accrued on customer deposits is similar  
3 to interest on deferred revenues?

4 A Yes.

5 Q Well, wouldn't the customers then receive  
6 that increased interest on their deposit?

7 A I think that to the extent that the  
8 interest on the deferred revenues will ultimately go  
9 back to customers as well, either in form of refunds,  
10 cash refunds, or offsetting future cost of service,  
11 which without the deferred revenues would have been  
12 collected from the customers in the form of cash. So  
13 to the extent that the interest on deferred revenues  
14 ultimately benefits customers in the future, I think  
15 that the similarity holds up.

16 Q My question, though, was --

17 A The interest does go back to customers from  
18 the customer deposit on a different situation, a  
19 different scale, a different set of rules. I mean,  
20 the interest on the deferred revenues will only be  
21 returned to customers in the form of cash to the  
22 extent that the Company has certain return on equity  
23 levels in the future that pass the thresholds where we  
24 will then begin refunding dollars. But to the extent  
25 that -- if we do not reach those thresholds, the

1 interest will be reversed as earnings to the Company,  
2 offsetting the cost of service that otherwise would  
3 have been passed on to customers.

4 Q I appreciate that you want to talk about  
5 the deferred revenues, but right now I just want to  
6 ask a couple of questions about interest on customer  
7 deposits. And my question is, if Tampa Electric  
8 agreed to increase interest on customer deposits,  
9 wouldn't the stockholders have to bear that increased  
10 interest cost?

11 A No, I do not believe so. I think that it's  
12 very important to realize what's the difference  
13 between the stockholders bearing a cost that's  
14 included in its regulated earnings when it doesn't  
15 affect like a particular year that a deferred revenue  
16 amount is being calculated, and stockholders bearing a  
17 cost below the line outside the regulatory calculation  
18 of earnings.

19 I mean, to the extent that if you're not in  
20 a deferred revenue year and you have higher customer  
21 deposits, yes, it's true, the interest on customer  
22 deposits will affect the earnings of the Company. But  
23 the important thing is, that interest would be  
24 included in the calculation of the Company's regulated  
25 earnings calculation. What I believe that you all are

1 suggesting here is that stockholders would bear this  
2 cost below the line, which I think is a different  
3 situation.

4 Q All right. Are you saying then that if the  
5 Company stipulated or if the Commission just increased  
6 interest on customer deposits, it would not -- the  
7 increased deposit payments received by customers would  
8 not be borne by the stockholders below the line?

9 A If it was in a deferred revenue year?

10 Q No, just a general proposition. Increased  
11 interest on customer deposits. I'm not even  
12 addressing deferred revenue. Just as a general  
13 concept.

14 A Well, I think you get two different  
15 answers, and I guess that's why I think it's  
16 important.

17 Q Okay. What are those two answers?

18 A Well, I think the answer is, if you're not  
19 in a deferred revenue year, the increased interest on  
20 customer deposits would be included in the Company's  
21 regulated earnings and would affect the Company's  
22 earnings. But to the extent that if you are in a  
23 deferred revenue year, it would be passed along just  
24 as if it's a source of funds, just like any other  
25 source of funds, and it would affect the deferred

1 revenues dollar for dollar.

2 But I think that it's very important not to  
3 consider that even if we're not in a deferred revenue  
4 year and it affects the shareholders, it's not a  
5 below-the-line item. It's included in the Company's  
6 regulated earnings.

7 Q All right. And if I might stay with my  
8 customer deposit question, if you were in a rate case  
9 and you had an increase in customer deposits, would  
10 the increased cost of the customer deposits be borne  
11 by the customers?

12 A Yes, it would, as part of the regulated  
13 earnings of the Company.

14 Q And it would be included in the capital  
15 structure, would it not?

16 A Yes, it would.

17 Q And that cost would then be passed on to  
18 the customers; am I correct?

19 A Yes, it would.

20 Q Now, to analogize to the situation we have  
21 here with the stipulation where we have a rate freeze,  
22 if Tampa Electric on the one hand agreed to a rate  
23 freeze and on the second agreed to increased customer  
24 deposits, would you agree that the customer deposits,  
25 the higher deposits would be paid to the customers,

1 and it would not in any sense be recovered from those  
2 same customers? It would be precluded by the other  
3 component of the stipulation that there be a rate  
4 freeze?

5 A I believe -- if I understand your question,  
6 I believe if there were higher customer deposits  
7 during this time period of the deferred revenues --

8 Q I'm not speaking of deferred revenues. I'm  
9 speaking -- I'm just talking about a rate freeze and  
10 an agreement to increase customer deposits.

11 A Okay. I don't understand the analogy then,  
12 or the situation, because you're wanting to assume the  
13 rate freeze, but not assume the deferred revenue  
14 calculation, and I see that as a contradiction. I  
15 mean, I think if you -- if you assumed that there was  
16 a base rate freeze -- I mean, I'm making your  
17 assumption -- and there was no deferred revenue plan  
18 or no deferred revenue calculations, I still believe  
19 that what's important is that the customer deposits  
20 interest would be included in the Company's regulated  
21 earnings that we would report in our surveillance  
22 report.

23 Q I see. And in the non-deferred revenue  
24 situation, you just can't -- is it your testimony that  
25 you cannot address that, that it's --

1           A     Well, I think I just did. I mean, I  
2 basically said I didn't agree with the analogy, but  
3 then I went on to answer your question. I think that  
4 in a year where you -- if you want to make the  
5 assumption, even though I disagree with it, that  
6 deferred revenues were nonexistent, yet you had a base  
7 rate freeze, I still don't believe that that would  
8 imply that the interest on deferred revenues should be  
9 placed below the line, because in the other instance,  
10 the interest on customer deposits is included in the  
11 Company's regulated earnings that we report in the  
12 surveillance reports that we report. It's a cost of  
13 providing service. It's recognized as a source of  
14 funds for the Company and included in the calculation  
15 of the Company's earnings for regulatory purposes.

16           Q     Do you believe Tampa Electric could have  
17 found it in its own best interest to freeze base  
18 rates, defer revenue, and pay interest on those  
19 deferred revenues without expecting the customers to  
20 be the source of the interest?

21           A     I would say that that is not what we did.  
22 I mean, I don't believe that that was ever our thought  
23 that that's what would happen, and I don't believe  
24 that that was ever discussed in the stipulation  
25 discussions or negotiations, and therefore, I don't

1 believe it's a possibility.

2 COMMISSIONER CLARK: Ms. Bacon, if I  
3 understood your testimony, it was that if that had  
4 been the intended result, you would have expected to  
5 see that articulated in the stipulation.

6 WITNESS BACON: Absolutely. Another  
7 example of that is the Port Manatee site, where we did  
8 actually agree to place those dollars below the line,  
9 and it was very specifically stated in the stipulation  
10 that the Company would accept that.

11 BY MR. HOWE:

12 Q Ms. Bacon, did you participate in those  
13 negotiations?

14 A I was not directly present in each of the  
15 meetings for the negotiations, but I was involved at  
16 the Company throughout the entire deferred revenue  
17 planning from the inception of the thought about it  
18 all the way to the final stipulation, and am still  
19 involved in the deferred revenue calculations.

20 Q Ms. Bacon, do you feel that the  
21 methodology used by the Company and by the Commission  
22 is completely consistent in all aspects with the 1997,  
23 February 1997 decision in the Florida Public  
24 Utilities-Fernandina Beach case?

25 A There are some distinctions between these

1 two cases, but I believe that the important aspect of  
2 the FPUC case is that the deferred revenues were  
3 included in the capital structure and that the cost  
4 rate was included in the capital structure with those  
5 deferred revenues.

6 Q But there were other aspects. For example,  
7 the Commission made adjustments to the income  
8 statement and to the rate base and to the dollars in  
9 the capital structure, did they not?

10 A Well, in this particular situation for  
11 Tampa Electric, adjustments were made to the rate base  
12 that were very similar to the FPUC case. The income  
13 statement -- the deferred revenues were not absolutely  
14 backed out or was not exactly backed out of the  
15 calculation of the income statement. And if you look  
16 at the original filings of the Company that we filed  
17 with the surveillance report, we did make adjustments  
18 to the income statement.

19 However, subsequent to that, I think that  
20 between Staff's calculations where they did not  
21 actually back out the income statement effect, we were  
22 comfortable that there was no impact to the  
23 calculation for them doing that. So even though  
24 adjustments were not made to the income statement, I  
25 believe that that was not, you know, a downside to the

1 overall agreement of agreeing to the numbers. We  
2 could match their numbers even though the adjustments  
3 were not made. But the adjustments to the capital  
4 structure were different for the FPUC case, in that in  
5 the FPUC case they backed off of other sources of  
6 capital when they set deferred revenues up in the  
7 capital structure.

8           But I think it's very important to note  
9 that the situation for the Fernandina Beach case for  
10 FPUC is different than what it is here for Tampa  
11 Electric. I believe the reason why those adjustments  
12 were necessary was the fact that if you look at the  
13 rate base, FPUC only accrued \$2,500 of deferred  
14 revenue on their books during the year, yet when they  
15 went to go calculate the amount, the Commission  
16 approved \$30,000 of deferred revenues, over 10 to 15  
17 times the amount of the original accrual. And I think  
18 in that magnitude of a case, it was very important for  
19 the Commission to go back and recognize that the  
20 Company did not recognize as much deferred revenues.  
21 In other words, they didn't offset those other sources  
22 of capital to the extent that they should have.

23           In Tampa Electric's case, the amounts of  
24 accruals that the Company booked were very, very  
25 similar to the final approved amounts that the

1 Commission subsequently approved, and therefore, that  
2 type of adjustment I don't believe was necessary.

3 Q Ms. Bacon, you said 10 to 15 times. I  
4 think the math was, was it not, in the Fernandina  
5 Beach case, it was exactly 13 times? It was a  
6 13-month average.

7 A No, I don't believe that that was the --  
8 that's not the difference. The \$30,000 represents the  
9 13-month average, so I was comparing two 13-month  
10 average numbers. In the FPUC case, they booked  
11 \$2,500. The final deferral deferred itself was  
12 60,000. The amount, the dollars of revenues of  
13 deferral was 60,000. The 13-month average of that  
14 60,000 was like -- I think 29,000 and some change, and  
15 that number is the comparable number back to the  
16 2,500.

17 Q Ms. Bacon, the Fernandina Beach case, will  
18 you accept subject to check that it was decided on  
19 February 10, 1997?

20 A Fine.

21 Q Do you remember attending a meeting on  
22 April 10, 1997, with the Commission Staff and myself  
23 present?

24 A I've attended several meetings. I'm not  
25 exactly sure which one that one might have been.

1           Q     Mr. Elias had sent out a notice saying  
2 there would be a meeting, and the purpose of the  
3 meeting is to afford Tampa Electric Company the  
4 opportunity to advise the parties of certain  
5 computational errors in Staff's calculation of TECO's  
6 1995 excess earnings. You had picked up a  
7 computational error, had you not?

8           A     Yes. That is -- I'm recalling that, yes.  
9 I'm not sure if I recall all the specifics of what we  
10 found.

11          Q     If it will help clarify your memory, my  
12 notes show that the meeting was on April 10th of '97,  
13 9:45 a.m., Room 309, Commission Office Building,  
14 attended by Phil Barringer, Delaine Bacon, Bob Elias,  
15 John Slemkewicz, Connie Kummer, Vicki Kaufman, Andrew  
16 Mowrey, Sonya Jones, and myself.

17          A     Yes.

18          Q     And do you remember at that meeting, Staff  
19 distributed the sheets from the recommendation in the  
20 Fernandina Beach case? And wasn't the suggestion made  
21 by Staff that that's how they wanted you to calculate  
22 your '95 deferred revenues, consistent throughout, the  
23 income, rate base, and capital structure portions of  
24 the Fernandina Beach case?

25          A     Well, I think that what they were referring

1 to was setting up the deferred revenues in the capital  
2 structure at the single line item and applying the  
3 cost rate to it.

4 The other thing, like I was pointing out  
5 before, the Company had filed our income statement  
6 removing the deferred revenue. Staff wanted the work  
7 papers to look exactly like the FPUC case, and we were  
8 a little hesitant of that, because again, at that  
9 point in time, we really weren't sure that we would  
10 get to the same result by not backing out the  
11 revenues, because the sharing mechanism is rather  
12 complicated. But eventually we got comfortable that  
13 Staff's calculations were okay in that regard. But I  
14 do not believe that that implied that all of the  
15 calculations, certainly ones that do not apply to  
16 Tampa Electric's case, should be booked for the FPUC  
17 where the capital structure amounts were adjusted.

18 Q Just one last question, Ms. Bacon. Can you  
19 please tell us, what is the total amount of deferred  
20 revenues plus accrued interest under the stipulation  
21 for the years 1995 and 1996?

22 A As it has been approved?

23 Q Yes, ma'am.

24 A I do not have that number with me. I don't  
25 believe I have that number with me. I can certainly

1 get it for you if you would like.

2 MR. HOWE: No further questions.

3 CHAIRMAN JOHNSON: We're going to take a  
4 ten-minute break.

5 (Short recess.)

6 CHAIRMAN JOHNSON: We're going to go back  
7 on the record.

8 Ms. Kaufman?

9 MS. KAUFMAN: Thank you, Chairman Johnson.

10 CROSS EXAMINATION

11 BY MS. KAUFMAN:

12 Q Ms. Bacon, will you turn to Order No.  
13 PSC-96-0670? That's the one that has the stipulation  
14 attached that we've been discussing.

15 A Yes.

16 Q Have you got that?

17 A Uh-huh.

18 Q Would you agree with me, Ms. Bacon, that in  
19 1995, the Commission found that TECO was forecasting  
20 an ROE of about 14.28?

21 A Yes, that's the original projected ROE for  
22 1995.

23 Q And this exceeded the top of TECO's range;  
24 right?

25 A Yes, it did.

1           Q     And then in 1996, for 1996, TECO was  
2 forecasting about 13.81; is that correct?

3           A     I think that's the number, yes.

4           Q     And that also exceeded the top of the  
5 range, didn't it?

6           A     Yes, it did.

7           Q     Now, it's correct, isn't it, that due to  
8 this high level of forecasted earnings, the parties  
9 got together, and they met and they discussed entering  
10 into the stipulations that we're talking about in this  
11 proceeding?

12          A     Yes, that's correct.

13          Q     And the main reason that the parties met  
14 and discussed and entered into the stipulations was to  
15 address Tampa Electric's forecasted overearnings;  
16 right?

17          A     Yes, that's correct, if I understood your  
18 question. Could you repeat it?

19          Q     I'm just trying to get to the question of  
20 why it is the parties met and discussed and then  
21 entered into these stipulations, and my question was,  
22 the whole reason for that was to address Tampa  
23 Electric's overearnings. I mean, there would be no  
24 other reason for these parties to enter into these  
25 stipulations, would there?

1           A     I think that the Company's intention from,  
2 you know, pretty much the beginning of time was to  
3 also find ways to mitigate the rate impacts in the  
4 future resulting from the potential increase related  
5 to the Polk Unit coming on line. But I agree,  
6 certainly the overearnings provided the opportunity  
7 for that to happen.

8           Q     Would you agree with me that the term  
9 "overearnings" essentially represents money that the  
10 utility has collected in excess of what the Commission  
11 has determined is a fair rate of return?

12          A     Yes, I could agree with that.

13          Q     And would you also agree with me that in  
14 the absence of the stipulations that we've discussed  
15 today, after an appropriate proceeding, the Commission  
16 could have ordered those overearnings refunded to the  
17 customers immediately?

18          A     Yes, they could have.

19          Q     And if the Commission had done that, if the  
20 parties had not entered into these stipulations, it  
21 would be correct, wouldn't it, that the customers  
22 would have received and essentially had in their  
23 pockets the overearnings amounts that we've been  
24 discussing today?

25          A     Yes, that's true. They would have received

1 dollars for 1995 and '96. But they also would not  
2 have had the \$50 million refund that we gave back to  
3 customers, as well as they would have paid an  
4 additional \$12 million a year related to the oil  
5 back-out clause that the Company agreed to collapse  
6 starting in 1996. So I think there would have been  
7 some dollars going both ways.

8 Q I think in your testimony when you were  
9 discussing Tampa Electric's position in regard to the  
10 accrual of interest, you at one point are referring to  
11 Paragraph 6, I believe, which is the paragraph that  
12 addresses the accrued interest. Actually, in the  
13 order we're looking at, it's Paragraph No. 9 on page  
14 14?

15 A Yes.

16 Q And that's the language that you're relying  
17 on, isn't it, for Tampa Electric's position in the way  
18 that Tampa Electric has calculated the accrual of  
19 interest?

20 A That is not the only paragraph. I mean,  
21 I'm not exactly sure which issue you're exactly  
22 referring to. If you're talking about the overall  
23 issue of including the interest in the capital  
24 structure by the Commission, I think there are other  
25 paragraphs within the stipulation concerning the

1 recovery of prudent costs that also apply. But to the  
2 extent of the -- assuming the spreading of the 12  
3 months of the deferred revenue in calculating the  
4 interest, this would be the controlling provision.

5 Q Well, I'm also talking about the main issue  
6 in this case, which is whether or not Tampa Electric  
7 shareholders will be responsible for that interest or  
8 whether the customers will be responsible for it. And  
9 it's your position, isn't it, that Paragraph 9 is the  
10 controlling paragraph in that regard?

11 A Not just 9 alone. I think also Paragraph  
12 11. If you don't mind, I'll read it.

13 Q I think I know where you are. That is the  
14 reasonable and prudent paragraph?

15 A Yes, it is.

16 Q Let's take a look at Paragraph 9 for a  
17 minute, if we can.

18 Would you agree with me that nowhere in the  
19 language of that paragraph does it explicitly state  
20 that ratepayers will be responsible for the payment of  
21 interest on the deferred revenues?

22 A That's true. It does not state explicitly  
23 that the shareholders in no way would bear that cost  
24 below the line.

25 Q Now, I think in your testimony, one of the

1 things that Tampa Electric relies upon in support of  
2 its position is what the Commission did on this issue  
3 in 1995, is that right, in addressing the 1995  
4 deferral?

5 A I think that this provision has been very  
6 similar throughout all three of the either agreements  
7 and/or stipulations. And I think that we were also  
8 pointing out that it's consistent with the Commission  
9 treatment that was afforded in 1995 as well.

10 Q Okay. If you'll turn to the bottom of page  
11 2 of your testimony. I think it goes over to the top  
12 of page 3.

13 A Of the original direct testimony?

14 Q Yes, ma'am.

15 A Yes.

16 Q And in that passage beginning I guess on  
17 line 23, you're discussing what the Commission did in  
18 regard to Tampa Electric's 1995 earnings; correct?

19 A Correct. Yes.

20 Q It's true, isn't it, Ms. Bacon, that  
21 neither FIPUG nor the Office of Public Counsel  
22 pursuant to these stipulations was able to participate  
23 in the Commission's disposition of the 1995 earnings?

24 A That's true. And what that refers to,  
25 Commissioners, is the -- in the actual disposition of

1 the calculation of the 1995 deferred revenues, there  
2 was a subsequent provision in I think the '96 deferred  
3 revenue that said that the FIPUG and OPC parties would  
4 not be allowed to participate in the actual outcome of  
5 the 1995 deferred revenue amounts.

6 Q So that pursuant to the stipulation, when  
7 the 1995 amount was discussed and the Commission's  
8 order was entered, there was no input from FIPUG or  
9 the Office of Public Counsel, because pursuant to the  
10 stipulation, they had agreed that they would not  
11 dispute the 1995 amount; correct?

12 A That is true. You all did not participate  
13 in that particular agenda and approval.

14 Q Ms. Bacon, do you agree that the  
15 stipulation that's attached to the May 20th order  
16 represents a very fine balance of benefits and burdens  
17 for all concerned?

18 A The stipulation that is the one that we  
19 were just referring to, the '96 stipulation?

20 Q Yes, ma'am.

21 A Yes.

22 Q And do you also agree, Ms. Bacon, that it  
23 was intended to comprise a comprehensive rate  
24 settlement among the three parties to the stipulation?

25 A A rate settlement? I'm not exactly sure of

1 that exact wording that you're referring to there. I  
2 think it involved many aspects of the Company's  
3 earnings and rates for 1996, '97, and '98.

4 Q Okay. Would you look at page 8, which is  
5 actually the first page of the stipulation, the very  
6 first paragraph?

7 A Yes.

8 Q Do you now agree that this agreement was  
9 intended to represent a comprehensive rate settlement  
10 among the parties?

11 A That is the word. It also goes on to say  
12 covering Tampa Electric's base rates and rate of  
13 return. So I think it involves not just a base rate  
14 freeze. It also included, you know, calculations of  
15 earnings and allowed return on equity and other things  
16 that are outside I think of just the rate base --

17 Q You're --

18 A -- freeze.

19 Q I'm sorry. You're not disputing that this  
20 was intended to be a comprehensive rate settlement,  
21 are you?

22 A No. I guess that's the actual wording  
23 that's used in the stipulation, so I would agree.

24 Q Do you -- I guess you do have a copy in  
25 your booklet of the Quincy order that you've relied on

1 in your testimony. If you could turn to that.

2 A Yes. Hold on just a second.

3 Thank you. Yes, that's the same one.

4 Okay. I have two copies now.

5 Q Yes, I do too. I didn't know we were going  
6 to be provided with this nice booklet.

7 Would you agree with me that this Quincy  
8 order does not involve any sort of settlement among  
9 parties that are affected by the disposition in that  
10 case?

11 A Yes, I would agree that this is not the  
12 result of a stipulation.

13 Q Do you also have the Southern Bell order  
14 that you cite and rely upon in your testimony?

15 A Yes, I do.

16 Q Can you point to any portion of that order  
17 that addresses the issues that we are here to discuss  
18 today? And for the record, that's Order No.  
19 PSC-94-0172-FOF-TL, which is the BellSouth rate  
20 settlement.

21 A Could you repeat your question?

22 Q Yes. I was just asking if you can point to  
23 any part of that order where it requires deferred  
24 revenues to be included in the capital structure or  
25 where it discusses the interest accrual that we've

1 been discussing this morning.

2 A One moment, please.

3 MS. KAUFMAN: Excuse me, Commissioners.  
4 I'm not sure who Ms. Bacon is consulting with, but I  
5 think I would object to that.

6 WITNESS BACON: Well, I just wanted to make  
7 sure if he could help me find something, but if that's  
8 -- I'll tell you what. I can answer it without  
9 talking to him.

10 BY MS. KAUFMAN:

11 Q Okay.

12 A I don't believe that in this particular  
13 order they have any reference to the capital structure  
14 treatment. However, what I was looking for was copies  
15 of the calculations of the Staff work papers that  
16 showed that the deferred revenues or the revenues that  
17 were subject to refund in the Southern Bell case were  
18 actually set into the capital structure as a single  
19 line item.

20 Q Well, take your time, Ms. Bacon, and look  
21 through this order, but I do not believe that there  
22 are any work papers or spreadsheets attached to it.

23 A I would agree with that. But I do believe  
24 that that was the treatment that was used in this  
25 case.

1           Q     Just to be clear, in the order that you  
2 have in front of you that you've referred to in your  
3 testimony, there is no discussion of capital structure  
4 or of the accrual on interest that we're discussing  
5 this morning? That's my question.

6           A     I think I would agree with that. But I do  
7 believe still, though, that the calculation that was  
8 used by the Staff in the Southern Bell case -- in  
9 fact, the Commission quoted this themselves as a  
10 precedent for inclusion of the deferred revenues in  
11 the capital structure, so I would imagine that at  
12 least Staff would have known that that's what they  
13 have done in this particular case.

14          Q     But it's not reflected in the order; right?

15          A     That's correct.

16          Q     Do you have a copy of the Prehearing Order  
17 in this case, Ms. Bacon?

18          A     Yes, I do.

19          Q     If you could turn to page 5, please. And  
20 this is Tampa Electric's basic position. And at the  
21 very bottom there, the -- I guess it's the third full  
22 paragraph, the first sentence, you say, or Tampa  
23 Electric says, "The purpose of accruing this interest  
24 is to recognize the time value of money associated  
25 with the deferred revenue as they're being used by the

1 Company during the stipulation period." Do you see  
2 that?

3 A Yes, I do.

4 Q Would you disagree, Ms. Bacon, however,  
5 that since the deferred revenues that we are  
6 discussing here are the ratepayers' revenues, that  
7 they are entitled to be compensated for the time value  
8 of their money?

9 A I believe that the interest accrual was to  
10 recognize that the deferred revenues were a source of  
11 funds, and we pay and accrue interest on other sources  
12 of funds similar to the deferred revenues. And I  
13 believe that that is what the interest provision in  
14 the stipulations was to account for. That was, I  
15 believe, Tampa Electric's understanding of reasons why  
16 the interest provision was included.

17 Q So I guess the answer to my question is  
18 that you would disagree that ratepayers are entitled  
19 to be compensated for the time value of their money?

20 A I think to the extent that a lot of our  
21 revenues are provided by our customers, and to the  
22 extent that this represented a source of revenues from  
23 customers, I think it was appropriate to accrue the  
24 interest on that. If that is to recognize the time  
25 value of money for those customer-provided revenues,

1 then I think that that's what the Company has done.

2 Q Are you recognizing the value of that money  
3 to the ratepayers, or are you recognizing the value of  
4 that money to Tampa Electric?

5 A I think we're recognizing -- well, to the  
6 extent that deferred revenues ultimately end up being  
7 reversed as earnings to the Company to offset the cost  
8 of service, I think it might be a matter of both. I  
9 mean, you know, to the extent that those revenues were  
10 provided by customers, I think it certainly includes  
11 recognizing that those are customer-supplied dollars.  
12 They are a source of funds to the Company, and  
13 therefore, an interest provision on those deferred  
14 revenues is appropriate.

15 Q If you turn to the next page of the  
16 Prehearing Order, page 6, we're still on Tampa  
17 Electric's basic position. And I'm going to look at  
18 the second full paragraph, which is right above where  
19 FIPUG's position begins. Do you see where I am?

20 A Yes.

21 Q And if I understand what Tampa Electric is  
22 saying in that paragraph, it is that since in Tampa  
23 Electric's view, they have to accrue interest, to  
24 Tampa Electric it's clear that that amount ought to be  
25 included in regulatory earnings, and to do otherwise

1 would amount to a disallowance of an expense that the  
2 Commission has approved. Is that a fair statement?

3 A Yes.

4 Q Would you agree with me, however, after  
5 looking at the stipulations and hearing the testimony,  
6 that the payment of this interest was an obligation  
7 that Tampa Electric's shareholders took on, and that  
8 amount of interest ought to be included below the  
9 line, and there would not be any disallowance of an  
10 approved regulatory expense?

11 A No. I still think -- I mean, it's  
12 certainly within the right of the Commission to take  
13 that decision if they feel appropriate, but I still  
14 believe that that would be a disallowance of the cost.

15 Q You think that if the Commission finds that  
16 this is a shareholder obligation that they undertook  
17 when they entered into this stipulation with FIPUG and  
18 Public Counsel that it would be a disallowance of an  
19 appropriate regulatory expense?

20 A If I understand your question, I think that  
21 you're asking me whether or not if the Commission  
22 disallows this cost, does that still not make it a  
23 disallowance of a regulatory -- I forget your exact  
24 words. A prudent regulatory expense. And I think  
25 that, yes, I mean, if I understand the question.

1           Q     Maybe I wasn't clear.  If this is an  
2 obligation the shareholders agreed to and it is to be  
3 reflected below the line, then it is not something  
4 that ought to be included when we are looking at  
5 regulatory earnings and expenses; correct?

6           A     But I don't think anywhere does it ever say  
7 that's what was agreed by the parties.

8           Q     I understand.  That's an issue.  We have a  
9 fundamental disagreement over that.  I think that's  
10 clear.

11          A     That's true.  It would be our position that  
12 if the Commission so decided to put those dollars  
13 below the line, it would be through a disallowance of  
14 a prudent regulatory expense.

15          Q     Even though it would be the Commission's  
16 determination that that had been an obligation the  
17 shareholders agreed to take on?

18          A     I think that's the Company's position.  The  
19 Commission can certainly decide what they feel is  
20 appropriate, but I believe that that would still be  
21 the Company's position.

22          Q     I think I understand the Company's  
23 position.

24                     Would you agree with me, Ms. Bacon, that  
25 Tampa Electric's proposed treatment of the interest

1 essentially had the effect of decreasing any potential  
2 refund that customers would see when the stipulations  
3 come to an end?

4 A No, I do not. I believe that the inclusion  
5 of the interest in the capital structure only  
6 recognizes the actual cost of providing utility  
7 service to its customer in those years, and that the  
8 deferred revenues were the source of funds that were  
9 used by the Company. So I don't believe that -- I  
10 think it ends up calculating the appropriate level of  
11 deferred revenues. To exclude it would artificially  
12 inflate the deferred revenues at the expense of a  
13 disallowance of a cost below the line.

14 Q Okay. I think if you listen carefully to  
15 my question, we can move this along.

16 A Okay.

17 Q Would you agree that Tampa Electric's  
18 methodology of calculating the accrued interest has  
19 the effect of decreasing the amount of any potential  
20 refund that would be available at the termination of  
21 the stipulations?

22 A I still have to disagree with that. I  
23 think that whether or not including the interest on  
24 the deferred revenues in the capital structure as the  
25 source of funds or including some other type of

1 replacement source of funds that represent that Tampa  
2 Electric had to have a source of funds to run its  
3 operations in that year results in a similar outcome  
4 by including the interest in the capital structure  
5 than by not including it.

6 In other words, I don't think that any --  
7 if you go back, you know, several, you know, a couple  
8 of decades, I don't believe I ever recall any time  
9 where the Commission calculated overearnings for a  
10 company and did not recognize that those overearnings  
11 had a cost associated with them. In the past, what  
12 the Commission would do is, they would remove the  
13 liability from rate base, which would cause the rate  
14 base to go up. And then in the capital structure they  
15 would do what we call a pro rata, where you would  
16 spread that amount of deferred revenues across the  
17 capital structure. And by doing that, you included a  
18 cost equal to the overall cost of capital, but you  
19 still recognized by doing that that those source of  
20 funds had to be available to run the operations of the  
21 Company.

22 An easier way maybe to look at it is to  
23 look at it as a balance sheet, and you have assets  
24 and liabilities. And if you pull out the liabilities  
25 associated with the deferred revenues, something has

1 to replace it. The Company could not have run its  
2 operations without that. And so I think the net  
3 effect of including the interest on the deferred  
4 revenue puts you back to where you would have been  
5 under the other method the Commission has used in the  
6 past.

7 Q Do you still have the Prehearing Order in  
8 front of you?

9 A Yes.

10 Q Okay. If you could turn to page 10,  
11 please, and if you would look at Issue No. 2 there.

12 A Yes.

13 Q And if you could read the first sentence of  
14 Tampa Electric's position, please?

15 A "The effect is to increase deferred  
16 revenues by \$2.502 million."

17 I think that recognizes that if you assume  
18 you all's calculation where you zero out the interest  
19 rate, obviously the deferred revenues would increase.  
20 They would increase if you went in and reduced O&M  
21 expense by \$10 million, but it's still removing a  
22 prudent cost and putting it below the line, and it's  
23 only by doing that that deferred revenues will  
24 increase. I mean, you know, we could get large  
25 amounts of deferred revenues to the extent that, you

1 know, additional adjustments were made across all of  
2 the Company's costs. So, I mean, this to me was just  
3 a mechanical, that this would be the effect.

4 Q Right. And I just want it to be clear that  
5 understanding what Tampa Electric's position is, and  
6 understanding what FIPUG's position is, that the  
7 effect -- what we're talking about here is increasing  
8 the amount of deferred revenues by about \$2-1/2  
9 million. Do you agree? I mean, that is your  
10 position; correct?

11 A It is my position. I think that it's  
12 important to point out, though, that this is just the  
13 mechanics of disallowing an expense.

14 And so to your earlier point about -- I  
15 think you were trying a while ago to ask me a question  
16 regarding what would be the effect of including the  
17 interest, and I was saying that I think that it ends  
18 up resulting in an amount that's similar to the prior  
19 Commission practice of always including a source of  
20 funds in the capital structure.

21 In this particular instance, this sentence  
22 appears to disagree with my earlier position, and I  
23 think this is a different situation, in that all  
24 you're doing is going in and zeroing out the cost rate  
25 in the capital structure, and obviously, then the

1 deferred revenue amount would increase.

2 Q And, you know, we may be making this more  
3 complicated and difficult than it is. The only thing  
4 I want to be clear about is that if the approach that  
5 is suggested by FIPUG and Public Counsel is followed  
6 by the Commission when they look at the stipulations  
7 and hear the evidence here, that the effect is going  
8 to be similar to what TECO has calculated in its  
9 position on Issue No. 2.

10 A That is the impact.

11 MS. KAUFMAN: Thank you. That's all I  
12 have.

13 CHAIRMAN JOHNSON: Staff?

14 CROSS EXAMINATION

15 BY MR. KEATING:

16 Q Ms. Bacon, I just have a few questions.

17 First, if a zero cost rate is assigned to  
18 deferred revenues in the capital structure, would you  
19 agree that interest reconciliation and income taxes  
20 would change?

21 MR. HOWE: Objection.

22 CHAIRMAN JOHNSON: Okay. Could you turn  
23 your mike on?

24 MR. HOWE: I think it is on. I'm just  
25 objecting on the basis that -- excuse me. I don't

1 believe this is within the scope of her direct  
2 testimony.

3 CHAIRMAN JOHNSON: Staff?

4 MR. KEATING: I'll withdraw the question,  
5 and we'll address this in Ms. Bacon's rebuttal  
6 testimony.

7 CHAIRMAN JOHNSON: I'm sorry. You're going  
8 to address it in rebuttal?

9 MR. KEATING: Yes.

10 CHAIRMAN JOHNSON: Okay. Is that it?

11 MR. KEATING: I believe -- let me just ask  
12 a couple of questions.

13 CHAIRMAN JOHNSON: Sure.

14 BY MR. KEATING:

15 Q Turning to what was identified as Exhibit  
16 4, I believe that exhibit shows that the 13-month  
17 average of deferred revenues in the capital structure,  
18 the 13-month average balance of deferred revenues in  
19 the capital structure was \$77,670,075.

20 A Hold on just a second. I'm still looking  
21 for it.

22 Q I will.

23 A I seem to have misplaced it.

24 Oh, here it is. I found it.

25 Q Okay. I'll repeat the question. That

1 exhibit shows that the 13-month average balance of  
2 deferred revenues in the capital structure for '95 and  
3 '96 is \$77,670,075; is that correct?

4 A Yes, it is.

5 Q And what portion of the balance consists of  
6 interest included for 1995?

7 A For 1995, on a 13-month average basis, it  
8 would be 2,977,754. It's shown on the left side at  
9 the bottom under 13-month average.

10 Q Okay. And then the portion of the balance  
11 that consists of interest included for 1996 would be  
12 \$309,018; is that correct?

13 A Yes, that's correct.

14 Q Is it correct that Tampa Electric recovered  
15 the 1995 interest in the capital structure by use of  
16 the commercial paper rate?

17 A Yes, that's correct.

18 Q So if a zero cost rate is assigned to 1996  
19 deferred revenues in the capital structure, is it  
20 correct that Tampa Electric would not be able to  
21 recover the 1996 interest?

22 A That's correct.

23 Q So if a zero cost rate is assigned, do you  
24 believe that the 1996 accrued interest should be  
25 included as part of the deferred revenue balance?

1 MR. HOWE: Objection. Chairman Johnson,  
2 this is not an issue that has been addressed by the  
3 Company.

4 Basically what has happened is, the Company  
5 has said put it in -- put all deferred revenues plus  
6 accumulated interest in the capital structure at the  
7 30-day commercial paper rate. We've said put it in  
8 the capital structure at a zero cost. We have not  
9 disputed the dollar amount of deferred revenues plus  
10 interest in the capital structure.

11 We believe the way the APA is written now,  
12 I believe it's 120.80(13)(b), which says a matter not  
13 in dispute will be deemed stipulated.

14 We only protested the cost rate in the  
15 capital structure, not the balance in the capital  
16 structure. We think it's perfectly proper under the  
17 Commission's interpretation of that statute that, for  
18 example, we can contest the cost rate on equity  
19 without contesting the dollar amount of equity. So we  
20 don't think this is an issue that has been raised. It  
21 hasn't been placed in dispute, and it's not  
22 appropriate to be addressed here.

23 Secondly, if anything, it's rebuttal. If  
24 Ms. Bacon had wanted to come back in her rebuttal  
25 testimony and say Tampa Electric disagrees with Public

1 Counsel's position, but if they are to use a zero cost  
2 in the capital structure, then you should change the  
3 balance in the capital structure. That has not been  
4 addressed in her rebuttal testimony, so this appears  
5 to be an attempt by Staff to get around the statute  
6 and/or to introduce rebuttal that the Company has  
7 chosen not to address.

8 CHAIRMAN JOHNSON: Staff, response?

9 MR. KEATING: Well, I would first point out  
10 that this was a matter that was brought up at the  
11 prehearing. Staff had raised a separate issue  
12 regarding the accrued interest and the cost rate that  
13 would apply. Commissioner Garcia as the Prehearing  
14 Officer determined that that separate issue -- well,  
15 let me step back. The issue would not be included in  
16 the Prehearing Order as a separate issue, but stated  
17 that Staff could address the issue within another  
18 issue in this proceeding.

19 Second, I believe from the cross  
20 examination of Ms. Bacon that the door is open for  
21 this type of question to address this issue.

22 CHAIRMAN JOHNSON: In the cross  
23 examination? Oh, you're saying during your cross  
24 examination, you believe that this particular cross  
25 examination --

1 MR. KEATING: No, ma'am.

2 CHAIRMAN JOHNSON: I didn't hear your last  
3 part.

4 MR. KEATING: Based on the cross  
5 examination questions asked by Public Counsel or  
6 FIPUG.

7 MR. HOWE: I don't believe I asked any  
8 questions dealing with the dollar amount of deferred  
9 revenues to be included in the capital structure. The  
10 total dollar amount, all I did is establish that the  
11 \$77 million shown on this last page of Exhibit 4 is in  
12 fact the same \$77 million that was included in the  
13 Commission's proposed agency action order.

14 MR. KEATING: If I could have just a  
15 minute.

16 (Pause in the proceedings.)

17 MR. KEATING: Staff will withdraw the  
18 question. We have no further questions at this  
19 point.

20 CHAIRMAN JOHNSON: Okay. Are these  
21 questions that we need to have answered?

22 MR. KEATING: Yes. It's Staff's opinion  
23 that this is something that needs to be addressed, and  
24 it was our understanding from the Prehearing  
25 Officer's order that this was an issue that we would

1 be able to address.

2 CHAIRMAN JOHNSON: Could you state what the  
3 question was again?

4 MR. KEATING: The question was, if a zero  
5 cost rate is assigned, did Ms. Bacon believe that the  
6 1996 accrued interest should be included as part of  
7 the deferred revenue balance.

8 CHAIRMAN JOHNSON: And Public Counsel  
9 objected --

10 MR. HOWE: The objection is --

11 CHAIRMAN JOHNSON: -- to the question as to  
12 outside of the scope, or is it --

13 MR. HOWE: It's two things. It's outside  
14 the scope of her direct, because her direct did not  
15 address the dollar balance in the capital structure.

16 Secondly, I believe what Staff is trying to  
17 do is address what they think is an inconsistency in  
18 FIPUG and Public Counsel's approach. In other words,  
19 we have challenged only the cost rate in the capital  
20 structure. Staff would like to introduce that Public  
21 Counsel has not gone far enough, that if you are to  
22 modify the cost rate, then you also should address the  
23 balance.

24 Under the APA provision, it's not a matter  
25 that has been put in dispute. It's not addressed in

1 the Company's direct testimony, it's not addressed in  
2 FIPUG or Public Counsel's witnesses' testimony, and  
3 it's not addressed in the Company's rebuttal. So I  
4 think it's outside the scope of this proceeding. I  
5 think the Company, if they wanted to introduce it in  
6 rebuttal, then they could have done so, but they have  
7 chosen not to address it.

8 And I think the Commission needs to make a  
9 decision also, what does the APA provision mean when a  
10 matter is not placed in dispute? Can Staff introduce  
11 it at the hearing when the parties have chosen not to  
12 address it?

13 COMMISSIONER CLARK: Mr. Howe, let me ask  
14 you a question. What about the fact that Staff is  
15 obligated to flesh out the record for us and sort of  
16 act as our investigatory body? Would it help if we  
17 asked the question as opposed to Staff?

18 MR. HOWE: Well, no. Actually, I would  
19 object if you asked the question. And the reason is,  
20 if Staff is to be your investigative body, then  
21 essentially the Commission needs to say that they  
22 don't view that provision in the APA as having much  
23 force and effect, because whether the parties place  
24 the matter in dispute, and whether the statute says  
25 having not been placed in dispute, it's deemed

1 stipulated, Staff can put it in contention, and the  
2 parties will have to address it.

3 COMMISSIONER CLARK: Well, I had understood  
4 Staff tried to put it in contention by asking that it  
5 be an issue. And I presume they were told by  
6 Commissioner Garcia that it was subsumed in another  
7 issue and that they could explore it.

8 MR. HOWE: Well, I think what he said was,  
9 his understanding is that Staff is going to explore  
10 it. I don't dispute that. For our position, you'll  
11 see the last three sentences of our position on this  
12 issue, which is --

13 COMMISSIONER DEASON: Mr. Howe, let me ask  
14 you a question.

15 MR. HOWE: -- Issue 1.

16 COMMISSIONER DEASON: Mr. Howe?

17 MR. HOWE: Yes, sir.

18 COMMISSIONER DEASON: I'm going to probably  
19 oversimplify this, but what I hear you saying is, if  
20 this Commission issued an order that said A plus B  
21 equals C, and the facts of this case is that 2 plus 2  
22 equals 4, and somebody took issue with B and said B  
23 should not be 2, it should be zero, that we're  
24 obligated then to issue an order that says 2 plus zero  
25 equals 4.

1 MR. HOWE: I would characterize that as an  
2 oversimplification, yes. No, I think --

3 CHAIRMAN JOHNSON: And that was simple?

4 MR. HOWE: No. The difference is, if you  
5 issue an order that's saying the amount of equity in  
6 the capital structure is \$10 million at a 12% cost  
7 rate, and I protest and say I think the appropriate  
8 cost rate is 9%, and nobody puts the dollar of equity  
9 at issue, then I think under the statute it's deemed  
10 stipulated.

11 The Staff wants to say, no, having  
12 addressed the cost rate, somebody needs to place the  
13 dollar balance in the capital structure at issue. And  
14 that just hasn't been done, either in our protest or  
15 in the testimony of any of these three witnesses.

16 COMMISSIONER CLARK: Commissioner Deason,  
17 I agree with --

18 COMMISSIONER DEASON: Well, I understand  
19 the -- I guess -- well, I don't understand the  
20 legalities, but it seems to me the issues just go hand  
21 in hand, and it's difficult to address one without the  
22 other.

23 MR. HOWE: Well, I guess in essence --

24 MR. HART: Madam Chairman, the --

25 MR. HOWE: -- I'm asking for some guidance

1 on that very aspect of it, because we felt somewhat  
2 constrained by the Commission's order and the statute,  
3 and it seemed to limit our ability to introduce things  
4 that weren't covered in the order because of the way  
5 the statute is now written.

6 And it's our understanding, although I  
7 can't cite to any explicit decisions where the  
8 Commission has generally followed the approach that if  
9 it isn't protested and placed in dispute, that it's  
10 going to be deemed stipulated as it exists in the  
11 proposed agency action.

12 CHAIRMAN JOHNSON: Mr. Hart?

13 MR. HART: What happens when you have a  
14 method like this proposed by the Company and adopted  
15 in the PAA, if you introduce and object to the  
16 methodology and raise an issue like this, the zero  
17 cost of capital, there are mathematical calculations  
18 that result from doing it if you switch theories.

19 Mr. Howe seems to be arguing that you can  
20 intentionally calculate the wrong number or that you  
21 can calculate the impact on customers to be different  
22 than it actually is if somehow on some procedural  
23 ground you raise one issue and don't raise other  
24 issues that no one else would know was in the -- until  
25 you see the other person's proposal.

1           But more importantly, I think Commissioner  
2 Garcia's ruling -- this issue is discussed in the  
3 positions with regard to Issue 1 by everyone, or at  
4 least by OPC and the Company, and it's addressed in  
5 the last sentence of the Company's position, and it's  
6 addressed at length in Mr. Howe's position in the  
7 Prehearing Order.

8           So this issue was raised with the Hearing  
9 Officer. He ruled that this issue could be addressed  
10 in this case and that it would be subsumed as part of  
11 Issue No. 1. The parties have set forth their  
12 position on this issue. We believe it's a  
13 mathematical calculation that results from changing  
14 the theory of how you proceed with deferred revenues  
15 that results from the issue raised by the Office of  
16 Public Counsel, and this issue is addressed in the  
17 Prehearing Order.

18           CHAIRMAN JOHNSON: Thank you.

19           I understand that -- Staff, did you want  
20 to withdraw it or not? I'm assuming that you do not.  
21 And if you do, then one of the Commissioners will ask  
22 the question. Why don't you restate the -- I'm sorry,  
23 Mr. Elias.

24           MR. ELIAS: Two points. The first is that  
25 if we withdraw this question, it would be our intent

1 to pursue it either on rebuttal or through one of the  
2 other witnesses, depending on the way the cross  
3 examination goes.

4 And the second thing is, on the question of  
5 the effect of Section 120.80(13)(b), Florida Statutes,  
6 dealing with the scope of the issues that can be  
7 addressed in a protest on proposed agency action, we  
8 do believe that this is a issue that is reasonably  
9 raised by Public Counsel's protest, and that if you're  
10 going to challenge the methodology, that the  
11 calculations that are reasonably associated with that  
12 methodology are at issue.

13 So I don't think that the question of the  
14 impact of the issue that's protested on other aspects  
15 of the Company's rate base, balance sheet, and capital  
16 structure are beyond the scope of what's in the  
17 protest.

18 CHAIRMAN JOHNSON: Thank you, Mr. Elias.  
19 And I didn't mean to put you all on the spot.  
20 Obviously, you're going to ask it then when she comes  
21 back? You think it's more appropriately addressed  
22 then?

23 MR. ELIAS: If it's --

24 CHAIRMAN JOHNSON: I just wanted to make  
25 sure that you all weren't just withdrawing it and you

1 thought it should be addressed.

2 MR. HOWE: Chairman Johnson, could I --

3 CHAIRMAN JOHNSON: And at least now,  
4 Mr. Howe, you're on notice.

5 MR. HOWE: Could I offer a suggestion?

6 CHAIRMAN JOHNSON: Uh-huh.

7 MR. HOWE: If Staff really wants to address  
8 this, one of the things we're very concerned about is  
9 that the Company did not address it in its either  
10 direct or rebuttal. We're constrained by the prefiled  
11 testimony. I will not object to this witness being  
12 asked this question at this time if Staff will agree  
13 to ask our witnesses the same question.

14 MR. ELIAS: We would be glad to do that.

15 CHAIRMAN JOHNSON: Does that work better?

16 MR. HOWE: Then we can at least address it  
17 from both sides.

18 CHAIRMAN JOHNSON: Okay. Then let's start  
19 over with the question.

20 MR. KEATING: I'll repeat the question,  
21 because it has been a while.

22 BY MR. KEATING:

23 Q If a zero cost rate is assigned, do you  
24 believe that the 1996 accrued interest should be  
25 included as part of the deferred revenue balance?

1           A       No, I do not. In other words, I believe  
2 that the interest amount should be removed from the  
3 deferred revenues.

4                   And the reason why I believe that is that  
5 it would seem somewhat I guess hypocritical or  
6 contradictive, I guess is the appropriate word, you  
7 know, to not recognize that the interest cost exists  
8 when you zero out the cost rate, but then to leave the  
9 interest as if it were existing in the deferred  
10 revenue. It's either a cost or it's not. And so to  
11 the extent of removing it in one place and leaving it  
12 in the balance, it would seem to be contradictive in  
13 theory. So for that reason, I think it ought to be  
14 removed.

15                   MR. KEATING: Commissioners, I had a couple  
16 other questions for Ms. Bacon that the Public Counsel  
17 had objected to before. Maybe now in light of the  
18 discussion that just occurred, if Public Counsel  
19 doesn't have the objection still, I could go ahead and  
20 ask those questions.

21                   CHAIRMAN JOHNSON: And were they of the  
22 type that you would ask Public Counsel's witness?

23                   MR. KEATING: I believe I have a similar  
24 question for Public Counsel's witness, yes.

25                   CHAIRMAN JOHNSON: Go ahead and ask the

1 question.

2 BY MR. KEATING:

3 Q If a zero cost rate is assigned to deferred  
4 revenues in the capital structure, would you agree  
5 that interest reconciliation and income taxes would  
6 also change?

7 A Yes, it would.

8 Q Would you also agree that as a result, the  
9 achieved net operating income and achieved return on  
10 equity would also change?

11 A Yes, it would.

12 Q Would you agree that these changes would  
13 simply be a fallout of assigning a zero cost rate to  
14 deferred revenues in the capital structure?

15 A Absolutely. And if I could clarify that,  
16 I think by zeroing out the interest rate in the  
17 capital structure, the adjustments that he's referring  
18 to recognize that the income tax benefit that's  
19 included in the income statement would go away. I  
20 mean, to the extent that you zero out an interest  
21 cost, then everything else being equal, your income  
22 tax provision that's in your net operating income  
23 should increase. And what he's referring to is just a  
24 reflection of those adjustments throughout the other  
25 schedules.

1 MR. KEATING: That's all the questions I  
2 have. Thank you.

3 Commissioners?

4 Redirect?

5 MR. HART: No, we don't have any redirect  
6 questions.

7 CHAIRMAN JOHNSON: And there weren't any  
8 exhibits, so --

9 MR. HART: Yes, we do have --

10 CHAIRMAN JOHNSON: Oh, yes. I'm on the  
11 wrong page. There's nothing attached.

12 MR. HART: At this point we only have  
13 Exhibit No. 1.

14 CHAIRMAN JOHNSON: You had the request for  
15 official recognition. I didn't admit that before, but  
16 show that admitted without objection.

17 (Exhibit 2 was received in evidence.)

18 MR. HOWE: And that would be Exhibit 2?

19 CHAIRMAN JOHNSON: That would be Exhibit 2.

20 MR. HOWE: And I would move the admission  
21 of Exhibits 3, 4, and 5.

22 CHAIRMAN JOHNSON: Show those all admitted  
23 without objection.

24 (Exhibits 3, 4, and 5 were received in  
25 evidence.)

1 CHAIRMAN JOHNSON: And then Staff had --

2 MR. KEATING: Staff would move Exhibit 1.

3 CHAIRMAN JOHNSON: Show that admitted  
4 without objection.

5 (Exhibit 1 was received in evidence.)

6 CHAIRMAN JOHNSON: Thank you. You're  
7 excused for now.

8 Could we do kind of -- let me get an  
9 estimation of time for the witnesses that are left. I  
10 know -- do you pronounce it "Pollock" or "Pollack"?

11 MS. KAUFMAN: Mr. Pollock.

12 CHAIRMAN JOHNSON: Mr. Pollock. The  
13 summary, is it going to be short, long?

14 MS. KAUFMAN: It's going to be short.

15 CHAIRMAN JOHNSON: Okay. Let's say five  
16 minutes for that. Cross?

17 MR. HART: Hopefully it won't take more  
18 than 30 to 45 minutes.

19 CHAIRMAN JOHNSON: Forty-five minutes.  
20 Staff?

21 MR. KEATING: For Witness Pollock?

22 CHAIRMAN JOHNSON: Uh-huh.

23 MR. KEATING: I don't believe we have any  
24 questions for Witness Pollock.

25 CHAIRMAN JOHNSON: And your --

1 MR. HOWE: I have no questions for  
2 Mr. Pollock.

3 CHAIRMAN: Okay. Mr. Larkin, Jr., for  
4 cross?

5 MR. HART: It would be about the same.  
6 It's really hard to anticipate. It could be shorter  
7 than 30 minutes for both of them. Depending on their  
8 answers, it could be a little bit longer. It's hard  
9 to say.

10 CHAIRMAN JOHNSON: Thank you. His summary?

11 MR. HOWE: It will be fairly short.

12 CHAIRMAN JOHNSON: Ms. Kaufman?

13 MS. KAUFMAN: I may have a question or two  
14 for Mr. Larkin, about five minutes.

15 MR. KEATING: And Staff's will be fairly  
16 short.

17 CHAIRMAN JOHNSON: Ten minutes?

18 MR. KEATING: Ten minutes, yes.

19 CHAIRMAN JOHNSON: And the rebuttal? Don't  
20 you have some more for Bacon?

21 MR. KEATING: No, I asked all those  
22 questions.

23 CHAIRMAN JOHNSON: Oh, okay.

24 MR. HOWE: I will have about a half an hour  
25 of questions for Ms. Bacon on rebuttal.

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MS. KAUFMAN: Maybe 15 minutes.

CHAIRMAN JOHNSON: Okay. We'll take a break until 1:00, a short lunch break.

(Proceedings recessed for lunch at 12:10 p.m., to resume at 1:00 p.m.)

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