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RECORDS AND  
REPORTING

November 16, 1998

Ms. Blanca S. Bayó, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

RE: Docket No. 950379-EI

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of the Prehearing Statement of the Office of Public Counsel for filing in the above referenced file.

Also enclosed is a 3.5 inch diskette containing the Prehearing Statement of the Office of Public Counsel in WordPerfect for Windows 6.1. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

RECEIVED & FILED  
*GRJ*  
FPSC BUREAU OF RECORDS

Sincerely,

*John Roger Howe*  
John Roger Howe  
Deputy Public Counsel

- ACK \_\_\_\_\_
- AFA Stenkewicz
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
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- LIN 5
- OPC \_\_\_\_\_
- RC \_\_\_\_\_
- SEC 1
- WAS \_\_\_\_\_
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JRH/dsb  
Enclosures

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into )  
earnings for 1995 and 1996 of )  
Tampa Electric Company. )  
\_\_\_\_\_ )

Docket No. 950379-EI  
Filed: November 16, 1998

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, submit this  
Prehearing Statement.

APPEARANCES

JOHN ROGER HOWE, Esquire  
Deputy Public Counsel  
Office of the Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400  
On behalf of the Citizens of the State of Florida

A. WITNESSES:

HUGH LARKIN, JR.  
Larkin & Associates  
15728 Farmington Road  
Livonia, MI 48154

B. EXHIBITS:

<u>EXHIBIT</u>	<u>SPONSOR</u>	<u>TITLE</u>
HL-1	Larkin	Schedules 1 and 2 are copies of Attachments A and B to staff's March 26, 1998, recommendation.

Additional exhibits may be introduced as necessary at hearing during examination of witnesses.

### C. STATEMENT OF BASIC POSITION

The Commission's proposed agency action, Order No. PSC-98-0802-FOF-EI, was inconsistent with the stipulations entered in this docket and in Docket No. 960409-EU (the "First Stipulation" and the "Second Stipulation," respectively). Excess revenues for 1996 should have been calculated in a traditional manner. Adjustments should have been made to remove deferred revenues, along with any accrued interest, from the rate base, the income statement and the capital structure. The appropriate amount of 1996 earnings above an 11.75% return on equity should then have been identified, expanded for revenues, and increased for interest at the 30-day commercial paper rate. Deferred revenues plus interest for 1996 should then have been added to deferred revenues plus interest for 1995 (increased for interest earned in 1996) to arrive at the total to be carried forward for potential refunds in later years.

If the Commission had, in fact, followed the FPUC-Fernandina Beach methodology (Order No. PSC-97-0135-FOF-EI, issued February 10, 1997, in Docket No. 961542-EI), it would have calculated an amount of revenues plus interest to be deferred consistent with this interpretation. Deferred revenues would have been completely removed from Tampa Electric's rate base and income statement to measure earnings for 1996. Deferred revenues would have been included in the capital structure at the 30-day commercial paper rate, but only in conjunction with an adjustment reducing other sources of capital by an equal amount. Tampa Electric's profits for 1996 would not have been reduced by interest expense associated with deferred revenues and its capital structure would not have been increased by the thirteen-month average of deferred revenues.

The method used by the Commission to determine Tampa Electric's 1995's overearnings is not dispositive of the appropriate method to be used for 1996. The calculation of earnings for 1995 was controlled by Order No. PSC-95-0580-FOF-EI, not by the stipulations signed one year later, in 1996. Tampa Electric did not insist upon, and the parties did not include, a provision in the first stipulation requiring 1996's earnings to be calculated in a similar manner. Instead, the First Stipulation, at page 5, states that "[t]he Parties have now agreed on the treatment of Tampa Electric's base revenues and accumulated deferred revenues for 1996, 1997 and 1998 as set forth below. [Emphasis added.]" This statement is followed immediately by paragraph 4, which requires that earnings be calculated on an "FPSC adjusted basis." Paragraph 11, on page 8, provides that "calculations of the actual ROE for each calendar year will be on an 'FPSC adjusted basis' using appropriate adjustments approved in Tampa Electric's full revenue requirements proceeding." The Commission did not increase the capital structure in Tampa Electric's last rate case for deferred revenues.

It is the position of this office that, given the posture of this case, the Commission can only reach a result consistent with either the FPUC-Fernandina Beach Division case or the explicit language of the First Stipulation by assigning a zero cost to deferred revenues in Tampa Electric's capital structure. To do otherwise, would cause less to be deferred than if no interest was required by the stipulations.

D. STATEMENT OF FACTUAL ISSUES AND POSITIONS:

ISSUE 1: What is the appropriate cost rate to apply to deferred revenues in the capital structure?

OPC: Deferred revenues should be assigned a zero cost rate. To do otherwise would cause less revenues to be deferred than if the stipulations called for no interest at all. Tampa Electric's customers are clearly entitled under the explicit terms of the stipulations to have certain earnings above an 11.75% ROE plus interest deferred for potential refunds in the future. The method used by the Commission to quantify 1995's deferred revenues, which was governed by Order No. 95-0580, is not applicable to 1996, which is governed by the First Stipulation. Use of a zero cost rate for deferred revenues in the capital structure will result in an appropriate calculation of deferred revenues for 1996 to which interest should then be added.

ISSUE 2: If a zero cost rate is determined to be appropriate, should accrued interest be included in the deferred revenue component of the capital structure?

OPC: This is not an appropriate issue for consideration. The amount of deferred revenues in the capital structure has neither been protested by the Intervenors nor placed in dispute in Tampa Electric's or the Intervenors' prefiled testimony. This issue should, therefore, be deemed stipulated pursuant to Section 120.80(13)(b), Florida Statutes (1997). Furthermore, it would be inappropriate to change the amount of deferred revenues in the capital structure without also adjusting the rate base and income statement.

ISSUE 3: What is the appropriate method to calculate the separation of the FMPA and City of Lakeland wholesale contracts from the retail jurisdiction for 1996?

OPC: The company has agreed in the prefiled direct testimony of its witness, Ms. Delaine Bacon, to make the appropriate adjustment to fully separate these sales for 1996.

ISSUE 4: What is the effect of assigning a zero cost rate to deferred revenues in the capital structure?

OPC: It gives Tampa Electric's customers the benefit of the bargain reached in the stipulations approved by the Commission in this docket and in Docket No. 960409-EI. The clear intent of the stipulations and the Commission orders approving them is to have monies deferred for possible future refunds equal to the amount of earnings above prescribed limits plus accrued interest. The inclusion of deferred revenues in the capital structure at a cost rate, however, would defeat this intent and allow Tampa Electric to defer less than if the customers were not entitled to any interest at all. Deferred revenues should be included in the capital structure at a zero cost rate.

Accrued interest should then be added to the resulting calculation of overearnings to arrive at the appropriate deferral amount.

ISSUE 5: Has TECO properly calculated the amount of deferred revenues [plus interest] for 1996 [to be deferred into future periods]?

OPC: No.

E. STATEMENT OF LEGAL ISSUES AND POSITIONS: None.

F. STATEMENT OF POLICY ISSUES AND POSITIONS: None.

G. STIPULATED ISSUES: None.

H. PENDING MOTIONS: None.

I. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

An Order Establishing Procedure was not issued in this docket after the most recent protests were filed.

Respectfully submitted,

JACK SHREVE  
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John Roger Howe  
Deputy Public Counsel

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Attorneys for the Citizens  
of the State of Florida

**CERTIFICATE OF SERVICE  
DOCKET NO. 950379-EI**

I HEREBY certify that a copy of the foregoing PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL has been served by \*hand delivery or U.S. Mail to the following parties of record on this 16th day of November, 1998.

\*Robert Elias, Esquire  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

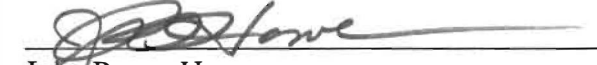
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