

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of
Commercial/Industrial Service
Rider tariff by Tampa Electric
Company.

DOCKET NO. 980706-EI
ORDER NO. PSC-98-1241-S-EI
ISSUED: September 21, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER APPROVING STIPULATION

BY THE COMMISSION:

CASE BACKGROUND

On June 2, 1998, Tampa Electric Company (TECO) filed a Petition for approval of a Commercial/Industrial Service Rider tariff (CISR) and Pilot Study Implementation Plan. We approved TECO's petition, as reflected in Order Numbers PSC-98-1081-FOF-EI, issued August 10, 1998, and PSC-98-1081A-FOF-EI, issued August 27, 1998.

On July 17, 1998, the Legal Environmental Assistance Foundation, Inc. (LEAF) and TECO filed a Stipulation by and between the Legal Environmental Assistance Foundation and Tampa Electric Company. This stipulation is included in this Order as Attachment A, and is incorporated herein by reference. LEAF and TECO request that the Commission accept and approve this stipulation.

The stipulation provides that a customer applying for a CISR rate must provide a recent energy audit of the customer's facility, or request that TECO conduct such an audit. The results of this audit will identify energy efficiency improvements which could be made to reduce the customer's cost of energy. TECO agrees in the stipulation that the potential for cost-effective energy

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conservation investments will form an integral part of its negotiations with potential CISR customers.

We find that the stipulation should be approved. The stipulation helps avoid the time and expense associated with adversarial litigation between parties in keeping with the Commission's encouragement of negotiated settlement of disputes. Further, the stipulation does not require that TECO modify the CISR tariff sheets and implementation plan.


Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Stipulation by and between the Legal Environmental Assistance Foundation and Tampa Electric Company included in this Order as Attachment A and incorporated herein by reference, is approved. It is further

ORDERED that if a protest is filed in accordance with the requirement set forth below, the tariff shall remain in effect with any increase in revenues held subject to refund pending resolution of the protest. It is further

ORDERED that if no protest is filed in accordance with the requirements set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 21st day of September, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 12, 1998.

In the absence of such a petition, this Order shall become final on the day subsequent to the above date.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this Order becomes final on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the date this Order becomes final, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition for Approval of Commercial/Industrial
Service Rider by Tampa Electric Company

)Docket No. 980706-EI
)Filed: July 17, 1998

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**STIPULATION OF TAMPA ELECTRIC COMPANY
AND LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION, INC.**

This stipulation is entered into by Tampa Electric Company ("Tampa Electric" or "the Company") and Legal Environmental Assistance Foundation, Inc. ("LEAF") reflects a settlement of all issues between Tampa Electric and LEAF in this docket. Tampa Electric and LEAF wish to avoid the time, expense, and uncertainty associated with adversarial litigation in this docket, in keeping with the Florida Public Service Commission's ("Commission") encouragement to settle disputes. Accordingly, without prejudice as to either Tampa Electric's or LEAF's position in any other proceeding before this Commission except as specifically stated herein, Tampa Electric and LEAF agree and stipulate as follows:

1. Tampa Electric and LEAF recognize that increased competitive pressures affecting electricity markets are at hand and that Tampa Electric's proposed Commercial/Industrial Service ("CIS") rider as clarified in this stipulation is a reasonable and timely response to such competition as well as a way to assist in the state economic development efforts. Tampa Electric and LEAF agree that utility energy efficiency programs will continue to play a valuable role in reducing market barriers in certain market segments, reducing customer costs and mitigating environmental impacts, and that the costs associated with these programs should be recovered in a non-discriminatory, non-avoidable manner. Tampa Electric affirms that it will support these principles before the Commission. LEAF believes that the Company should affirm that its commitment to energy efficiency will be a significant component of the Company's negotiations with CIS Rider-eligible customers. Through their respective authorized representatives, LEAF and Tampa Electric have discussed the issues of concern to LEAF. Through this dialogue, and based on representations set forth herein, LEAF supports Tampa Electric's proposal as filed by the Company and as clarified by this stipulation. This

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stipulation does not preclude either the Company or LEAF from opposing modifications or additions to Tampa Electric's proposal that might be sought by others.

2. Tampa Electric and LEAF agree that the identification and successful pursuit of cost effective energy efficiency is an important goal. To that end, Tampa Electric agrees that the potential for cost-effective energy conservation investments will form an integral part of its negotiations with CIS Rider-eligible customers. Tampa Electric also agrees that it will develop a plan for negotiations with potential CIS Rider customers that will include the provision of energy audits to identify cost-effective solutions to any energy inefficiencies that are revealed by those audits. Tampa Electric further agrees that customers having CIS Rider-eligible "at-risk" load, in order to be considered for a Contract Service Arrangement ("CSA"), must receive a comprehensive energy audit or have received such an audit within one year provided that the customer's facilities or processes have not materially changed since that audit other than through the adoption of cost-effective energy efficiency improvements. If such audit is not performed by or under the direction of Tampa Electric, the results must be made available to Tampa Electric in order to initiate discussions towards a customer-specific CSA. The confidentiality of any proprietary subject matter contained within the audit results received by Tampa Electric will be maintained. Tampa Electric also agrees that all costs and benefits associated with energy efficiency investments that are part of the executed CSA will be accounted for.

3. If the Customer does not choose to conduct its own audit, as described above, Tampa Electric will provide prospective CIS Rider-eligible customers with comprehensive technical audits which will seek to identify the cost-effective energy efficiency potential available in their facilities. These audits will be performed by individuals experienced as specialists in commercial/industrial energy efficiency auditing, including building energy efficiency. When dealing with a customer that uses an industrial process, Tampa Electric will make a good faith effort to include as part of its audit team, the services of a process design engineer with experience in the particular manufacturing process employed by the customer. If a comprehensive audit of the customer's facilities requires specialized technical knowledge that Tampa Electric does not possess, Tampa Electric will make a good faith effort to obtain the outside expertise required to assess cost-effective energy efficiency

opportunities. To the extent that outside expertise is obtained by Tampa Electric for any audit, such personnel shall be contractually bound to protect the confidentiality of the customer's proprietary information that may be discovered in the course of the audit. The goal of the audit will be to identify all significant and cost-effective energy efficiency opportunities for that Customer and the business activities which the Customer conducts or expects to conduct at that facility. Estimates of the costs to make the improvements cost-effective from the customer's perspective, considering the then current tariff rate and rates that may be available under the CIS Rider, will be made as an integral part of the CSA negotiation with the customer.

Tampa Electric agrees that each such audit will include an analysis of process usage, lighting and HVAC requirements, capital requirements, and maintenance expenses that may be associated with any energy efficiency investment. Tampa Electric will provide the customer with information on all efficiency improvements identified in the audit and include advice, on the energy and bill savings that could be achieved with identified actions. Tampa Electric will develop, with the customer, a plan to implement each of the energy efficiency improvements that will benefit the Customer.

4. LEAF and Tampa Electric agree that the CIS Rider negotiations offer an important opportunity to use cost-effective energy efficiency improvements to help meet the energy service of CIS Rider-eligible customers at the lowest cost. Tampa Electric will offer CIS Rider-eligible customers the results and advice obtained through the audits as well as assistance to the Customer, if required, in finding financing services and/or providing other Tampa Electric conservation program related incentives when necessary and appropriate. In addition, when an energy efficiency investment is a component of gaining or retaining the "at-risk" load, Tampa Electric may assist the CIS Rider customer with the purchase of energy efficiency measures to assure their implementation. In such instances, Tampa Electric's financial contributions toward the energy efficiency investments will be a component of the offer that Tampa Electric will negotiate with CIS Rider-eligible customers.

Tampa Electric's approach to gaining or retaining the "at-risk" load will be to negotiate with a goal to minimize the cost of serving that "at-risk" load and maximize the contribution from that "at-risk" load to the Company and its customers. Tampa Electric agrees that the difference between the incremental cost of serving the "at-risk" load and the incremental cost of energy efficiency provides a resource from which conservation program incentives may be offered to the Customer.

Tampa Electric will include energy efficiency concepts in its approach to negotiations when the incremental cost of serving the "at-risk" load exceeds the incremental cost of energy efficiency.

5. Tampa Electric agrees that it will maintain its efforts to implement cost-effective energy efficiency programs as approved by the Commission with the goal of minimizing customer costs while allowing the Company a fair return on investment.

6. Tampa Electric will include information on the energy efficiency potential identified in CIS Rider audits in its quarterly reports to the Commission on the implementation of the CIS Rider subject to confidential treatment needed to protect the identity of individual CIS Rider Customer information and the agreement of the Customer to provide the needed information. These reports will present information on the energy-efficiency opportunities identified in the audits of "at-risk" customers and will present a summary report of the actual investments made and energy reductions estimated to be achieved. These reports will be designed to provide sufficient information to assess the extent to which CIS Rider participants are taking advantage of energy efficiency opportunities, while providing individual customers with protection from the public disclosure of information about their specific facilities and actions.

For the first several customers agreeing to a CSA (who also consent to LEAF's review as stated below), under all necessary confidentiality agreements and within 90 days of contract execution, and if the participating CSA customer consents, Tampa Electric agrees to provide the Commission, LEAF (and or a consultant chosen and paid by LEAF): the audit results including conservation investments identified, the conservation investments agreed to be implemented pursuant to the contract, including any assistance Tampa Electric agreed to provide, the rate agreed upon and other contract terms. Tampa Electric will endeavor in good faith to secure the customer's consent to LEAF's review as stated above. LEAF may make appropriate recommendations as to how to better effectuate energy conservation investments by CIS Rider-eligible customers (which may be in part or in whole subject to confidentiality limitations) to the Commission within one year of the date the first CSA to which LEAF has access as contemplated herein is executed.

WHEREFORE Legal Environmental Assistance Foundation, Inc., and Tampa Electric request that the Florida Public Service Commission accept and approve this stipulation and proceed to approve the Company's proposed Commercial/Industrial Service Rider as filed and clarified by this stipulation.

Dated this 17 day of July 1998.

Legal Environmental Assistance
Foundation, Inc.

Tampa Electric Company

Gail Kamaras

Gail Kamaras
Director
LEAF

Thomas L. Hernandez / JLB

Thomas L. Hernandez
Vice President Regulatory Affairs
Tampa Electric Company